



CONFIDENTIAL

Waterstones Framework Agreement

Client Name

Date



Waterstons' clients value that we are their trusted partner and that we can bring our expertise to bear on a wide range of business problems, as well as being as easy to do business with. To that end we have created this Framework Agreement, which provides balanced protection for you as well as Waterstons, and covers the full breadth of services in one agreement. This saves both parties the management of multiple agreements, helps to reduce the risk resulting from conflicting terms and provides clarity on the responsibilities of everyone involved.

AGREEMENT

This Framework Agreement (the **Agreement**) is made between:

- (1) **Client's Full Legal Name, Company Number, Registered Office Address (Client)**; and
- (2) Waterstons Limited incorporated and registered in England and Wales with company number 3818424 whose registered office is at Liddon Court, Aykley Heads, Durham, England, DH1 5TS (**Waterstons**).

(each a **party** and together the **parties**)

BACKGROUND

- (a) Waterstons is in the business of providing the Available Services.
- (b) The Client wishes to appoint Waterstons to provide some or all of the Available Services to it under this Agreement.

CONTACT DETAILS

Client's Primary Contact	Add details
Postal Address for Notices	Add details
Email Address for Legal Notices	Add details
Waterstons' Primary Contact	Add details
Postal Address for Notices	Liddon Court, Aykley Heads, Durham, DH1 5TS
Email Address for Legal Notices	legal@waterstons.com

ACCEPTANCE

By signing below, each party unequivocally agrees to the terms and conditions of this Agreement:

Client Authorised Signature	
Name	
Date	

Waterstons Authorised Signature	
Name	
Date	

AGREED TERMS

1. Definitions and Interpretation

The following definitions and rules of interpretation apply in this Agreement.

1.1 Definitions:

Affiliate	any entity that directly or indirectly Controls, is Controlled by, or is under common Control with, another entity
Available Services	the services and/or deliverables, which Waterstons is willing and able to provide to the Client, including, but not limited to: Support & Hosting Services, Consultancy & Software Services, and Resold Services
Business Day	a day other than a Saturday, Sunday or public holiday in England, when banks in London are open for business
Change Order	a document setting out agreed changes to a Service Order
Charges	the charges set out in the Service Order payable by the Client for the supply of the Services by Waterstons
Commencement Date	the date this Agreement is signed by the parties, and if such dates are different, the latter of the two dates
Consultancy & Software Services	any Services which could include (but not limited to) business and advisory consulting, data and analytics, cloud and technology, cyber

	resilience, project management, due diligence, software creation, development or modification (but excluding Resold Services)
Consumer Price Index	the Consumer Prices Index as published by the Office for National Statistics from time to time, or failing such publication, such other index as the parties may agree most closely resembles such index.
Control	has the meaning given in section 1124 of the Corporation Tax Act 2010, and the expression change of control shall be construed accordingly
Client Equipment	any equipment upon which the Services are provided whether supplied by Waterstons or otherwise including without limitation hardware, software or other assets
Client Materials	all information, data (including but not limited to Personal Data), materials, software and content of any kind, furnished or made available to Waterstons by the Client and processed by Waterstons pursuant to the supply of the Services or the Client's use of the Services, including any information derived from such information
Client's Systems	the Client's computing environment and IT infrastructure (consisting of hardware, software and telecommunications networks) that is to be used by the Client
Cyber Incident	a breach of a system's security policy in order to affect its integrity or availability and/or the unauthorised access or attempted access to a system or systems; in line with the Computer Misuse Act (1990)
Data Centre	the facility used to house information technology systems and data stores
Data Protection Legislation	(a) the EU General Data Protection Regulation, Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (EU GDPR); (b) the Data Protection Act 2018 and the UK General Data Protection Regulation, Retained Regulation (EU) 2016/679 (UK GDPR); (c) any laws which implement or supplement any such laws; and (d) any laws that replace, extend, re-enact, consolidate or amend any of the foregoing
Deliverables	all documents, products and materials developed by Waterstons or its agents, contractors and employees as part of or in relation to the Services in any form, including without limitation computer programs, software, data, reports and specifications (including drafts)
Due Diligence Services	Consultancy services provided to investigate, document, and assess/establish risks and recommendations relating to items such as technology systems, IT infrastructure, IT departments, security, applications, IT related agreements, IT costs/budgets, etc
Force Majeure Event	an event or sequence of events beyond a party's reasonable control preventing or delaying it from performing its obligations under this Agreement, including (but not limited to) strikes, lock-outs or other industrial disputes (whether involving the workforce of Waterstons or

	any other party); failure of a utility service or transport network; act of God, war, riot or civil commotion; malicious damage; pandemics or epidemics (even if such epidemic or pandemic is known or anticipated at the date of this Agreement); power failure, breakdown in equipment, failure of suppliers, telecommunications failures or internet downtime, or available bandwidth shortage, any distributed denial of service attack or threatened distributed denial of service attack; compliance with any law or governmental order, rule, regulation or direction; and accident, breakdown of plant or machinery, fire, flood, storm or default of suppliers or subcontractors
Good Industry Practice	the exercise of that degree of skill, care, prudence, efficiency, foresight and timeliness as would be expected from a company within the relevant industry or business sector
Intellectual Property Rights	patents, rights to inventions, copyright and related rights, trade marks and service marks, business names and domain names, rights in get-up and trade dress, goodwill and the right to sue for passing off or unfair competition, rights in designs, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how and trade secrets) and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world, including the right to sue for and recover damages for past infringements
Malware	any thing or device (including any software, code, file or programme) which may: (a) prevent, impair or otherwise adversely affect the operation of any computer software, hardware or network, any telecommunications service, equipment or network or any other service or device; (b) prevent, impair or otherwise adversely affect access to or the operation of any programme or data, including the reliability of any programme or data (whether by re-arranging, altering or erasing the programme or data in whole or part or otherwise); or (c) adversely affect the user experience, including worms, trojan horses, viruses and other similar things or devices
Outage	means, including but not limited to, unavailability due to a period when a power supply or other service is not available or when equipment is closed down
Resold Services	third party hardware, software or other third party services (for example internet lines, public cloud, and telephony services) to be purchased by the Client from a third party via Waterstons
Resolution Time	the elapsed time between the notification of an Incident to Waterstons, and the notification of resolution by Waterstons
Response Time	the elapsed time between the notification of the Incident to Waterstons and the initial response of Waterstons to acknowledge the Incident, excluding non-Working Hours

Services	the services to be provided by Waterstons as set out in a Service Order, including Support & Hosting Services, Consultancy & Software Services and Resold Services
Service Levels	the levels relating to incident response and target resolution times set out in the Service Order
Service Order	the document which sets out the provision of Services by Waterstons to the Client, including formal quotations. For the avoidance of doubt, any estimated or indicative pricing is subject to change during full scoping, is for budgetary indicative purposes only, and does not constitute a formal order.
Special Terms	Additional terms that are specified in a Service Order, and which may override the terms of the main body of the Agreement
Support & Hosting Services	any Services which relate to managed services, security managed services, security operations centre, software operations/data/digital productivity support, Waterstons hosted services and infrastructure (but excluding Resold Services)
Vulnerability	a weakness in the computational logic (for example, code) found in software and hardware components that when exploited, results in a negative impact to the confidentiality, integrity, or availability of the Client's systems
Waterstons' Systems	Waterstons' computing environment and IT infrastructure (consisting of hardware, software and telecommunications networks)

- 1.2 Clause, schedule and paragraph headings shall not affect the interpretation of this Agreement or any Service Order.
- 1.3 A reference to a **Clause** or a **Paragraph** shall be to a clause or paragraph of this Agreement.
- 1.4 A reference to a **company** shall include any company, corporation or other body corporate, wherever and however incorporated or established.
- 1.5 A reference to a **holding company** or a **subsidiary** means a holding company or a subsidiary (as the case may be) as defined in section 1159 of the Companies Act 2006.
- 1.6 A reference to a statute or statutory provision, including all subordinate legislation, is a reference to it as amended, extended or re-enacted from time to time.
- 1.7 A reference to **writing** or **written** includes email.
- 1.8 Any words following the terms **including**, **include**, **in particular**, **for example** or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.

2. Commencement and duration

- 2.1. This Agreement shall commence on the Commencement Date and shall continue, until terminated in accordance with Clause 18 (Termination).

3. Service Orders

- 3.1. The Client may procure Services by agreeing a Service Order with Waterstons, which should be signed by both parties once agreed.

- 3.2. The Service Order will include:
 - 3.2.1. details of the scope of work to be undertaken;
 - 3.2.2. commencement and/or delivery dates as appropriate, depending on the Services to be performed;
 - 3.2.3. the Charges, along with any agreed expenses, materials, or third party services, in accordance with Clause 6 (Charges and Payment);
 - 3.2.4. any Special Terms specific to the Services which may deviate from the default terms contained in this Agreement. If such Special Terms are included within the Service Order, they shall take precedence over the terms of this Agreement, in accordance with Clause 4 (Precedence within Agreement).
- 3.3. Subject to Clause 3.4, once a Service Order has been agreed and signed, no amendment shall be made to it except in accordance with Clause 7 (Change Procedure and Amendments) or Clause 28.2 (Variation).
- 3.4. Waterstons may make changes to the Service Order and/or the Services that are necessary to comply with any applicable safety or other statutory requirements. Where any changes made in accordance with this Clause may affect the scope or cost of the Services, the Change Procedure in Clause 7 shall be followed.
- 3.5. Each Service Order shall be part of this Agreement and shall not form a separate contract to it. Any Special Terms contained in any Service Order shall be deemed to be incorporated into this Agreement. If there is an inconsistency between any of the provisions of this Agreement and the provisions of a Service Order, the order of precedence in Clause 4 (Precedence within Agreement) shall apply.
- 3.6. Any current Service Orders already in place between Waterstons and the Client shall be subject to the terms of this Agreement.

4. Precedence within Agreement

- 4.1. In the event of any conflict or inconsistency between different parts of this Agreement or Service Orders, the following descending order of priority applies:
 - 4.1.1. any Special Terms within a Service Order;
 - 4.1.2. the Agreed Terms and Schedules of this Agreement;
 - 4.1.3. any other terms within a Service Order.
- 4.2. Subject to the above order of priority between Waterstons documents, later versions of amended documents shall prevail over earlier ones if there is any conflict or inconsistency between them.

5. Performance of the Services

- 5.1. Waterstons agrees to supply, and the Client agrees to purchase, Services on the terms set out in this Agreement, and in accordance with the Service Order.
- 5.2. Waterstons shall:
 - 5.2.1. perform the Services in accordance with Good Industry Practice; and
 - 5.2.2. ensure that all personnel who perform the Services are sufficiently experienced, reliable and qualified to perform the Services.
- 5.3. Time for delivery of any aspect of the Services shall not be of the essence except where this is specifically stated to be the case in a Service Order (for example, Service Levels for Support & Hosting Services).
- 5.4. Timescales for delivery of any aspect of the Service may be extended if any of the following events

occur:

- 5.4.1. changes to the Services are made in accordance with Clause 7 (Change Procedure and Amendments) (in which case, amended timescales will be agreed within the Change Order);
 - 5.4.2. a delay is caused in whole or in part by a breach of the Client of its obligations under this Agreement ; or
 - 5.4.3. a delay is caused in whole or in part by any other third party other than a Waterstons' subcontractor delivering Consultancy Services.
- 5.5. Waterstons may modify its own system, network, system configuration or routing configuration, or anything used to deliver a Service over its network, provided that such change has no adverse effect on the Client or the delivery of the Services. If such change will have an adverse effect, Waterstons will only make such change if it has reasonable grounds for doing so, and will notify the Client as soon as possible. If the Client, acting reasonably, considers that such a change shall have a material adverse effect, it may terminate any relevant Service Order by giving 30 days' notice.
- 5.6. Where arrangements have been made between the parties for particular elements of the Services to be delivered and the Client requests a change to those arrangements, Waterstons shall be entitled to charge to the Client reasonable committed costs, and reasonable costs for the loss of opportunity caused by to rescheduling such Services. In doing so, Waterstons shall act in good faith, and shall use reasonable endeavours to mitigate such costs.
- 5.7. If Waterstons, acting reasonably and in good faith, having made due and careful enquiry, believes that:
- 5.7.1. the Client is in material breach of any of its obligations under this Agreement, including its obligation to pay the undisputed charges, or of any terms and conditions of any third party products or services provided as part of the provision of the Services; or
 - 5.7.2. its business or reputation may be damaged through the provision of the Services due to the Client's conduct,
- Waterstons shall (i) notify the Client of its alleged conduct in Clause 5.7.1 or 5.7.2 as applicable, giving reasonable evidence of the Client's alleged conduct; (ii) consult with the Client, giving the Client the opportunity to contest the alleged conduct, (iii) give the Client a period of 14 days to remedy its alleged conduct; and (iv) if the Client does not remedy its alleged conduct within 14 days, Waterstons may suspend performance of the Services under all Service Orders until such time as the Client remedies its alleged conduct.
- 5.8. If Waterstons, acting reasonably and in good faith, having made due and careful enquiry, believes that the Client is engaged in any illegal activity, Waterstons may suspend performance of the Services under all Service Orders immediately, until such time as the Client remedies its alleged conduct.
- 5.9. If Waterstons suspend the Services under Clause 5.7 or 5.8, Waterstons shall not be liable for any losses, damages, costs and expenses incurred by the Client as a result of such suspension.

6. Charges and Payment

- 6.1. In consideration of the provision of the Services by Waterstons, the Client shall pay the Charges, set out in the relevant Service Order. If no price is quoted, the price shall be calculated in accordance with Waterstons' standard rates from time to time, as notified in advance to the Client.
- 6.2. Waterstons shall invoice the Client for the Charges at the intervals specified in the Service Order. If no intervals are specified, Waterstons shall invoice the Client at the end of each month for Services performed during that month.
- 6.3. For all Services (other than Resold Services), unless specified otherwise in a Service Order, the Client shall pay each invoice submitted to it by Waterstons (without deduction, set-off or counterclaim)

- within 30 days of receipt to the bank account specified on the invoice. Payment terms for Resold Services are contained in Schedule 1.
- 6.4. All prices quoted are exclusive of any Value Added Tax or other sales or import taxes or duties for which the Client shall be additionally liable and Waterstons' shall add to its invoices at the prevailing rate.
 - 6.5. If the Client fails to make any payment on the due date, then, without limiting Waterstons' remedies under Clause 5.7 and Clause 18 (Termination), and without prejudice to any other rights or remedies available to it, Waterstons shall be entitled to:
 - 6.5.1. charge the Client interest on the overdue amount from the due date until payment of the overdue sum, whether before or after judgement at the rate of 4% per annum above the base rate for the time being of the Bank of England (or at 4% a year for any period when that base rate is below 0%). Such interest shall accrue on a daily basis and be compounded quarterly until payment is made; and
 - 6.5.2. require payment in advance for future services.
 - 6.6. In the event the Client persistently fails to make payment on time during a three consecutive month period then that shall be deemed to be a material breach for the purposes of Clause 18 (Termination).
 - 6.7. If the Client disputes a payment in good faith, it shall raise such dispute by written notice to Waterstons within 14 days of receipt of the invoice and the parties shall negotiate in good faith to attempt to resolve the dispute promptly. The interest payable under Clause 6.5.1 is only payable after the dispute is resolved, on sums found or agreed to be due, from 14 days after the dispute is resolved, until payment is made. If the dispute is not resolved within 30 days of the said notice being given, the dispute shall be resolved in accordance with Clause 28.7 (Dispute Resolution).
 - 6.8. On the termination of this Agreement, or of any Service Order, Waterstons shall invoice the Client for any work already undertaken, or for any costs already reasonably committed, and such payments will become due immediately.
 - 6.9. Waterstons reserves the right to increase the Charges and/or its standard rates from time to time (but with the obligation to seek to mitigate the impact of such fee increases), to reflect any one or more of the following:
 - 6.9.1. any increase (in excess of 10%) in the direct cost to Waterstons of supplying the relevant Services which is due to market conditions or any factor beyond Waterstons' reasonable control;
 - 6.9.2. any change in delivery date, quantity or specification requested by the Client; or
 - 6.9.3. any delay caused by the Client's failure to give adequate instructions or information, or any other cause attributable to the Client.
 - 6.10. If Waterstons increases the Charges under Clause 6.9.1, Waterstons will consult with the Client to discuss the situation. If, following such consultation, the Client wishes to terminate the affected Service Order, it may do so by giving Waterstons not less than 30 days' notice, during which period the Charges shall remain at the pre-increase level.
 - 6.11. Where the Services include an automatic renewal period, Waterstons may increase the Charges and/or its standard rates with effect from a renewal date by providing not less than 90 days' notice to the Client.
 - 6.12. In relation to ongoing Services and/or long-term projects, a Service Order may provide for an annual review of Charges and/or standard rates, to be discussed and agreed between Waterstons and the Client. Such annual review may take into account any increase or decrease in the cost to Waterstons in providing the Services, and may be linked to the Consumer Prices Index.

7. Change Procedure and Amendments

- 7.1. The Client may request changes to the Services (which may lead to changes to pricing and timescales) at any time by contacting an appropriate member of the client team. Waterstons may also propose recommendations for service improvements, including in relation to security controls, technical systems, features or upgrades. Such recommendations will be made in good faith and in discussion with the Client.
- 7.2. Once changes have been discussed and agreed, both parties will agree the necessary variations by signing a Change Order.
- 7.3. Any amendments to this Framework Agreement must be agreed by the Client and Waterstons in writing. Any such changes shall apply to all Service Orders entered into after the date of such amendment.

8. Waterstons Warranties

- 8.1. Waterstons warrants:
 - 8.1.1. It has the right, power and authority to enter into this Agreement and any Service Orders, and to grant to the Client the rights (if any) contemplated in this Agreement;
 - 8.1.2. it will at all times comply with all applicable laws and regulations with respect to its activities under this Agreement and in connection with any aspect of the Services;
 - 8.1.3. the Services will be provided using the skill and care expected of a proficient consultancy and services provider;
 - 8.1.4. any Deliverables (including software) will correspond in all material respects with the specification in the Service Order and will be free from defects in material and workmanship for a period of 90 days from acceptance (the **Warranty Period**), unless otherwise stated in a Service Order.
- 8.2. For the purposes of this Clause 8, acceptance shall mean:
 - 8.2.1. Completion of any user acceptance criteria and/or acceptance tests specified in a Service Order;
 - 8.2.2. Where no user acceptance criteria and/or acceptance tests are specified, the Deliverables shall be deemed to be accepted on the date of delivery or initial use by the Client, unless the Client advises Waterstons within five working days that the Deliverables have not been accepted;
 - 8.2.3. For the purposes of this Clause 8.2, unless otherwise defined in a Service Order, initial use shall mean the use of the Deliverables in a live environment, by the Client, its employees, agents, Clients and other end users, and date of delivery shall mean the date the Deliverable is deployed and finalised, made available to the Client, and could be used in production.
- 8.3. Where there is any ambiguity or disagreement as to when the Warranty Period began or will begin, the Dispute Resolution procedure in Clause 28.7 shall be followed.
- 8.4. In relation to Due Diligence Services, Waterstons warrants that the Services will be provided using reasonable care and skill and in accordance with the Service Order, but limited to the scope requested by the Client, and the information available to Waterstons at the time the Services were carried out.
- 8.5. The warranties in this Clause 8 shall not apply to Resold Services. Further details of warranties in relation to Resold Services are contained in Schedule 1.
- 8.6. If any of the warranties in this Clause 8 are breached, Waterstons shall, at its option, promptly remedy, rectify, re-perform or refund the Charges relating to any such Services or Deliverables, provided that:

- 8.6.1. the Client gives written notice of the defect or failure to Waterstons within seven days of the time when the Client discovers or ought to have discovered the defect or failure, and that such notice is given before the expiry of the Warranty Period; and
- 8.6.2. after receiving the notice, Waterstons is given a reasonable opportunity to examine the Deliverables and/or Service outputs and the Client (if asked to do so) returns such to Waterstons' place of business for the examination to take place.
- 8.7. If Waterstons undertakes to remedy, rectify or re-perform any defects under this Clause 8, it shall do so within a reasonable period of time. For the avoidance of doubt, such remedy, rectification or re-performance does not give rise to a new Warranty Period. If such remedy, rectification or re-performance fails to resolve the problem, Waterstons shall refund the Charges relating to the Service or Deliverables.
- 8.8. Waterstons shall not be liable for any breach of the warranties in this Clause 8 to the extent the liability arises from:
 - 8.8.1. unreasonable wear and tear, wilful damage or negligence of the Client;
 - 8.8.2. a material breach by the Client of any of its obligations under this Agreement;
 - 8.8.3. the Client's failure to comply with Waterstons' instructions, including in relation to installation, operation, storage, use or maintenance;
 - 8.8.4. the Client modifying any Deliverable or aspect of a Service without having Waterstons' prior consent or, having received such consent, not in accordance with Waterstons' instructions;
 - 8.8.5. attempts by the Client's personnel or third parties (without the permission of Waterstons) to rectify any defects, other than normal recovery or diagnostic procedures;
 - 8.8.6. any Client Materials, or other drawing, design, instruction, specification or requirement of the Client which is materially incomplete, inaccurate, incorrect, illegible, out of sequence, in the wrong form or arising from their late delivery or non-delivery;
 - 8.8.7. use of the Services or Deliverables by the Client, if Waterstons has advised the Client that they must stop using the Services or Deliverables while the defect is remedied, provided that Waterstons act within a prompt timescale to remedy the defect.
- 8.9. Waterstons does not warrant that the Services will be free from Vulnerabilities or that the Client's use of the Services will be uninterrupted or error-free, but Waterstons warrants that it shall take reasonable steps not to introduce any Malware or Vulnerability to the Client's Systems.
- 8.10. In relation to Services that include the creation or provision of software developed by Waterstons (**Developed Software**):
 - 8.10.1. the Client acknowledges that no software programmes are completely error free and that the existence of minor errors and/or bugs in any software supplied by Waterstons shall not constitute a material breach of this Agreement. Any such minor errors and/or bugs identified within the Warranty Period shall be remedied by Waterstons as soon as practicable;
 - 8.10.2. Waterstons warrants that any Developed Software it provides will be fit to operate in conjunction with any hardware items or software products identified as being required in the Service Order. Waterstons specifically denies any other implied or express warranty that software will be fit to operate in conjunction with any other items not identified in the Service Order.
 - 8.10.3. Where third party software has been modified by Waterstons for the Client, the warranty in Clause 8.1.4 shall only apply to the extent that Waterstons has control over the operation of the software;
 - 8.10.4. Any open-source software provided by Waterstons may be used according to the terms and

conditions of the specific licence under which the relevant open-source software is distributed, but is provided "as is".

- 8.11. Subject to the liability cap in Clause 17.2, Waterstons shall indemnify the Client against all direct liabilities, costs, expenses, damages and losses suffered or incurred by the Client arising out of any non-compliance by Waterstons with this Clause 8.
- 8.12. Except as set out in this Clause 8, Waterstons:
 - 8.12.1. gives no warranty and makes no representations in relation to the Services;
 - 8.12.2. shall have no liability for any non-compliance with the warranties in Clause 8; and
 - 8.12.3. the conditions implied by the Supply of Goods and Services Act 1982 ss 12–16 are expressly excluded.
- 8.13. All warranties, conditions, rules and other terms implied by statute or common law are, to the greatest extent permitted by law, excluded from this Agreement.

9. **Client Obligations**

- 9.1. The Client warrants that it has the right, power and authority to enter into this Agreement and any Service Orders, and to grant to Waterstons the rights (if any) contemplated in this Agreement.
- 9.2. The Client shall:
 - 9.2.1. perform its obligations in accordance with the terms of this Agreement;
 - 9.2.2. pay the Charges for the Services in accordance with the provisions of Clause 6 (Charges and Payment) and the terms of the Service Order;
 - 9.2.3. co-operate with Waterstons in all matters relating to the Services;
 - 9.2.4. use reasonable endeavours to provide Waterstons with all necessary information as to the Client's business and needs in relation to the Services;
 - 9.2.5. provide in a timely manner, and at its own expense:
 - a) such access to the Client's premises, data, and Client's Systems as is reasonably requested by Waterstons from time to time to enable provision of the Services;
 - b) any Client Materials required for the provision of the Services within such time and in such format as Waterstons may require. The Client shall use reasonable endeavours to ensure the accuracy of any information provided by it;
 - 9.2.6. obtain and maintain all necessary licences, permits and consents required to enable Waterstons to perform the Services and otherwise comply with its obligations under this Agreement;
 - 9.2.7. adhere to any third party licences/end user license agreements necessary for the provision of the Services, and the Client shall indemnify and hold Waterstons harmless against any loss or damage which it may reasonably suffer or incur as a direct result of the Client's breach of such licenses/agreements;
 - 9.2.8. inform Waterstons in a timely manner of any matters (including any health, safety or security requirements) which may materially affect the provision of Services or the performance of any Service Order; and
 - 9.2.9. comply with all applicable laws and regulations with respect to its activities under this Agreement and in connection with any aspect of the Services;
 - 9.2.10. take reasonable steps not to introduce any Malware or Vulnerability to Waterstons' Systems; and
 - 9.2.11. comply with Waterstons' Equality, Diversity and Inclusion Charter (available on request).
- 9.3. The Client shall not use the Services in any manner which is unlawful, harmful, threatening, defamatory, offensive, which promotes unlawful violence or discrimination of any kind, or, as far as it

- is aware (using reasonable due diligence) contravenes any laws or regulations.
- 9.4. The provision of some Services may require the Client to first undertake an independent vulnerability scan. Where this is required, it is the responsibility of the Client to arrange such a scan and ensure any remedial activities are undertaken prior to onboarding into the Services.
 - 9.5. It shall be the Client's responsibility to ensure that any Service Order details all of the Client's cybersecurity and/or other requirements, including any requirements that might be imposed on the Client's business, operations or systems, in sufficient detail so they can be implemented by Waterstons as part of the Services.
 - 9.6. Where the Services include Support & Hosting Services, the Client must maintain (and when appropriate, renew) any third party licenses where they are required in order for Waterstons to deliver the Services. If a third party license lapses (where it is not necessary to enable Waterstons to deliver the Services), the Client must notify Waterstons to allow Waterstons to amend the scope of the Services.
 - 9.7. Unless procured from, or managed by, Waterstons under a Service Order, the Client is solely responsible for the purchase of its Client Equipment and for ensuring appropriate maintenance agreements are in place. The Client shall ensure that the Client Equipment meets any specification requirements outlined in a Service Order.
 - 9.8. Where the issuing of an invoice depends on acceptance or feedback from the Client to Waterstons as specified in a Service Order, such acceptance and feedback shall be given by the Client within a reasonable timescale.
 - 9.9. Subject to the liability cap in Clause 17.2, the Client shall indemnify Waterstons against all direct liabilities, costs, expenses, damages and losses suffered or incurred by Waterstons arising out of any non-compliance by the Client with this Clause 9.
- 10. Service Levels**
- 10.1. Where the Client requests that Waterstons provides Support & Hosting Services, the Service Levels (including response times and availability levels as appropriate) shall be outlined in the Service Order. In relation to Support Services, the Service Levels shall be calculated monthly by reference to the Response Time and the Resolution Time.
 - 10.2. The failure to meet any such targets or the unavailability of any service because of any of the following shall not be counted as a breach when calculating the Service Level:
 - 10.2.1. an Outage or period of downtime planned by the Client;
 - 10.2.2. an Outage or period of downtime planned by Waterstons (provided it is timed to avoid disruption to the Client's operations and the Client has been notified in advance);
 - 10.2.3. any fault caused by the Client's network or system, including misconfiguration by the Client;
 - 10.2.4. any fault or associated problem with equipment or systems not provided by Waterstons;
 - 10.2.5. any fault or associated problem caused by a third party provider;
 - 10.2.6. a Cyber Incident unless such Cyber Incident is attributable in whole or in part to Waterstons;
 - 10.2.7. any acts or omissions of the Client, including failures or delays in complying with Waterstons' reasonable instructions;
 - 10.2.8. a fault that incurs less than 5 minutes' Outage.
 - 10.3. If a Client materially exceeds its parameters, as defined in the Service Order, in three consecutive calendar months or more, Waterstons reserves the right to increase the scope and price of the Services to a reasonable extent to cover the demonstrated exceeding of scope, in which case the parties will discuss in good faith whether there should be an amendment to the relevant Service Order.

11. **Authority to Act**

- 11.1. Where the Services include Support & Hosting Services, Waterstons shall have the authority to take appropriate action in a serious incident (for example a critical security risk). This action may take systems offline for a period whilst resolving this issue. This action would only be taken in a P1 Service Level situation as defined by Waterstons for Support & Hosting Services, with particular note to SOC, NOC and hosting services as defined in the Service Order. Any incidents with a lower severity rating as defined by Waterstons will follow normal working protocols. Waterstons accepts no liability for any losses (direct or indirect) incurred by the Client as a result of this action (except where such losses are as the result of Waterstons' negligence.) Waterstons will act in good faith and in the Client's best interests in such scenarios, using industry-accepted best practice to balance the risks involved.

12. **Domain Names**

- 12.1. If the Client instructs Waterstons to obtain a domain name for the Client, Waterstons shall (unless otherwise agreed) act as an agent for the Client in dealing with the relevant domain name registration authority. The contract for the domain name shall be between the Client and the relevant domain name registration authority and the Client agrees that it shall be solely responsible for renewals, and for legal, technical, administrative, billing or other requirements imposed by the relevant domain name registration authority (and relevant costs and expenses thereof), unless it instructs Waterstons otherwise.
- 12.2. Waterstons gives no warranty that the domain name requested shall not infringe the rights of any third party and all such enquiries shall be the responsibility of the Client. The domain name shall form part of the Client's Intellectual Property Rights.
- 12.3. Subject to the liability cap in Clause 17.2, the Client shall indemnify Waterstons against liabilities, reasonable costs, expenses, damages and losses incurred by Waterstons due to a breach of a third party's intellectual property rights in relation to the domain name requested by the Client.
- 12.4. If requested by the Client in writing, Waterstons agrees to assist in arranging for the domain name to be transferred to another company in the Client's group of companies, or another third party.

13. **Data Centres for Hosting Services**

- 13.1. In relation to Hosting Services involving the use of a Data Centre, Waterstons shall ensure the Data Centre will be ISO: 27001 compliant and categorised at least Tier III in accordance with the Uptime Institute categorisations, and will be specified in the Service Order.
- 13.2. Waterstons reserves the right to change Data Centre at any time, without consent from the Client, provided that the Data Centre is of an equivalent tier and standard by providing at least 30 days' notice in advance of the change. If the Client, acting reasonably, considers that such a change shall have a material adverse effect on the provision of the Services, it may, terminate any relevant Service Order by giving Waterstons 30 days' notice.
- 13.3. In relation to Data Centre Access:
- 13.3.1. The Client shall inform Waterstons in writing of those individuals who are authorised to access the Data Centre (**Approved Personnel**) and shall keep that list accurate and up to date throughout the term of the relevant Service Order. The Client shall provide notice of any changes to Approved Personnel in writing.
- 13.3.2. Approved Personnel may access the Data Centre for the purposes of installing, operating, maintaining, repairing or removing the Client Equipment on reasonable advance notice to Waterstons. Reasonable advance notice means a minimum of (i) twenty-four hours for routine maintenance; (ii) one hour in the case of emergencies; and (iii) seven days for installation or

removal of Client Equipment. Approved Personnel shall at all times while on the Data Centre premises comply with Waterstons' or the owner/manager of the Data Centre's security and safety procedures as amended from time to time. Waterstons may in its discretion, acting reasonably, require Approved Personnel to be accompanied by a Waterstons escort and reserves the right to charge for such accompaniment services. Such charges shall be notified to the Client in advance.

13.3.3. The Client and/or Approved Personnel may not photograph, or electronically or otherwise reproduce any part of the interior of the Data Centre, without Waterstons' prior written permission.

13.3.4. Approved Personnel must abide by any reasonable instructions provided by Waterstons or any other representatives of the Data Centre when on Data Centre premises.

13.3.5. The Client is liable for any acts of omissions of its Approved Personnel.

14. Resold Services

14.1. Where the Services include any Resold Services, the additional terms in Schedule 1 shall apply.

15. Intellectual Property

15.1. For certain Services (for example, bespoke software development), where Intellectual Property Rights are intended to transfer to the Client, the transfer of those rights will be dealt with in the Special Terms section of the relevant Service Order. For all other Services, the provisions of this Clause 15 shall apply.

15.2. In consideration of the Charges payable under this Agreement, Waterstons grants to the Client a fully paid-up, non-exclusive, royalty-free, perpetual, non-transferable licence to use the Intellectual Property Rights in the Services and any Deliverables to the extent required for the Client to utilise the Services.

15.3. The Client may not sublicense the Services or any Deliverables to any person without Waterstons' prior written consent.

15.4. The Client may not make adaptations or variations of the Service or any Deliverables, nor disassemble, decompile, reverse engineer or decode the Services or any Deliverables without the prior consent of Waterstons.

15.5. Ownership of the Intellectual Property Rights in or arising out of or in connection with the Services which are created by Waterstons shall be retained by Waterstons. For the avoidance of doubt, ownership of the Intellectual Property Rights in the Client Materials shall remain with the Client.

15.6. The Client grants to Waterstons a fully paid-up, non-exclusive, royalty-free, non-transferable licence to copy, use and modify any material or information, including the Client Materials, provided to Waterstons by the Client for the term of this Agreement for the purposes of providing the Services.

15.7. The Client warrants that any material or information, including the Client Materials, provided by it, and its use by Waterstons for the purpose of providing the Services, will not infringe the rights of any third party, and the Client shall indemnify Waterstons against any loss, damages, costs, expenses or claims arising from such infringement.

15.8. Waterstons warrants that use of the Services by the Client will not infringe the rights of any third party, and Waterstons shall indemnify the Client against any loss, damages, costs, expenses or claims arising from such infringement.

15.9. Where the Services include the creation or provision of software, Waterstons shall not be liable for any claim of infringement of a third party's Intellectual Property Rights to the extent that such liability is:

15.9.1. caused or contributed to by the Client's use of the software in combination with software not

- supplied by Waterstons or approved in writing by Waterstons;
- 15.9.2. based on use of any version of the software other than the latest version supplied by Waterstons, if such claim could have been avoided by the use of such supplied version; or
- 15.9.3. where the claim for infringement arises in respect of a feature of the software which was specified by the Client in the Service Order.
- 15.10. If use of the Services and/or Deliverables becomes, or in the opinion of qualified legal counsel is likely to become, the subject of any claim of infringement of a third party's Intellectual Property Rights, Waterstons shall:
 - 15.10.1. replace all or part of the Services and/or Deliverables with functionally equivalent replacement(s) without any charge to the Client;
 - 15.10.2. modify the Services and/or Deliverables as necessary to avoid such claim, provided that the replacement(s) (as amended) functions in substantially the same way and meets the Client's requirements; or
 - 15.10.3. procure for the Client a licence from the relevant claimant to continue using the Services and/or Deliverables.
- 15.11. If either party (**Indemnifying Party**) is required to indemnify the other party (**Indemnified Party**) under this Clause 15, the Indemnified Party shall:
 - 15.11.1. Notify the Indemnifying Party as soon as reasonably practicable in writing of any claim against it in respect of which it wishes to rely on any of the indemnities in this Clause 15 (**IPRs Claim**);
 - 15.11.2. Allow the Indemnifying Party, at its own cost, to conduct all negotiations and proceedings and to settle the IPRs Claim, always provided that the Indemnifying Party shall obtain the Indemnified Party's prior approval of any settlement terms, such approval not to be unreasonably withheld or delayed;
 - 15.11.3. Provide the Indemnifying Party with such reasonable assistance regarding the IPRs Claim as is required by the Indemnifying Party, subject to reimbursement by the Indemnifying Party of the Indemnified Party's costs so incurred; and
 - 15.11.4. Not, without prior consultation with the Indemnifying Party, make any admission relating to the IPRs Claim or attempt to settle it, provided that the Indemnifying Party considers and defends any IPRs Claim diligently, using competent counsel and in such a way as not to bring the reputation of the Indemnified Party into disrepute.

16. **Data Protection**

- 16.1. Each party agrees that, in the performance of their respective obligations under this Agreement, it shall comply with the provisions of Schedule 2.
- 16.2. The Services may be fulfilled from Waterstons' offices internationally. Waterstons has an Intercompany Sharing and International Transfer Agreement in place to cover the international transfer of data within Waterstons, and Waterstons shall ensure that all Personal Data will be processed and safeguarded in accordance with Data Protection Legislation.

17. **Limitation of Liability**

- 17.1. Unless the Special Terms of a Service Order provide otherwise, the extent of a party's liability under or in connection with this Agreement and any Service Orders and any use made by the Client of the Services, the Deliverables or any part of them (regardless of whether such liability arises in tort, contract or in any other way and whether or not caused by negligence or misrepresentation, and including liability for any acts or omissions of its employees, agents and sub-contractors), including any liability arising through breach of any warranties or indemnities within this Agreement, shall be as

set out in this Clause 17.

- 17.2. Subject to Clause 17.6, each party's liability to the other (in total, and in respect of all claims) shall be limited to the Charges paid for the Services as specified in the Service Order in dispute.
- 17.3. Except as expressly and specifically provided for in this Agreement, Waterstons shall have no liability for any loss, damage, costs, expenses or other claims for compensation to the extent that they are caused by:
 - 17.3.1. any Client Materials or instructions supplied by the Client which are materially incomplete, inaccurate, incorrect, illegible, out of sequence or in the wrong form or arising from their late delivery or non-delivery due to the fault of the Client;
 - 17.3.2. failure by the Client to abide by its obligations under Clause 9;
 - 17.3.3. failure by the Client to follow Waterstons' reasonable instructions;
 - 17.3.4. failure by the Client to implement Waterstons' reasonable advice, including but not limited to the Client not making any recommended improvement as suggested by Waterstons, where such advice has been given in good faith and the risks of not following such advice have been explained to the Client;
 - 17.3.5. any consequences suffered by the Client, or any of its employees, contractors as a result of any ethical hacking or phishing Services provided by Waterstons, or any Services that involve accessing the Client's Systems to find or access Vulnerabilities, weaknesses or similar, where such risks have been explained to the Client in advance, and the Client has decided to proceed with those Services;
 - 17.3.6. any actions taken by Waterstons at the Client's direction where Waterstons gives prior notice to the Client that such actions are against Waterstons' advice; or
 - 17.3.7. the Client's breach of any third party's end user licence agreement.
- 17.4. Subject to Clause 17.6, neither party shall be liable for any special, indirect, consequential or pure economic loss, costs, damages, charges or expenses.
- 17.5. Subject to Clause 17.6, neither party shall be liable for any of the following (whether direct or indirect):
 - 17.5.1. loss of profit;
 - 17.5.2. loss of revenue;
 - 17.5.3. loss of business;
 - 17.5.4. depletion of goodwill or similar losses;
 - 17.5.5. loss of savings, discount or rebate (whether actual or anticipated);
 - 17.5.6. loss of goods;
 - 17.5.7. loss of use;
 - 17.5.8. loss of production;
 - 17.5.9. loss of contract;
 - 17.5.10. loss or damage to equipment;
 - 17.5.11. loss of commercial opportunity.
- 17.6. Nothing in this Agreement shall operate to limit or exclude either party's liability for (i) personal injury or death caused by its negligence or (ii) for fraud or fraudulent misrepresentation; or for (iii) any other liability that cannot be excluded or limited by law.

18. Termination

- 18.1. Without affecting any other right or remedy available to it, either party may terminate this Agreement and any current Service Orders with immediate effect by giving written notice to the other party if:
 - 18.1.1. the other party commits a material breach of any term of this Agreement and (if such breach is remediable) fails to remedy that breach within a period of 30 days after being notified in

- writing to do so;
- 18.1.2. the other party repeatedly breaches any of the terms of this Agreement and continues to do so after being given notice to cease such breaches, in such a manner as to reasonably justify the opinion that its conduct is inconsistent with it having the intention or ability to give effect to the terms of this Agreement;
 - 18.1.3. the other party suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts;
 - 18.1.4. the other party suspends or ceases, or threatens to suspend or cease, carrying on all or a substantial part of its business; or
 - 18.1.5. the other party's financial position deteriorates so far as to reasonably justify the opinion that it is unable to give effect to the terms of this Agreement.
- 18.2. In relation to Consultancy & Software Services, without affecting any other right or remedy available to it, either party may terminate this Agreement and/or any current Service Orders for convenience on giving not less than three calendar months' written notice to the other.
- 18.3. In relation to Support & Hosting Services, and appropriate Resold Services:
- 18.3.1. The Client may terminate the Services by providing at least 90 days' notice in advance of the expiry of the term of the Services, which will be set out in the Service Order. If the Client does not give notice of their intention to terminate, the Services will automatically renew for the same period as the initial term of the Services as set out in the Service Order.
 - 18.3.2. The Client may terminate the Services by providing at least 30 days' notice if Waterstons is in breach of P1 Service Levels (as defined in the Service Order) on three or more occasions in any twelve calendar month rolling period.
- 18.4. In relation to Service Orders:
- 18.4.1. If the start date for providing the Services (as defined in the project documentation and notified to the Client in advance) is materially delayed for at least three months through no fault of Waterstons, Waterstons may cancel an individual Service Order for Services not yet provided, by giving the Client 30 days' written notice.
 - 18.4.2. On termination (or expiry) of this Agreement, howsoever arising, each Service Order then in force at the date of such termination shall continue in full force and effect (and shall be subject to the terms of this Agreement) for the remainder of the term of such Service Order.
 - 18.4.3. The termination of any Service Order shall not affect any other Service Orders or this Agreement.
 - 18.4.4. Any Service Order entered into after the termination of the Agreement will not be valid.
19. **TUPE**
- 19.1. If TUPE Regulations are applicable in relation to the Services provided pursuant to any Service Order, the provisions of Schedule 3 shall apply.
20. **Non-solicitation of staff**
- 20.1. Except in respect of any transfer of staff pursuant to this Agreement, 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 or service of the other party any person employed or engaged by such other party in the provision of the Services or (in the case of the Client) in the receipt of the Services at any time during the term of this Agreement or for a further period of six months after the termination of this Agreement other than by means of a national advertising campaign open to all comers and not specifically targeted at any of the staff of the other party.

20.2. If either Waterstons or the Client commits any breach of Clause 20.1, which directly results in the employee, worker or independent contractor in question ceasing to be employed by the other party, the breaching party shall, within 30 days of receipt of a written demand, pay to the claiming party a sum equal to one year's basic salary or the annual fee that was payable by the claiming party to that employee, worker or independent contractor plus the recruitment costs incurred by the claiming party in replacing such person.

21. Confidentiality

21.1. Each party undertakes that it shall not at any time during this Agreement, and for a period of five years after termination of this Agreement, disclose to any person any confidential information concerning the business, affairs, clients, customers or suppliers of the other party except as permitted by Clause 21.2.

21.2. Each party may disclose the other party's confidential information:

21.2.1. to its employees, officers, representatives, contractors, subcontractors or advisers who need to know such information for the purposes of exercising the party's rights or carrying out its obligations under or in connection with this Agreement. Each party shall ensure that its employees, officers, representatives, contractors, subcontractors or advisers to whom it discloses the other party's confidential information comply with this Clause 21; and

21.2.2. as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority, securities exchange or listing authority.

21.3. No party shall use any other party's confidential information for any purpose other than to exercise its rights and perform its obligations under or in connection with this Agreement.

22. Anti bribery

22.1. Each party shall ensure that it does not, by any act or omission, place the other party in breach of the Bribery Act 2010 and mandatory guidance published under it. Each party shall comply with all applicable bribery laws in connection with the performance of this Agreement.

22.2. Either party shall immediately notify the other party as soon as it becomes aware of a breach, or possible breach, of any of the requirements in this Clause 22. Any breach of this Clause 22 shall be deemed a material breach of this Agreement that is not remediable and shall entitle the other party to immediately terminate this Agreement under Clause 18 (Termination).

23. Modern slavery

23.1. Each party warrants that:

23.1.1. neither the party nor any of its officers or employees:

- a) has committed an offence under the Modern Slavery Act 2015 (an MSA Offence); or
- b) has been notified that it is subject to an investigation relating to an alleged MSA Offence or prosecution under the Modern Slavery Act 2015; or
- c) is aware of any circumstances within its supply chain that could give rise to an investigation relating to an alleged MSA Offence or prosecution under the Modern Slavery Act 2015;

23.1.2. it shall comply with the Modern Slavery Act 2015;

23.1.3. it shall notify the other party immediately in writing if it becomes aware or has reason to believe that it, or any of its officers, employees, agents or subcontractors have breached or potentially breached any of the obligations under this Clause 23.

23.2. Any breach of this Clause 23 by either party shall be deemed a material breach of the Agreement and

shall entitle the other party to terminate the Agreement in accordance with Clause 18 (Termination).

24. Force Majeure

- 24.1. Where a Force Majeure Event occurs, a party shall not be liable to the extent that it is delayed in, or prevented from, performing its obligations under this Agreement due to that Force Majeure Event, provided that the affected party:
- 24.1.1. promptly notifies the other of the Force Majeure Event, its expected duration and the effect of the Force Majeure Event on the party's ability to perform its obligations under this Agreement;
 - 24.1.2. uses all reasonable endeavours to avoid, reduce and mitigate the effects of that Event; and
 - 24.1.3. keeps the other party informed of the status of the Force Majeure Event and its impact on the performance of the Agreement.
- 24.2. If, due to a Force Majeure Event or Force Majeure Events, a party:
- 24.2.1. is or is likely to be unable to perform a material obligation; or
 - 24.2.2. is or is likely to be delayed in or prevented from performing its obligations for a total of more than 90 days in any 12 months of operation of this Agreement,
- the other party may terminate this Agreement on no less than 30 days' written notice.
- 24.3. Inability to pay is not a Force Majeure Event.

25. Entire agreement

- 25.1. This Agreement (including any Service Orders) constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter. 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 and acknowledges that it has not entered into this Agreement in reliance on any representation or warranty that is not expressly 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.

26. Prevail Clause

- 26.1. Except where expressly agreed in writing by Waterstons, the terms and conditions of this Agreement shall apply exclusively to the entire business relationship between the parties. Any additional or conflicting terms of any Client Order, and/or any document issued by the Client to Waterstons, will not be binding on Waterstons (even if Waterstons has effected delivery or rendered services without reservation) and shall be taken as the Client's internal administrative document issued for its own convenience only.
- 26.2. All offers are made without engagement. Contracts shall become effective on Waterstons' written confirmation only. If delivery is carried out without the Client having received such confirmation, the contract shall become valid by acceptance of delivery and subject to the terms and conditions within this Agreement.

27. Notices

- 27.1. Any notice or other communication given to a party under or in connection with this Agreement shall be in writing and shall be:
- 27.1.1. delivered by hand or by pre-paid first-class post or other next working day delivery service to

- the postal address stated in the Contact Details section of this Agreement; or
- 27.1.2. sent by email to: legal@waterstons.com, or to the email address given by the Client in the Contact Details section of this Agreement.
- 27.2. Any notice or communication shall be deemed to have been received:
- 27.2.1. if delivered by hand, at the time the notice is left at the proper address;
- 27.2.2. if sent by pre-paid first-class post or other next working day delivery service, at 9.00 am on the second Business Day after posting; or
- 27.2.3. if sent by email at the time of transmission, or, if this time falls outside business hours in the place of receipt, when business hours resume. In this Clause 27.2.3, business hours means 9.00am to 5.00pm Monday to Friday on a day that is not a public holiday in the place of receipt.
- 27.3. This Clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.
28. **General**
- 28.1. **Assignment and other dealings** Neither party shall, without the prior written consent of the other party, assign, transfer, charge, subcontract or deal in any other manner with all or any of its rights or obligations under this Agreement.
- 28.2. **Variation** No variation of this Agreement shall be effective unless it is in writing and signed by the parties (or their authorised representatives), in accordance with Clause 7 (Change Procedure and Amendments).
- 28.3. **Waiver** A waiver of any right or remedy under this Agreement or by law is only effective if given in writing and shall not be deemed a waiver of any subsequent right or remedy. A failure or delay by a party to exercise any right or remedy provided under this Agreement or by law shall not constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict any further exercise of that or any other right or remedy. No single or partial exercise of any right or remedy provided under this Agreement or by law shall prevent or restrict the further exercise of that or any other right or remedy.
- 28.4. **Rights and remedies** Except as expressly provided in this Agreement, the rights and remedies provided under this Agreement are in addition to, and not exclusive of, any rights or remedies provided by law.
- 28.5. **Severance** If any provision or part-provision of this Agreement is or becomes invalid, illegal or unenforceable, it shall be deemed deleted, but that shall not affect the validity and enforceability of the rest of this Agreement. If any provision or part-provision of this Agreement is deemed deleted under this Clause 28.5, the parties shall negotiate in good faith to agree a replacement provision that, to the greatest extent possible, achieves the intended commercial result of the original provision.
- 28.6. **Survival** On termination of the Agreement, the following clauses shall continue in force: Clause 1 (Definitions & Interpretation), Clause 15 (Intellectual Property), Clause 16 (Data Protection), Clause 17 (Limitation of Liability), Clause 21 (Confidentiality), Clause 28.6 (Survival), Clause 28.12 (Governing Law) and Clause 28.13 (Jurisdiction). Termination of this Agreement shall not affect any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination, including the right to claim damages in respect of any breaches of this Agreement which existed at or before the date of termination.
- 28.7. **Dispute Resolution** If any dispute arises in connection with this Agreement, the parties shall attempt to resolve such dispute using the following procedure.
- 28.7.1. The dispute resolution process may be initiated at any time by either party giving notice in writing to the other party that a dispute has arisen, including reasonable information as to the nature of the dispute.

- 28.7.2. The parties shall use reasonable endeavours to reach a negotiated resolution through the following procedures:
- a) informally through discussion between the personnel involved in the delivery and receipt of the Services, who shall discuss and attempt to resolve the dispute within seven days of the dispute having been notified;
 - b) if the dispute cannot be resolved by the persons referred to in Clause 28.7.2(a) within seven days, Waterstons' Client Partner, and the Client's contract manager shall meet to discuss the dispute and attempt to resolve it;
 - c) if the dispute has not been resolved within seven days of the first meeting of Waterstons' Client Partner, and the Client's contract manager, then the matter shall be referred to the Chief Executive Officer (or nominated representative who must be a director able to make decisions on behalf of Waterstons) of Waterstons and the Chief Executive Officer (or nominated representative who must be a director able to make decisions on behalf of the Client) of the Client, who together shall discuss and attempt to resolve the dispute within a further seven days of the dispute having been referred to them.
 - d) If no agreement is reached by the persons referred to in Clause 28.7.2(c) within seven days, then the parties agree to enter into mediation in good faith to settle such a dispute and will do so in accordance with the Centre for Effective Dispute Resolution (CEDR) Model Mediation Procedure. Unless otherwise agreed between the parties within seven days of agreeing to enter into mediation, the mediator will be nominated by CEDR.
- 28.8. **No partnership or agency** Nothing in this Agreement is intended to, or shall be deemed to, establish any partnership or joint venture between any of the parties, constitute any party the agent of another party, or authorise any party to make or enter into any commitments for or on behalf of any other party. Each party confirms it is acting on its own behalf and not for the benefit of any other person.
- 28.9. **Third party rights** This Agreement does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Agreement. The rights of the parties to rescind or vary this Agreement are not subject to the consent of any person.
- 28.10. **Company group** Each party enters into this contract on its own behalf and that of its Affiliates. The rights and benefits conferred under this Agreement may accrue to members of each party's group of companies and any member of the party's group of companies may enforce those rights, if appropriate.
- 28.11. **Counterparts** This Agreement may be executed in any number of counterparts, each of which shall constitute a duplicate original, but all the counterparts shall together constitute the one agreement. Transmission of the executed signature page of a counterpart of this Agreement by email (in PDF, JPEG or other agreed format) or by other electronic means shall take effect as the transmission of an executed "wet-ink" counterpart of this Agreement. No counterpart shall be effective until each party has provided to the other at least one executed counterpart.
- 28.12. **Governing law** This Agreement and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation shall be governed by and construed in accordance with the laws of England and Wales.
- 28.13. **Jurisdiction** Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with this Agreement or its subject matter or formation.

Schedule 1 – Resold Services

Where the Client requests that Waterstons provides Services involving Resold Services, the following terms shall apply, in addition to the terms of the main body of the Agreement.

1. Basis of sale

- 1.1 A binding contract shall not come into existence between Waterstons and the Client unless and until either:
 - 1.1.1 both parties agree and sign a Service Order; or
 - 1.1.2 the Client acknowledges its willingness to proceed on the basis on a quotation from Waterstons (whether by issuing a Purchase Order, accepting the offer in writing (including email) or otherwise indicating acceptance), which shall constitute the Clients' acceptance of Waterstons' offer.
- 1.2 For the avoidance of doubt, Clause 26 of the Agreement (Prevail Clause) shall apply to Resold Services. Any terms and conditions appended to or otherwise sent with any Client Purchase Order will not be binding on Waterstons (even if Waterstons has effected delivery or rendered services without reservation) and shall be taken as the Client's internal administrative document issued for its own convenience only.
- 1.3 No order for Resold Services which has been acknowledged by Waterstons may be cancelled by the Client, except with the agreement in writing of Waterstons (such agreement to not be unreasonably withheld or delayed). Where an order is cancelled in this manner, Waterstons may invoice the Client for reasonable expenses and costs incurred as a result of the cancellation.

2. Description

- 2.1 The quantity and specification of the Resold Services shall be as set out in the Service Order or quotation.
- 2.2 Waterstons reserves the right (but does not assume the obligation) to make any changes in the specification of the Resold Services which are required to conform with any applicable legislation, or notify the Client that a manufacturer or third party software licensor has made any changes.

3. Warranties and Remedies

- 3.1 Waterstons is not the manufacturer of any resold hardware, or the developer or licensor of any resold software, or the provider of resold cloud services or any other third party services, and no warranties are given by Waterstons in respect of the Resold Services other than where Waterstons selects, recommends or otherwise advises the Client regarding the Resold Services, in which case Waterstons warrants it has acted in accordance with Good Industry Practice after due and careful enquiry. Waterstons shall use reasonable endeavours to transfer to the Client the benefit of any warranty or guarantee given by the manufacturer or provider of the Resold Services.
- 3.2 Waterstons' employees, contractors and agents are not authorised to make any representations or contractually binding statements concerning the Resold Services.
- 3.3 The terms implied by sections 13 to 15 of the Sale of Goods Act 1979 are, to the fullest extent permitted by law, excluded from these terms.
- 3.4 Subject to paragraph 3.6 of this Schedule, if:
 - 3.4.1 the Client gives notice to Waterstons promptly after discovery that the Resold Services does not conform to the specification in the Service Order;

- 3.4.2 the Client agrees to allow Waterstons reasonable opportunity to inspect the Resold Services; and
 - 3.4.3 where appropriate, the Client returns the Resold Services (which, for the avoidance of doubt, may be achieved by allowing Waterstons reasonable access to collect the Resold Services);
- Waterstons shall promptly repair or replace Resold Services found to be defective, or refund the price of such defective Resold Services in full.
- 3.5 Waterstons shall not be required to undertake any repair, replacement or refund under paragraph 3.5 to the extent that such defect is caused by:
 - 3.5.1 the Client making further use of such Resold Services after giving notice of defects or non-conformity in accordance with paragraph 3.5 of this Schedule, if Waterstons advises the Client to cease using the Resold Services;
 - 3.5.2 a defect which arises because the Client failed to follow Waterstons' reasonable instructions as to the storage, commissioning, installation, use and/or maintenance of the Resold Services or (if there are none) good trade practice regarding the same;
 - 3.5.3 the Client using the Resold Services with other software, or software not approved by Waterstons;
 - 3.5.4 the Client using the Resold Services in a manner which Waterstons has specifically advised in writing that they should not be used;
 - 3.5.5 the Client altering or repairing or attempting to alter or repair such Resold Services without the written consent of Waterstons; or
 - 3.5.6 unreasonable wear and tear, wilful damage, negligence, or abnormal storage or working conditions by the Client; or
 - 3.5.7 the Resold Services differs from their description as a result of changes made to ensure they comply with applicable statutory or regulatory requirements.
 - 3.6 Subject to Clause 17.6 in the Agreement (Limitation of Liability), Waterstons' only liability in respect of Resold Services that fails to comply with the specification in the Service Order is as set out in this paragraph 3 of this Schedule.
- 4. **Client Responsibilities**
 - 4.1 The Client's attention is drawn to the following points, which may need to be considered depending on the particular Resold Services involved.
 - 4.2 Unless otherwise agreed in writing, the Client shall be responsible for preparing its premises for delivery and installation of the Resold Services.
 - 4.3 The Client agrees to abide by any third party end user agreements, or other rules or regulations that may be required by the provider of the Resold Services. These will be specified by the relevant third party provider and will be available on request, but are subject to change beyond the control of Waterstons.
 - 4.4 Waterstons will take all reasonable steps to carry out appropriate due diligence with recommended suppliers of third party services, but the Client is responsible for carrying out its own due diligence to ensure that any third party services meet any additional requirements that the Client may have (for instance, in relation to the Client's own regulatory or compliance environment).
 - 4.5 If the Client's use of the Resold Services involves the use of Personal Data, the Client will be responsible for putting any appropriate Data Protection or International Data Transfer Agreements in place for compliance with relevant Data Protection Legislation.

5. **Charges and Payment**

- 5.1 Clause 6 of the Agreement (Charges and Payment) shall apply to the provision of Resold Services, with the exception of Clauses 6.1-6.3, which shall be replaced by the following:
- 5.2 All prices charged to the Client shall be as stated in the Service Order or quotation.
- 5.3 Waterstons shall invoice the Client for the price of the Resold Services on or at any time after the delivery date (with the exception of any Resold Services requiring up-front payment, for which the Client will be invoiced at the time the Resold Services are purchased) unless otherwise specified in a Service Order or quotation.
- 5.4 Where a Client has Resold Services delivered in instalments, Waterstons reserves the right to invoice the Client in instalments.
- 5.5 The Client shall pay in full and cleared funds to such bank account nominated to Waterstons from time to time without deduction, set-off or counterclaim within 14 days of the date of Waterstons' invoice.

6. **Resold Cloud Services**

- 6.1 Where the Resold Services include cloud services (**Resold Cloud Services**) (such as but not limited to Amazon Web Services, Microsoft Azure, Wasabi Cloud Storage, SkyKick Backups and Microsoft Licences procured via a Cloud Solution Provider Program), the terms of this paragraph 6 shall apply.
- 6.2 Pricing, term, billing arrangements (whether in advance or in arrears), and consumption models for Resold Cloud Services shall be specified in the Service Order or quotation.
- 6.3 For applicable Resold Cloud Services, once the initial license has been set up, variations to the numbers of subscription licenses may be arranged via email between the Client and Waterstons. Records of subscription levels will be maintained by Waterstons and made available to the Client on request.
- 6.4 Pricing may vary during the term of the Resold Cloud Services if any of the following occur:
 - 6.4.1 The underlying services are tied to a foreign currency, in which case currency fluctuations may affect the price charged to the Client;
 - 6.4.2 The supplier increases the underlying list price for the Resold Cloud Services;
 - 6.4.3 The quantities of any subscription licences are changed;
 - 6.4.4 Any fixed price period or agreed term expires.
- 6.5 Any fixed term commitment for the Resold Cloud Services will be made clear at the Service Order or quotation stage. Termination arrangements will depend on the nature of the term commitment, as follows:
 - 6.5.1 For any services with a pre-defined fixed term duration, 30 days' notice will be required to terminate the Resold Cloud Services.
 - 6.5.2 For Resold Cloud Services which are flexible and do not have a fixed term commitment, Waterstons will process any termination instruction by the Client as quickly as is reasonably practicable.
- 6.6 The Client's attention is drawn to Clause 5.7 of the Agreement, in relation to suspension of Services in the case of material breach of the Client's obligations under the Agreement, or of any third party terms and conditions (which, for the avoidance of doubt, includes Resold Cloud Services terms and conditions).
- 6.7 If the circumstances in paragraph 6.6 arise, Waterstons will work with the Client and the Resold Cloud Services provider in question to try and resolve any dispute as quickly as possible, but any costs charged to Waterstons for the Resold Cloud Services during such period will be passed onto the Client in accordance with the agreed pricing.

- 6.8 Waterstons will provide the Resold Cloud Services subject to the third party provider's service level agreements and/or availability targets. Such third party service level agreements and/or availability targets are available on request.
- 6.9 The Client shall be responsible for the configuration, maintenance, and operation of their Resold Cloud Services accounts (unless such support has been agreed with Waterstons under a Service Order) and for any content that is published using the Resold Cloud Services.
- 6.10 The Client will allow Waterstons access to any third party tenancies necessary to enable the provision and ongoing billing support for any Resold Cloud Services.

7. **Resold Hardware**

- 7.1 Where the Resold Services include hardware (**Resold Hardware**) the provisions of this paragraph 7 shall apply.
- 7.2 Waterstons shall use its reasonable endeavours to ensure the Resold Hardware is delivered to the agreed place of delivery and on the date or dates agreed with the Client, but any such date is approximate only. If no dates are so specified, delivery shall be within a reasonable time of acceptance of the order. Time is not of the essence as to the delivery of the Resold Hardware (unless stated in the Service Order).
- 7.3 Waterstons shall be responsible for any damage, shortage, loss in transit, or non-delivery provided that the Client:
 - 7.3.1 advises Waterstons of the damage, shortage, loss in transit, or non-delivery within 3 working days of delivery (or intended delivery) of the Resold Hardware; and
 - 7.3.2 handles the Resold Hardware in accordance with Waterstons' reasonable written instructions.
 - 7.3.3 Any remedy under this paragraph 7.3 shall be limited, at the option of Waterstons, to the replacement, repair or refund of any Resold Hardware which is proven to Waterstons' satisfaction to have been lost or damaged in transit.
- 7.4 If the Client unreasonably refuses to accept delivery of the Resold Hardware, Waterstons shall charge the Client any reasonably incurred costs (including, but not limited to any delivery fee and/or restocking fee charged to Waterstons by a third party).
- 7.5 The Resold Hardware shall be at the risk of Waterstons until delivery to the Client at the place of delivery specified in the Service Order.
- 7.6 Ownership of the Resold Hardware shall pass to the Client when Waterstons has received in full in cleared funds all sums due to it in respect of the Resold Hardware.
- 7.7 Until ownership of the Resold Hardware has passed to the Client under paragraph 7.6, the Client shall:
 - 7.7.1 hold the Resold Hardware on a fiduciary basis as Waterstons' bailee;
 - 7.7.2 store the Resold Hardware (at no cost to Waterstons) in satisfactory conditions and separately from all the Client's other equipment or that of a third party, so that it remains readily identifiable as Waterstons' property;
 - 7.7.3 not destroy, deface or obscure any identifying mark or packaging on or relating to the Resold Hardware; and
 - 7.7.4 keep the Resold Hardware insured on Waterstons' behalf for its full price against all risks with a reputable insurer to the reasonable satisfaction of Waterstons.
- 7.8 The Client's right to possession of the Resold Hardware before ownership has passed to it shall terminate immediately if any of the circumstances set out in Clause 18 of the Agreement (Termination) arise or if the Client encumbers or in any way charges the Resold Hardware, or if the Client fails to make any payment to Waterstons on the due date having been given notice that payment is outstanding

beyond the due date.

- 7.9 Until ownership of the Resold Hardware is transferred to the Client in accordance with paragraph 7.6, the Client grants Waterstons, its agents and employees an irrevocable licence at any time to enter any premises where the Resold Hardware is or may be stored in order to inspect it, or where the Client's right to possession has terminated, to remove it. All reasonable and properly incurred direct costs incurred by Waterstons in repossessing the Resold Hardware shall be borne by the Client.

Schedule 2 – Data Protection

The following terms have the meaning given in applicable EU and UK Data Protection Legislation from time to time:

Controller

Data Subject

Personal Data

Personal Data Breach

Processor

Part 1: General Processing of Personal Data

1. Both parties will comply with all applicable requirements of the Data Protection Legislation. The provisions of this Schedule are in addition to, and do not relieve, remove or replace, a party's obligations or rights under the Data Protection Legislation. In respect of Personal Data outside of the UK, both parties agree to treat such data with the same level of protection as under the UK GDPR and Data Protection Act 2018.
2. The parties acknowledge that for the purposes of the Data Protection Legislation, unless agreed otherwise in a Service Order, the Client is the Controller and Waterstons is the Processor, or the Client is the Processor and Waterstons is the Sub-Processor, or the Client and Waterstons are Joint Controllers, depending on the Services undertaken. The scope, nature and purpose of processing by Waterstons, the duration of the processing and the types of Personal Data and categories of Data Subject will be set out in Part 2 Section A of this Schedule; any differences must be defined within the Service Order.
3. Without prejudice to the generality of paragraph 1 of Part 1 of this Schedule, the Client will ensure that it has all necessary appropriate consents, lawful basis and/or notices, as applicable in place to enable lawful transfer of the Personal Data to Waterstons and/or lawful collection of the Personal Data by Waterstons on behalf of the Client for the duration and purposes of this Agreement.
4. The Client will be responsible for fully informing Waterstons of the categories of Personal Data that may be processed and any special processing conditions that may apply beyond those documented in this Agreement.
5. The Client will be responsible for completion of any required Data Protection Impact Assessments and ensuring related required controls are communicated to Waterstons for the service being delivered; Waterstons will reasonably assist with completion of such assessments.
6. **Processors Responsibilities.** Without prejudice to the generality of paragraph 1 of Part 1 of this Schedule, Waterstons shall, in relation to any Personal Data processed in connection with the performance by Waterstons of its obligations under this Agreement:
 - 6.1 process that Personal Data only on the documented written instructions of the Client unless Waterstons is required by law to otherwise process that Personal Data. Where Waterstons is required by law to

- process such Personal Data, Waterstons shall promptly notify the Client of this before performing the processing required, unless it is prohibited by law from so notifying the Client;
- 6.2 ensure that it has in place appropriate technical and organisational measures to protect against unauthorised or unlawful processing of Personal Data and against accidental loss or destruction of, or damage to, Personal Data, appropriate to the harm that might result from the unauthorised or unlawful processing or accidental loss, destruction or damage and the nature of the data to be protected, having regard to the state of technological development and the cost of implementing any measures (those measures may include, where appropriate, pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of its systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the technical and organisational measures adopted by it); (See Part 2 Section B of this Schedule)
- 6.3 ensure that all personnel who have access to and/or process Personal Data are obliged to keep the Personal Data confidential; and
- 6.4 Waterstons may transfer Personal Data outside the United Kingdom or to any International Organisation and the Client hereby agrees to such transfer, provided the following conditions are fulfilled:
- 6.4.1 Waterstons has ensured the transfer is subject to appropriate safeguards (including in relation to any international sanctions in place) and appropriate due diligence;
- 6.4.2 the Data Subject has enforceable rights and effective legal remedies;
- 6.4.3 Waterstons complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred; and
- 6.4.4 Waterstons complies with reasonable instructions notified to it in advance by the Client with respect to the processing of the Personal Data;
- 6.5 assist the Client in responding to any request from a Data Subject and in ensuring compliance with its obligations under the Data Protection Legislation with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators; a reasonable charge to the Client may be incurred if the work is significant, however this will be agreed in advance;
- 6.6 notify the Client without undue delay on becoming aware of a Personal Data Breach;
- 6.7 at the written direction of the Client, where technically possible without affecting integrity of systems or backups, delete or return Personal Data and copies thereof to the Client on termination of this Agreement unless required by Applicable Law to store the Personal Data; and
- 6.8 maintain complete and accurate records and information to demonstrate its compliance with the Data Protection Legislation and the provisions of this Schedule, and allow for audits by the Client or the Client's designated auditor with reasonable notice and agreement and immediately inform the Client if, in the opinion of Waterstons, an instruction infringes the Data Protection Legislation.
7. **Sub-Processors.** Any third party processors of Personal Data specific to the Services will be listed in the Service Order and agreed to by the Client. Any Sub-Processors used by Waterstons in the normal course of their business for Personal Data processing will be listed in Waterstons' Privacy Statement on its website, as updated from time to time, and the Client hereby gives their general authorisation to such appointment(s). Waterstons confirms that it has entered or (as the case may be) will enter with the third-party processor into a written agreement substantially on that third party's standard terms of business which Waterstons confirms reflect and will continue to reflect the requirements of the Data Protection Legislation. As between the Client and Waterstons, Waterstons shall remain fully

liable for all acts or omissions of any third-party Sub-Processor appointed by it pursuant to this paragraph 8.

8. International Transfers

- 8.1 Neither Waterstons nor any Sub-Processors shall process or transfer any Personal Data outside of the UK unless an adequate level of protection is ensured, in accordance with the Data Protection Legislation. This may involve the use of the EU Standard Contractual Clauses (see Part 2 of this Schedule) and the UK Addendum to the EU Commission Standard Contractual Clauses (see Part 3 of this Schedule).
- 8.2 The Services may be fulfilled from Waterstons' offices in both the UK and Australia. Waterstons has an Intercompany Sharing and International Transfer Agreement in place to cover the international transfer of data to Australia. All Personal Data will be processed and safeguarded to a minimum of UK GDPR requirements.
9. Either party may, at any time on not less than 30 days' notice, revise this Schedule by replacing it with any applicable Controller to Processor standard clauses or similar terms forming part of an applicable certification scheme (which shall apply when replaced by attachment to this Agreement).
10. Waterstons Supervisory Authority is the UK Information Commissioners Office.

Part 2: EU GDPR Standard Contractual Clauses

The parties hereby agree to incorporate by reference the EU Standard Contractual Clauses set out in the Annex of Commission Implementing Decision (EU) 2021/914 of 4 June 2021 (the **EU 2021 SCCs**). By signing this Agreement, the parties are deemed to have accepted and signed the EU 2021 SCCs in their entirety (including the annexures thereto).

Module 1 - Controller-to-Controller Information for International Data Transfers

For the purposes of the Standard Contractual Clauses

Clause 7 (Docking Clause - included)

Clause 9 – N/A

Clause 11(a), Module 1: The parties do **not** select the independent dispute resolution option.

Clause 17, Module 1: The parties select Option 2. The Member State of the data exporter is: EU Member State Client is located in.

Clause 18(b), Module 1: The parties agree that those shall be the courts of the EU Member State Client is located in.

For Annex information see Part 3 of this Schedule (Table 3).

Module 2 & 3 - Controller-to-Processor Information for International Data Transfers

For the purposes of the Standard Contractual Clauses:

Clause 7 (Docking Clause - included)

Clause 9 – N/A

Clause 11(a), Module 1: The parties do **not** select the independent dispute resolution option.

Clause 17, Module 1: The parties select Option 2. The Member State of the data exporter is: EU Member State Client is located in.

Clause 18(b), Module 1: The parties agree that those shall be the courts of the EU Member State Client is located in.

For Annex information see Part 3 of this Schedule (Table 3).

Part 3: UK International Data Transfer Agreement Addendum

The parties hereby agree to incorporate by reference the UK International Data Transfer Addendum to the EU Commission Standard Contractual Clauses being the template Addendum B.1.0 issued by the ICO and laid before Parliament in accordance with section 119A of the Data Protection Act 2018 on 2 February 2022 and which came into force on 21 March 2022 (the **UK Addendum**). By signing this Agreement, the parties are deemed to have accepted and signed the UK Addendum in its entirety.

Tables:

Table 1: Parties

As defined on page 2 of this Agreement.

Table 2: Selected SCCs, Modules and Selected Clauses

Approved EU Standard Contractual Clauses shall be the EU Standard Contractual Clauses set forth in Schedule 2, Part 2 of this Agreement.

Table 3: Appendix Information

Appendix Information means the information which must be provided for the selected modules as set out in the Appendix of the Approved EU SCCs (other than the parties), and which for this Addendum is set out in:

Annex IA: List of Parties – As defined on page 2 of this Agreement
Annex IB: Description of Transfer – See Part 2 Section A of this Schedule
Annex II: Technical and organisational measures including technical and organisational measures to ensure the security of the data – As defined in Part 2 Section B of this schedule
Annex III: List of Sub-Processors (Modules 2 and 3 only): Sub-Processors of Personal Data can be seen in Waterstons Privacy Statement or as detailed in the Client Service Order.

Table 4: Ending this Addendum when the Approved Addendum Changes

Ending this Addendum when the Approved Addendum changes	Which Parties may end this Addendum as set out in Section 19: <input type="checkbox"/> Importer <input type="checkbox"/> Exporter <input checked="" type="checkbox"/> neither Party
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Alternative Part 2 Mandatory Clauses:

Mandatory Clauses	Part 2: Mandatory Clauses of the Approved Addendum, being the template
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	Addendum B.1.0 issued by the ICO and laid before Parliament in accordance with s119A of the Data Protection Act 2018 on 2 February 2022, as it is revised under Section 18 of those Mandatory Clauses.
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Section A - Description of Transfer

Categories of data subjects whose Personal Data is transferred	<p>As part of Waterstons Data Processing the following categories of Data Subjects could be processed:</p> <ul style="list-style-type: none"> • Client contacts, employees, contractors or suppliers • Clients or clients of the Client (Exporter) <p>Data subjects are the persons whose data is processed by the Processor (Importer) or their Sub-Processors in provision of the agreed Service Orders with the Client.</p>
Categories of Personal Data transferred	<p>Personal Data provided by the Client (Exporter and Client of Exporter) to Processor (Importer), directly or indirectly, as part of services delivered by Waterstons to the Client as per the Clients Service Orders, consisting mainly of the following categories:</p> <ul style="list-style-type: none"> • Basic personal contact data • Possible unique identifying data • Activity, performance and preference data • IP address and related IT User activity data • Clients own Client data • Any other related Personal Data provided by the Client or being processed on the Client's behalf under this Agreement.
Sensitive data transferred (if applicable) and applied restrictions or safeguards	<p>Waterstons do not expect to be processing sensitive or special category data for the Client, if this is the case the Client must make this clear upon signing this Agreement and this should be documented in the Client's Service Orders.</p>
Frequency of the transfer	<p>As required for Service being delivered.</p>
Nature of the processing	<p>The nature of the processing is the processing of data required for Waterstons to provide the agreed services and support to the Client as per the Service Orders.</p>
Purpose(s) of the data transfer and further processing	<p>Waterstons (Processor & Importer) may process Data only to provide the Services agreed on the Client's Service Orders.</p>
Period for which the Personal Data will be retained, or criteria used to determine that period	<p>Data relating to delivery of services as per the Client's Service Orders will be retained for up to 10 years after Waterstons cease working with the Client; or until the Client requests return and deletion of Personal Data relating to the services provided, with exception of data that needs to be retained to preserve integrity within systems, backup cycle data or that needs to be retained for legal reasons.</p>

For transfers to (Sub-Processors: subject matter, nature and duration of the processing	As detailed above.
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Section B - Technical and Organisational Measures Including Technical and Organisational Measures to Ensure the Security of the Data

Description of the technical and organisational measures implemented by the data importer(s) (including any relevant certifications) to ensure an appropriate level of security, taking into account the nature, scope, context and purpose of the processing, and the risks for the rights and freedoms of natural persons.

Waterstons implement and maintain a wide range of physical, procedural and technical controls for the protection of the data we process to safeguard its confidentiality, integrity and availability, these are managed via the continual improvement framework ISO 27001 primarily, although we also apply various other best practice principles from other frameworks.

Certifications

We hold the following certifications which are independently audited, certificates available on request.

ISO27001

ISO9001

Crest Pen Testing & SOC Accreditation

Cyber Essentials and Cyber Essentials Plus

UK Information Commissioner Data Protection Registration

Security Controls

Security controls applied include but are not limited to:

Logical Access Controls including unique identifiers, min 12-character passwords and lockout after 10 or less failed connection attempts, use of multi factor authentication wherever possible, separate admin and user accounts, role-based permissions.

Physical Access Controls including, CCTV, Visitor procedures, locks and authorised fob access.

Risk Management Controls including risk methodology and assessments, risk register and management review.

Incident Management Controls including awareness, incident register and investigation techniques, escalation, documentation, detailed policy and procedure as well as a wide range of skilled and experienced personnel.

24x7 Security Operations Centre monitoring the network of Waterstons and related Clients, proactively preventing compromise and managing potential security risks or technical incidents.

Change Management Controls including change management procedures, scheduled application of changes,

approval and testing.

Vulnerability Management Controls including vulnerability scanning and penetration testing, un-delayed patching, emerging threat intelligence and 24x7 monitoring.

Employee Security Controls including contracted confidentiality clauses, employee BPSS security vetting, enhanced vetting where required, ongoing awareness training and access to security policies.

Data Management Controls including classification, secure storage and handling procedures, secure data transfer systems, crosscut shredding and secure disposal, electronic sanitization before disposal, appropriate training.

Third Party Management Controls including business and security and privacy due diligence and ongoing management, as well as International Transfer Agreements where appropriate.

Business Continuity Controls including policy and plans, regular testing, air gapped backups

Secure Development Controls in line with OWASP and other best practice guidelines, testing and lifecycle management.

Device controls including managed patching and defined security controls, encrypted laptops and phones.

Malware Controls including anti-malware software on devices, endpoint detection and response (EDR) tools and monitoring.

Secure Data Centres access controlled, CCTV, air conditioned, monitored, emergency generator and fuel support and full due diligence.

Schedule 3 - TUPE

If the supply of, or the ceasing to supply, the Services to the Client shall constitute a service provision change as defined in regulation 3(1)(b) of the TUPE Regulations, then the following provisions shall apply.

In this Schedule 3 the following definitions apply, in addition to the definitions in the main body of the Agreement:

Employee	any employee (as defined in the TUPE Regulations) of the Transferor who is assigned to providing services similar to the Services giving rise to the Service Provision Change
Employee Liability Information	an up to date and accurate list containing for each individual the information listed in regulation 11(2) of the TUPE Regulations and any other information reasonably requested by Waterstons
Employment Costs	all pay, benefits, PAYE payments, national insurance contributions, pension contributions and other amounts payable to or in respect of the employment or engagement of any person
Employment Liabilities	all liabilities, including but not limited to claims for redundancy payments, unlawful deductions from wages, unfair, wrongful or constructive dismissal compensation, compensation for age, sex, race or disability discrimination or discrimination on the grounds of religion, belief, age or sexual orientation or claims for equal pay, compensation for less favourable treatment of part-time workers, and any other claims whether in tort (including negligence), contract or statute or otherwise, and any demands, actions, proceedings and any award, compensation, damages, tribunal awards, fine, loss, order, penalty, disbursement, payment made by way of settlement and costs and expenses reasonably incurred in connection with a claim or investigation, and any expenses and legal costs on an indemnity basis
Services Commencement Date	the first date on which Waterstons provides the Services to the Client
Service Provision Change	as defined in regulation 3(1)(b) of the TUPE Regulations
Services Termination Date	the final date on which Services are supplied to the Client by Waterstons under this Agreement
SPC Date	the date on which any Service Provision Change is or is deemed to take place, being either the Services Commencement Date, the Services Termination Date or some other date, as appropriate
Successor Supplier	any person taking responsibility for the provision of the Services following termination of this Agreement

Transferee	the party to this Agreement to which the Employees' employment shall transfer at the SPC Date
Transferor	the party to this Agreement which, absent any breach of obligations under this Schedule 3, employs the relevant Employees before the SPC Date and from which the Employees' employment shall transfer
TUPE Regulations	the Transfer of Undertakings (Protection of Employment) Regulations 2006 (as amended, re-enacted or extended from time to time)

1. Subject to any obligations under applicable Data Protection Legislation, the Transferor will provide the Employee Liability Information in respect of the Employees to the Transferee no later than 28 days prior to the SPC Date.
2. The Transferor shall be responsible for and shall indemnify and keep indemnified the Transferee and its Affiliates in full against:
 - 2.1. any Employment Liabilities and Employment Costs arising out of or in connection with:
 - 2.1.1. the employment or engagement of the Employees or any other person; or
 - 2.1.2. the termination of the employment or engagement of any person;
 in each case by the Transferor or its Affiliates during the period prior to the SPC Date; and
 - 2.2. any failure by the Transferor or any of its Affiliates to comply with its obligations under the TUPE Regulations, except where such failure is due to any action or inaction by Transferee.
3. Unless otherwise agreed in writing between the parties, the Transferor shall not during the period between the date of the Service Order containing the Service giving rise to the Service Provision Change, and the Services Commencement Date:
 - 3.1. increase or decrease the number of Employees performing the Services by more than 10%;
 - 3.2. increase the remuneration of any Employee other than by an annual pay increase of no more than 5% or otherwise change the terms and conditions of employment of any Employee;
 - 3.3. terminate the employment or engagement of any Employee (other than at the written request of the Transferee); or
 - 3.4. cease to assign any Employee to the Services.
4. If any person, other than an Employee, employed or engaged by a party or any of that party's Affiliates transfers or alleges that their employment or engagement (or any liability related to it) transfers to the other party or any of that party's Affiliates or sub-contractors under the TUPE Regulations or otherwise as a result of the Services being provided under this Agreement, the parties will meet to discuss in good faith how to address the situation and seek to agree a course of action.
5. To the extent that is reasonable, the parties will comply with their obligations to provide information to a Successor Supplier about the individuals assigned to the Services and to inform and consult with affected employees in relation to any potential transfer to a Successor Supplier under the TUPE Regulations.

Version Control

Version	Date	Authors	Comments
3.0	October 2023	Allison Davis	