

These terms and conditions (as amended under clause 24.3) ("**Conditions**") govern the sale of goods and/or services and licensing of software by CCS Media Limited, registered in England and Wales with no. 04418144, with registered address at Cumberland Court, 80 Mount Street, Nottingham, Notts, England NG1 6HH ("**CCS**") to the person/firm to who buys such goods/services ("**Customer**"). These Conditions apply to the exclusion of any other terms that Customer seeks to impose, or which are implied by trade, custom, practice or course of dealing.

*****Note particularly clause 17 (Limitation of Liability)*****

1. INTERPRETATION

In these Conditions: (i) the following definitions apply: (i) **person** includes a natural person, corporate or unincorporated body; (ii) a reference to CCS or Customer includes its personal representatives, successors and permitted assigns; (iii) a reference to a statute or statutory provision is a reference to such statute or statutory provision as amended or re-enacted and includes any subordinate legislation; (iv) any phrase introduced by the terms **including** or **include** shall be illustrative and shall not limit the sense of the preceding words; (v) a reference to **writing** or **written** includes emails but excludes faxes; and (vi) the terms "**Controller**", "**Personal Data**" and "**Processor**", shall have the meanings attributed to them in the Data Protection Legislation, and "**Processing**" and "**Process**" shall be construed accordingly.

"Affiliate": each agent, employee, contractor or sub-contractor of a party or the party's Group and any additional Affiliates listed in the applicable part of the Quote.

"Applicable Laws": the laws of England and Wales, together with any other mandatory laws, regulations, regulatory policies, guidelines or industry codes which apply to the supply of Goods or Services made under these Conditions.

"Business Day": a day other than a Saturday, Sunday or public holiday in England when banks in London are open for business.

"Charges": the charges payable by the Customer to CCS, as set out in the relevant Order.

"CCS Personnel": CCS' employees, directors and agents, together with employees, directors and agents of any contractor undertaking activities on behalf of CCS in relation to the performance of its obligations under the applicable Contract.

"Confidential Information": information of commercial value, in whatever form or medium, disclosed by a party to the other party, including commercial or technical know-how, technology, information pertaining to business operations and strategies, information pertaining to clients, pricing and marketing information relating to the business of either party, information which is marked as confidential, or information which ought reasonably to be considered confidential in light of the nature of the information and/or circumstances of its disclosure.

"Configuration Services": those configuration Services detailed in the Quote.

"Contract": each contract (as defined in clause 2.1) between the Customer and CCS relating to one or more of the following: (i) the supply of Goods; (ii) the supply of Direct Services; (iii) the provision of Reseller Services; and/or (iv) the provision of Reseller Software.

"Customer Content": any data, documents, text, drawings, diagrams, images or sounds (together with any database made up of any of these), embodied in any medium, that are provided to CCS by or on behalf of the Customer, in order to perform its obligations pursuant to a Contract.

"Customer Materials": any and all materials and other equipment (including cabling, network interfaces, power and power adapters) necessary for CCS to perform its obligations pursuant to a Contract, save to the extent the same is expressed to be supplied by CCS pursuant to the applicable Contract.

"Customer Personnel": employees, directors and agents of the Customer, together with employees, directors and agents of any contractor undertaking activities on behalf of the Customer who are not CCS Personnel.

"Data Processing Particulars": the following details, as provided in the Order: (i) the subject matter, duration, nature and purpose of the Processing; (ii) the type of Personal Data being Processed; and (iii) the categories of Data Subjects.

"Data Protection Legislation": any law, statute, regulation, rule or other binding restriction regarding the protection of individuals with regards to the Processing of their Personal Data to which a party is subject, including the DPA and the GDPR and any code of practice or guidance published by the Information Commissioner's Office from time to time.

"Data Subject": has the meaning set out in the Data Protection Legislation.

“Default”: any act or omission of a party, or failure by a party to perform a relevant obligation under a Contract.

“Delivery Location”: the relevant location identified in the Quote (where applicable).

“Deliverables”: all software code, documents, products and materials in any form: (i) developed by CCS or its agents, contractors and employees; and/or (ii) licensed by CCS to the Customer and its Affiliates, as part of or in relation to the performance of its obligations under a Contract, including all Intellectual Property Rights as may be embodied therein. For the avoidance of doubt, Deliverables shall exclude any Reseller Software.

“Design Services”: those design Services detailed in the Quote.

“Direct Services”: the services to be supplied directly by CCS to the Customer, consisting of one or more of the following: Configuration Services, Design Services and Installation Services, as set out in the Quote.

“DPA”: the Data Protection Act 2018

“Effective Date”: in respect of a particular Service or licence of Software, the Effective Date for the same specified in the Quote, or if none is specified, the effective date for the applicable Contract, or if none is specified, the date of signature by CCS of the applicable Contract.

“End User Agreement”: in respect of:

- (i) any Reseller Solution, the end user agreement under which the Provider agrees to supply the Reseller Solution to the Customer, referred to in the Quote or required to be accepted by the Provider when accessing the Reseller Solution online; and
- (ii) Reseller Software, the end user agreement under which the Provider agrees to licence the Reseller Software to the Customer, referred to in the Quote or required to be accepted by the Provider when downloading/using the Reseller Software.

(as varied from time to time by the Provider pursuant to the terms of such End User Agreement).

“Group”: each and every entity that directly or indirectly controls, is controlled by, or is under common control with a party, for so long as such control exists. In the case of companies and corporations, control means beneficial ownership of more than 50% of the voting stock, shares, interest or equity in an entity; in the case of any other legal entity, “control” and “controlled” shall exist through the ability to directly or indirectly control the management and/or business of the legal entity.

“GDPR”: 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 repealing Directive 95/46/EC (General Data Protection Regulation) OJ L 119/1, 4.5.2016, together with any implementation of the above into UK law. Any reference to “articles” are references to the GDPR.

“Goods”: the goods (or any Deliverables forming part of the provision of Services) set out in the Order (or any part of them).

“Goods Specification”: the specification for the applicable Goods, as set out (or referred to) in the Quote (including in any applicable statement of work).

“Initial Licence Term”: in respect of any element of the Reseller Software, the initial term for such element where specified in the Quote, otherwise the Initial Term.

“Initial Services Term”: in respect of any element of the Services, the initial term for such element where specified in the Quote, otherwise the Initial Term.

“Initial Term” the period of time described as such in the Quote.

“Insolvency Event”: (a) the Customer 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 or is deemed unable to pay its debts under section 123 of the Insolvency Act 1986 or is deemed either unable to pay its debts or as having no reasonable prospect of so doing within the meaning of section 268 of the Insolvency Act 1986 or (if a partnership) has any partner to whom any of the above applies; (b) the Customer starts negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for/enters into any arrangement with its creditors; (c) a petition is filed, a notice is given, a resolution is passed, or an order is made, for/in connection with the winding up of the Customer; (d) the Customer is the subject of a bankruptcy petition or order; (e) a creditor or encumbrancer of the Customer attaches or takes possession of, or a distress, execution, sequestration or other process is levied or enforced on or sued against, the whole or part of its assets which is not discharged within 14 days; (f) an application is made to court, or an order is made to appoint an administrator, or notice of intention to appoint an administrator is given or an administrator is appointed over the Customer; (g) a floating charge holder over the assets of the Customer becomes entitled to appoint or has appointed an administrative

receiver; (h) a person becomes entitled to appoint a receiver over the assets of the Customer or a receiver is appointed over the assets of the Customer; (i) any event analogous to those mentioned in (a)-(h) above in another jurisdiction.

“Installation Services”: those Services described in clause 9 and detailed in the Quote.

“Intellectual Property Rights”: patents, utility models, 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, 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.

“Location”: the location for performance of the applicable Services set out in the Quote (if any), or any other location agreed between the parties in writing from time to time.

“Manufacturer Warranties”: as defined in clause 5.2.

“Maintained Equipment”: the equipment specified as such in the Quote.

“Minimum Spend” the minimum spend detailed in the Quote either: (i) across all Services provided by CCS; or (ii) with respect to the specific Services to which a minimum spend applies, as stated in the Order.

“Order”: the Customer’s acceptance by way of CCS’s receipt of the Customer’s Purchase Order shall form an Order incorporating the Quote.

“Permitted Purpose”: the purpose of the Data Processing as set out in more detail in the Data Processing Particulars.

“Personal Data Breach”: has the meaning set out in the GDPR.

“Provider”: the third party provider of the applicable Reseller Services or Reseller Software, as detailed in the Quote.

“Purchase Order”: the Customer’s purchase order provided to CCS following receipt of a Quote.

“Quote”: CCS’ written quotation relating to one or more of the following: (i) the supply of Goods; (ii) the supply of Direct Services; (iii) the provision of Reseller Solution(s); and/or (iv) the provision of Reseller Software.

“Renewal Period” the period described as such in clause 18.1.

“Reseller Software”: the software to be provided by the applicable Provider pursuant to the applicable End User Agreement, as set out in the Quote.

“Reseller Solution”: a solution to be provided by the applicable Provider pursuant to the applicable End User Agreement, as set out in the Quote.

“Security Requirements”: the requirements regarding the security of the Personal Data, as set out in the Data Protection Legislation (including, in particular, the seventh data protection principle of the DPA and/or the measures set out in Article 32(1) of the GDPR (taking due account of the matters described in Article 32(2) of the GDPR) as applicable.

“Service Credits”: in respect of a Service to be provided by CCS, the sums attributable to a failure of the Service Levels (if any), as set out in the Quote or added by a change pursuant to Clause 24.3.

“Service Credit Limit”: in respect of a Service to be provided by CCS pursuant to a Contract, the limit on the accrual of Service Credits (if any), as set out in the Quote or added by a change pursuant to Clause 24.3.

“Service Levels”: in respect of a Service to be provided by CCS pursuant to a contract, the service levels for the applicable Services (if any), as set out in the Quote or added by a change pursuant to Clause 24.3.

“Services”: together, the Direct Services and the Reseller Solution(s).

“Services Specification”: in respect of the Direct Services, the specification for the same as set out (or referred to) in the Quote (including in any applicable statement of work); and in respect of a Reseller Solution, the specification from the same determined by the applicable Provider.

“Service Term”: the term for the provision of the applicable Services (or where different elements of the Services are to be provided for differing terms, the term for that element), as set out in the Quote.

“Sourcing Issue”: an inability on the part of CCS to source particular materials or resources (including CCS Personnel) on terms similar or identical to those available at the Effective Date (including due to exchange rate fluctuations, increases in taxes or duties) or a change in Applicable Law.

“Standard Rates”: CCS’ standard rates for the Direct Services as made available by CCS from time to time.

“Start Date”: as defined in clause 2.1.

“Subject Access Request”: an actual or purported subject access request or notice or complaint from (or on behalf of) a Data Subject exercising his rights under the Data Protection Legislation.

“Term” the period described as such in clause 18.1.

“Warranty Period”: as defined in clause 5.2.

“Year”: the period of 12 calendar months from the applicable Effective Date and each 12 calendar month period thereafter.

2. BASIS OF CONTRACT

- 2.1. Each Quote constitutes an offer by CCS to sell Goods, provide Services and/or make available the Licensed Software.. Subject to compliance with clause 2.3, CCS’s receipt of the Customer’s Purchase Order shall form an Order incorporating the Quote. Should the Customer’s Purchase Order (or any other correspondence from the Customer) contradict in any way the Quote or any of these Conditions (**“Contradictory Terms”**), such Contradictory Terms shall not be incorporated unless and to the extent that a revised Quote is issued incorporating any of the Contradictory Terms. A Contract shall come into existence immediately following receipt of the Customer’s Purchase Order (**“Start Date”**).
- 2.2. After the Start Date, an Order may not be terminated except in accordance with the Quote or these Conditions.
- 2.3. Unless expressly stated to the contrary in the relevant Quote or otherwise agreed in writing by CCS, each Quote is only valid for the period set out in the Quote. If no period is specified in the Quote, it shall be valid for a maximum period of 7 days from its date of issue.
 - 2.3.1. CCS reserves the right, by giving notice to the Customer, to increase the price of the Goods, Direct Services, Reseller Services or Reseller Software to reflect any increase in the cost to CCS which is due to any fact beyond CCS’ control, such as, but not limited to, any foreign exchange fluctuation, currency regulation, alteration of duties, significant increase in the costs of labour, materials or other costs of manufacture, any change in delivery dates, quantities or specifications for the Goods, Direct Services, Reseller Services or Reseller Software which is requested by the Customer, or any delay caused by any instructions of the Customer or by the Customer’s failure to give CCS adequate information or instructions.
- 2.4. If there is an inconsistency between any of the provisions of a Contract, the following descending order of priority shall apply: (i) the Quote itself ; and then (ii) these Conditions.
- 2.5. Each party warrants that: (i) it has full capacity to enter into and perform its obligations under a Contract; and (ii) each Contract is executed by a duly authorised representative of that party.
- 2.6. The warranties set out at clause 2.5 above are deemed to be repeated by each party in respect of a Contract on the applicable Start Date for the same.

3. CCS’ OBLIGATIONS

- 3.1. In consideration for the payment of the Charges, CCS will supply the Goods, provide the Services and/or grant access to any Licensed Software (as appropriate) in accordance with the Order and these Conditions, from the applicable Effective Date.
- 3.2. CCS warrants and represents to the Customer that:
 - 3.2.1. the Goods and Services (as applicable) will conform in all material respects with all descriptions, specifications, samples and drawings provided to the Customer in the Quote;
 - 3.2.2. the Goods will be of satisfactory quality within the meaning of the Sale of Goods Act 1979; and
 - 3.2.3. it has, and will continue to have, all necessary rights in and to any and all Intellectual Property Rights that it purports to grant to the Customer pursuant to a Contract.
- 3.3. All other representations or warranties (whether written or oral, express or implied by statute, common law or otherwise) apart from those expressly set out in these Conditions are hereby excluded. In particular, but without prejudice to the generality of the foregoing, CCS makes no representation or gives any warranty (whether express or implied, statutory and/or otherwise), and will have no liability, regarding the fitness of the Goods, Services or Licensed Software for any purpose, whether or not such purpose is disclosed to CCS.

4. CUSTOMER OBLIGATIONS

4.1. The Customer shall:

- 4.1.1. provide all necessary co-operation reasonably required in relation to an Order;
- 4.1.2. provide such assistance from the Customer Personnel as may be reasonably requested by CCS from time to time;
- 4.1.3. ensure that the terms of each Order and any specification are complete and accurate;
- 4.1.4. use reasonable endeavours to respond promptly to any request for a decision, guidance, information or instruction which CCS may submit in relation to a Contract from time to time;
- 4.1.5. use its best endeavours not to do or permit anything to be done that will or may damage the business, reputation, image and/or goodwill of CCS;
- 4.1.6. ensure that there are in place all necessary consents, licences and permissions required to permit CCS to access and use all the Customer Content and Customer Materials and any other items as may be appropriate in connection with each and every Contract; and
- 4.1.7. be solely responsible for procuring and maintaining its network connections and telecommunications links from its systems to CCS' data centres (or, where appropriate, the third-party portal through which CCS provides Services to the Customer).

5. GOODS

- 5.1. The terms of this clause 5 apply in respect of any Goods to be supplied pursuant to a Contract.
- 5.2. CCS shall supply the Goods to the Customer pursuant to each Contract. The parties acknowledge that CCS is not the manufacturer of the Goods. As a reseller of such Goods, CCS agrees to pass on to the Customer the benefit of any warranties that it obtains from the manufacturer of the Goods ("**Manufacturer Warranties**") and shall provide details of the same upon request, for the period that such Manufacturer Warranties are afforded to CCS ("**Warranty Period**").
- 5.3. Where the Customer claims under any of the Manufacturer Warranties (and such claim is justified), the terms of the Manufacturer Warranties shall determine the Customer's recourse. CCS shall use its reasonable endeavours to assist the Customer to obtain such recourse, but shall not be responsible if the manufacturer refuses to comply with any such warranty or if the manufacturer is unable to comply where, for example, it has become insolvent.
- 5.4. Delivery dates are approximate only and time of delivery is not of the essence. Delivery shall be completed on the Goods' arrival at the Delivery Location. The Customer is responsible for unloading, and any unloading that takes place shall be at the Customer's risk, unless this is expressly included as part of any Services to be provided by CCS pursuant to a Contract.
- 5.5. CCS shall deliver the Goods to the Delivery Location after the Goods are ready.
- 5.6. If the Customer fails to accept or take delivery of the Goods (including failing to provide appropriate delivery instructions to CCS), CCS shall store the Goods until delivery takes place, and may at its option charge the Customer for all related costs and expenses (including insurance).
- 5.7. Where 10 Business Days have elapsed since CCS attempted to re-deliver the Goods to the Delivery Location and/or where CCS has either notified the Customer to arrange another delivery following failure of the first and the Customer has not engaged with this correspondence then CCS may resell or otherwise dispose of all of the Goods or any part of them, and after deducting reasonable storage and selling costs, charge the Customer for any shortfall below, the price of the Goods.
- 5.8. CCS may deliver in instalments, which shall be invoiced and paid for separately. Any delay in delivery or defect in an instalment shall not entitle the Customer to cancel any other instalment.
- 5.9. Risk in the Goods shall pass to the Customer on completion of delivery at the Delivery Location.
- 5.10. Title to the Goods shall not pass to the Customer until CCS has received payment in full (in cleared funds) for the Goods and Services (and all other goods and services that CCS has supplied to the Customer or any part of its Group for which payment is due, under this or any other Contract). From delivery until title has passed to the Customer, the Customer shall:
 - 5.10.1. hold the Goods on a fiduciary basis as CCS' bailee;

- 5.10.2. store the Goods separately from all other goods and ensure they are readily identifiable as CCS' property;
 - 5.10.3. not remove, deface or obscure any identifying mark or packaging on or relating to the Goods;
 - 5.10.4. maintain the Goods in satisfactory condition and keep them insured on CCS' behalf against all risks for their full price; and
 - 5.10.5. give CCS such information relating to the Goods as CCS requires, but the Customer may resell/use the Goods in its ordinary course of business.
 - 5.11. The Customer shall inspect the Goods immediately upon their arrival at its premises and shall within 2 Business Days of their arrival notify CCS if the Goods are damaged or do not conform to the specification agreed in writing between the parties prior to delivery (as set out in CCS's quotation or Customer's order or specification). If no such notice is received, the Goods shall be deemed to have been supplied in accordance with the Contract and to have been accepted by the Customer.
 - 5.12. Where the Customer is held to be insolvent in accordance with clause 18.3 (or CCS believes that the same is about to occur) before title to the Goods passes to the Customer, if the Goods have not been resold or irrevocably incorporated into another product or service, (without limiting any other right or remedy CCS may have) CCS may demand the Customer deliver up the Goods and, if the Customer fails to do so promptly, enter any premises of the Customer (or a third party) where the Goods are stored to recover them. The Customer shall ensure that CCS shall have similar rights of entry with respect to any third party who takes possession of the Goods prior to the passage of title from CCS to the Customer.
- 6. DIRECT SERVICES**
- 6.1. The terms of this clause 6 apply with respect to any Direct Services supplied pursuant to a Contract.
 - 6.2. During the applicable Services Term, CCS shall provide the applicable Direct Services to the Customer in accordance with the Services Specification in all material respects.
 - 6.3. CCS shall use reasonable endeavours to observe all health and safety and security requirements that apply at the Customer's premises and that have been communicated to it in advance of the provision of the Direct Services, provided that it shall not be liable under the Contract if, as a result of such observation, it is in breach of any of its obligations under the Contract.
 - 6.4. CCS will use its reasonable endeavours to supply all relevant Direct Services in accordance with any performance metrics set out in the Quote in respect of such Direct Services.
 - 6.5. In respect of the Direct Services, CCS shall use reasonable endeavours to meet any performance dates specified in the Services Specification, but any such dates are estimates only and time is not of the essence for the performance of the Direct Services.
 - 6.6. CCS shall have the right to make any changes to the Direct Services which: (i) improve the nature or quality of the Direct Services; (ii) are necessary to comply with Applicable Laws; (iii) result from a Sourcing Issue; or (iv) do not materially negatively affect the nature or quality of the Direct Services, and CCS shall notify the Customer in any such event. Such notification shall include any variations to the Charges which CCS reasonably considers to be necessary in light thereof.
 - 6.7. In respect of a Direct Service to be provided by CCS pursuant to a Contract, where Service Credits accrue, subject to the Service Credit Limit, CCS shall automatically credit the Customer with the applicable Service Credits. Service Credits shall either be shown as a deduction from the amount due from the Customer to CCS in the next invoice then due to be issued under the Service Contract, or CCS shall issue a credit note against a previous invoice and the amount for the Service Credits shall be repayable by CCS as a debt within 10 Business Days of issue of the credit note.
 - 6.8. The Service Credits shall be the exclusive financial remedy for the Customer for each service failure for which a Service Credit has been set, unless:
 - 6.8.1. the Customer is otherwise entitled to terminate the Contract (or a part thereof) for a Default by CCS in accordance with these Conditions; or

6.8.2. the failure to perform the relevant Services in accordance with the Service Levels has arisen due to theft, gross negligence, fraud, fraudulent misrepresentation or wilful default.

6.9. The parties agree that any such Service Credits have been calculated as, and are, a genuine pre-estimate of the loss likely to be suffered by the Customer.

6.10. Where there is a Default on the part of the Customer, CCS (without limiting its other rights or remedies) may suspend performance (and is relieved from its performance obligations) until the Customer remedies the same.

7. DESIGN SERVICES

7.1. The terms of this clause 7 apply where CCS has agreed under a Contract to provide any Design Services.

7.2. The Customer shall in a timely manner:

7.2.1. provide all the Customer Content, and

7.2.2. facilitate such access to the Customer's premises, equipment and existing systems (or those of its third-party contractors),

as may be needed for CCS to perform the Design Services.

7.3. The Customer shall be deemed to have accepted the Deliverables from the performance of the Design Services if either: (i) the Customer expressly accepts the same; (ii) CCS can evidence that the Deliverables meet or exceed the requirements for the same set out in the Quote; or (iii) the Customer commences use of such Deliverables.

8. CONFIGURATION SERVICES

8.1. The terms of this clause 8 apply where CCS has agreed under a Contract to provide any Configuration Services.

8.2. The Customer shall in a timely manner:

8.2.1. provide all the Customer Content, and

8.2.2. facilitate such access to the Customer's premises, equipment and existing systems (or those of its third-party contractors),

as may be needed for CCS to perform the Configuration Services.

8.3. CCS shall carry out any such Configuration Services at the Location (or, at CCS' option where applicable, via remote access), and subject the results of such services ("**Configuration**") to its standard installation and acceptance tests, or such tests as are specified in the applicable Quote.

8.4. The Customer shall be deemed to have accepted the Configuration if either: (i) the acceptance testing is certified by CCS to be successful; (ii) the Customer fails to provide the data or results necessary for acceptance testing to be undertaken within the time limits specified in the Quote (in respect of which, time shall be of the essence); or (iii) the Customer commences operational use of the Configuration.

9. INSTALLATION SERVICES

9.1. The terms of this clause 9 apply where CCS has agreed under a Contract to install any items of hardware or software (the "**Installation Materials**"), as stated in the Quote.

9.2. The Customer shall in a timely manner:

9.2.1. provide all the Customer Content and Customer Materials, and

9.2.2. facilitate such access to the Customer's premises, equipment and existing systems (or those of its third-party contractors),

as may be needed for CCS to perform the Installation Services.

9.3. CCS shall carry out any such installs at the Location (or, at CCS' option where applicable, via remote access), and subject the Installed Materials to its standard installation and acceptance tests, or such tests as are specified in the applicable Quote.

9.4. The Customer shall be deemed to have accepted the Installation Materials if either: (i) the acceptance testing is certified by CCS to be successful; (ii) the Customer fails to provide the data or results necessary for acceptance testing to be undertaken within the time limits specified in the Quote (in respect of which, time shall be of the essence); or (iii) the Customer commences operational use of the Installation Materials.

10. RESELLER SOLUTIONS

10.1. The terms of this clause 10 apply where the Customer orders a Reseller Solution from CCS.

10.2. The Customer acknowledges and agrees that:

- 10.2.1. CCS is an agent of the Provider of the Reseller Solution;
- 10.2.2. CCS is not providing the Reseller Solution to the Customer; and
- 10.2.3. the Provider is supplying the Reseller Solution directly to the Customer subject to the terms of the End User Agreement.

10.3. At the Customer's request (and expense) CCS shall use its reasonable endeavours to assist the Customer when it interacts with the Provider and in particular, shall (at the Customer's cost and expense) assist the Customer to enforce the terms of the End User Agreement.

11. RESELLER SOFTWARE

11.1. The terms of this clause 11 apply where the Customer orders Reseller Software from CCS.

11.2. The Customer acknowledges and agrees that:

- 11.2.1. CCS is an agent of the Provider of the Reseller Software;
- 11.2.2. CCS is not providing the Reseller Software to the Customer;
- 11.2.3. it shall be licensed to use the Reseller Software only as specified in the End User Agreement. For the avoidance of doubt, no licence is granted by CCS.

11.3. At the Customer's request (and expense) CCS shall use its reasonable endeavours to assist the Customer when it interacts with the Provider and in particular, shall (at the Customer's cost and expense) assist the Customer to enforce the terms of the End User Agreement.

12. CHARGES

12.1. The price for Goods, Services and licences of the Reseller Software is the price set out in the Quote.

12.2. If it is reasonably apparent that any of the pricing in the Quote is incorrect ("**Obvious Pricing Error**"), the Customer must notify CCS of the same. When CCS becomes aware of an Obvious Pricing Error, it shall have the right to cancel the relevant Contract and shall promptly notify the Customer of the error together with a new Quote with the correct price, subject to acceptance by Customer raising a Purchase Order..

12.3. Where a failure of the Customer to comply with its obligations in the Contract (including those set out in these terms and conditions as well as the Quote) results in additional costs for CCS and/or wasted time, CCS may charge the Customer for the same on a time and materials basis. In order to calculate the same, CCS' Standard Rates shall apply unless other rates are specified in the Quote.

12.4. Unless otherwise specified to the contrary in the applicable Quote, CCS will invoice the Customer on delivery of the Goods or performance of the Services. Invoices shall be paid within 30 days of the date of invoice. If Goods have not been delivered or Services performed as a result of the acts or omissions of the Customer, CCS may invoice the same on the date upon which delivery/performance was attempted.

12.5. The Customer shall pay each invoice which is properly due and submitted to it by CCS within 30 days of the invoice date, to a bank account nominated in writing by CCS. If CCS has not received a payment which is validly due within such period, and without prejudice to any other rights and remedies it may have (but subject to any Applicable Laws in force at the time which restrict or exclude the same), CCS may charge interest on a daily basis on such due amounts at an annual rate equal to 4 % over the then current base lending rate of the Bank of England from time to time, commencing on the due date and continuing until fully paid, whether before or after judgment. Such interest shall accrue on a daily basis and be compounded quarterly.

12.6. All Charges stated or referred to in a Contract are exclusive of:

- 12.6.1. value added tax or other sales taxes, which shall be added to CCS' invoice(s) at the appropriate rate; and
- 12.6.2. all packing, insurance and transport costs, which shall be paid by the Customer (unless the same is expressly stated to be included within the price in the Quote).

12.7. CCS may, without limiting its other rights or remedies, set off any amount owing to it by the Customer or any Affiliate against any amount payable by CCS to the Customer.

13. INTELLECTUAL PROPERTY

13.1. The Customer acknowledges and agrees that:

- 13.1.1. CCS and/or its licensors own all Intellectual Property Rights in the Direct Services and the Goods; and
- 13.1.2. the applicable Provider and/or its licensors own all Intellectual Property Rights in the Reseller Services and the Reseller Software.

Except as expressly stated herein, these Conditions do not grant the Customer any Intellectual Property Rights or any other rights or licences to, in or in respect of the Goods, Services, Reseller Software or any related documentation.

- 13.2. CCS acknowledges and agrees that the Customer and/or its licensors own all Intellectual Property Rights in the Customer Content. Except as expressly stated herein or as is necessary to perform CCS' obligations under a Contract, these Conditions do not grant CCS any Intellectual Property Rights or any other rights or licences to or in respect of any Customer Content.
- 13.3. Nothing in these Conditions shall be construed so as to prevent CCS from using in the furtherance of its own business general know-how or expertise gained in its performance of a Contract, provided that any such use does not constitute or result in a disclosure of any Confidential Information in breach of clause 14 or infringement of any Intellectual Property Rights.

14. CONFIDENTIALITY

- 14.1. Each party may be given access to Confidential Information from the other party, any member of its Group or any of its Affiliates in order to perform its obligations under a Contract. A party's Confidential Information shall not include information that:
 - 14.1.1. is or becomes publicly known other than through any act or omission of the receiving party;
 - 14.1.2. was in the other party's lawful possession before the disclosure;
 - 14.1.3. is lawfully disclosed to the receiving party by a third party without restriction on disclosure; or
 - 14.1.4. is independently developed by the receiving party, which independent development can be shown by written evidence.
- 14.2. Subject to clause 14.4 below, each party shall hold the other's Confidential Information (including any such information originating from any of its Affiliates or any other member of its Group) in confidence and, unless required by law, not make the other's Confidential Information available to any third party, or use the other's Confidential Information for any purpose other than the performance of its obligations under a Contract.
- 14.3. Each party shall take all reasonable steps to ensure that the other's Confidential Information to which it has access is not disclosed or distributed by its employees or agents in violation of these Conditions, save to other members of its Group, its Affiliates, or its professional advisors.
- 14.4. A party may disclose Confidential Information to the extent such Confidential Information is required to be disclosed by law, by any governmental or other regulatory authority or by a court or other authority of competent jurisdiction, provided that, to the extent it is legally permitted to do so, it gives the other party as much notice of such disclosure as possible and, where notice of disclosure is not prohibited and is given in accordance with this clause 14.4, it takes into account the reasonable requests of the other party in relation to the content of such disclosure.
- 14.5. Neither party shall be responsible for any loss, destruction, alteration or disclosure of Confidential Information caused by any unconnected third party.
- 14.6. CCS acknowledges that the Customer Data is the Confidential Information of the Customer.
- 14.7. CCS may publicise its involvement with the Customer for its own marketing purposes, and any such publication shall not constitute an unlawful disclosure of Confidential Information for the purposes of this clause 14.

15. DATA PROTECTION ARRANGEMENTS

- 15.1. The parties acknowledge that the factual arrangement between them dictates the classification of each party in respect of the Data Protection Legislation. However, the parties anticipate that the Customer shall act as a Controller and CCS shall act as a Processor and in any such case:
 - 15.1.1. CCS shall be a Controller where it is collecting and using Personal Data in relation to the management of its Customer accounts; and
 - 15.1.2. CCS shall be a Processor where it is Processing Personal Data in relation to the Data Processing Particulars in connection with performing its obligations under a Contract.
- 15.2. CCS shall comply with, and shall procure that any Affiliates comply with, the provisions of the Data Protection Legislation in relation to all Personal Data that is Processed by it in connection with a Contract.

- 15.3. CCS shall be permitted to appoint sub-contractors, and to disclose Personal Data to them for Processing in accordance with the relevant Contract, provided always that the sub-contractor's right to Process the Personal Data terminates automatically on expiry or termination (for whatever reason) of the relevant Contract for which the sub-contractor was engaged.

16. DATA PROCESSING OBLIGATIONS

- 16.1. To the extent that CCS is acting as a Processor for and on behalf of the Customer, it shall:
- 16.1.1. Process Personal Data for and on behalf of the Customer for the purposes of performing its obligations under a Contract, and only in accordance with the terms of that Contract and any documented instructions from the Customer;
 - 16.1.2. notify the Customer immediately (and in any event within 24 hours of becoming aware of the same) if it believes (or ought reasonably to have been aware) that any of the Customer's written instructions infringe the Data Protection Legislation;
 - 16.1.3. implement and maintain appropriate technical and organisational security measures which are sufficient to comply with at least the obligations imposed on the Customer by the Security Requirements;
 - 16.1.4. take all reasonable steps to ensure the reliability and integrity of any CCS Personnel who shall have access to the Personal Data;
 - 16.1.5. ensure that access to the Personal Data is restricted to only those members of CCS' Personnel who require it in order to discharge CCS' obligations under a Contract;
 - 16.1.6. notify the Customer promptly (and in any event within 2 Business Days) following its receipt of any Subject Access Request or correspondence from the UK Information Commissioner's Office or any other European data protection authority, and together with such notices, shall provide a copy of such Subject Access Request or correspondence and reasonable details of the circumstances giving rise to it; and
 - 16.1.7. with respect to a Subject Access Request, not disclose any Personal Data in response without the express written authorisation of the Customer.
- 16.2. Where CCS becomes aware (or reasonably should have become aware) of an actual or suspected Personal Data Breach, it shall:
- 16.2.1. notify the Customer as soon as is practicable, but in any event within 48 hours, including details of how the breach occurred and what Personal Data may have been compromised;
 - 16.2.2. implement any measures necessary to restore the security of compromised Personal Data; and
 - 16.2.3. assist the Customer to make any notifications to the UK Information Commissioner's Office and affected Data Subjects.
- 16.3. Except to the extent required by Applicable Law, upon the termination of a Contract for any reason, or earlier if instructed in writing by the Customer to do so, CCS shall cease Processing all Personal Data and return and/or permanently and securely destroy so that it is no longer retrievable (as directed in writing by the Customer) all Personal Data and all copies in its possession or control (and it shall provide the Customer with a certificate signed by a duly authorised representative confirming it has done so). Where the Customer makes any such request prior to the termination of a Contract, and it serves to hinder or prevent CCS' obligations thereunder, the Contract shall continue despite such reduced performance, and the Charges which have been paid or which will become payable shall not be affected thereby.

17. LIMITATION OF LIABILITY

- 17.1. The following provisions set out the entire financial liability of either party (including any liability for the acts or omissions of its employees, agents and sub-contractors) to the other in respect of:
- 17.1.1. any breach of these Conditions howsoever arising; and
 - 17.1.2. any representation, misrepresentation (whether innocent or negligent), statement or tortious act or omission (including negligence) arising under or in connection with a Contract.
- 17.2. Nothing in these Conditions shall limit or exclude CCS' or the Customer's liability for:
- 17.2.1. death or personal injury caused by its negligence, or the negligence of its employees, agents or sub-contractors;
 - 17.2.2. fraud or fraudulent misrepresentation; and

- 17.2.3. any other liability which cannot be limited or excluded by Applicable Law.
- 17.3. In the event of a Default by CCS, CCS' liability in respect of loss or damage to tangible property of the Customer shall not exceed £500,000 (five hundred thousand).
- 17.4. Subject to clauses 17.2 and 17.3, CCS' liability in respect of loss or damage under a Contract in any 12 month period shall not exceed the lower of:
- 17.4.1. a sum equal to the total Charges paid and payable to CCS by the Customer under such Contract during the period of 12 months immediately prior to the event giving rise to the claim, or
- 17.4.2. £1,000,000,
- however that liability arises including breach of contract, tort, misrepresentation or breach of statutory duty.
- 17.5. Subject to clause 17.2, in no event will CCS be liable to the Customer (whether in contract, tort, negligence or otherwise):
- 17.5.1. for the Reseller Services or the Reseller Software beyond compliance with clauses 10.3 and 11.3;
- 17.5.2. for any loss not flowing directly and naturally in the ordinary course of events from its own act or omission;
- 17.5.3. for any loss of profit, revenue, use, anticipated savings, data, goodwill or opportunity or damage to reputation;
- 17.5.4. for any indirect, special or consequential loss or damage;
- 17.5.5. to the extent that any delay in performing or failure to perform CCS' obligations is due to a failure by the Customer to perform its own obligations under a Contract or if delay results from a failure by the Customer to comply with reasonable requests by CCS for instructions, information or action required by it to perform its obligations within a reasonable time; or
- 17.5.6. for the consequences of any acts or omissions of the Customer or the Customer Personnel.

18. TERM AND TERMINATION

- 18.1. Each Contract shall commence on the Effective Date and continue for the duration stated in the relevant Order (or until the delivery of Goods/performance of Services has been completed) (the "**Initial Term**") unless terminated in accordance with its terms.
- 18.2. Without prejudicing any other right or remedy available to it, either party may terminate the relevant Contract with immediate effect by giving written notice to the other party if:
- 18.2.1. the other party fails to pay any amount due under the Contract on the due date for payment and remains in default not less than 10 Business Days after being notified in writing to make such payment;
- 18.2.2. the other party commits a material breach of any other term of the Contract which breach is irremediable or (if remediable) fails to remedy it within a period of 10 Business Days after being notified in writing to do so (this clause 18.2.2 only applies if Service Credits are not applicable); or
- 18.2.3. the other party repeatedly breaches any of the terms of the Contract 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 under the Contract.
- 18.3. Without prejudicing any other right or remedy available to it, CCS may terminate any Contract should an Insolvency Event occur.
- 18.4. Without prejudicing any other right or remedy available to it, CCS may terminate any Contract with immediate effect by giving written notice to the Customer if there is a change of control of the Customer (within the meaning of section 1124 of the Corporation Tax Act 2010).
- 18.5. Without prejudicing any right to terminate which CCS may have, CCS will be entitled to suspend any Services without notice if:
- 18.5.1. there is a Default on the part of the Customer; or
- 18.5.2. any of the events set out in clauses 18.2, 18.3 or 18.5 occur in relation to the Customer.
- 18.6. CCS may rely on the suspension to relieve it from the performance of any of its obligations in each case to the extent the suspension prevents or delays the performance by CCS of any of its obligations and CCS shall not be liable for any costs or losses sustained or incurred by the

Customer arising directly or indirectly from any failure or delay by CCS to perform any of its obligations as set out in this clause. CCS shall during the period of any suspension be entitled to refuse to release any IP Address used by the Customer allocated by CCS.

- 18.7. Where CCS acquires the right to terminate or suspend Services under a Contract pursuant to this clause 18, such right shall extend to any other Contracts concluded between the parties incorporating these Conditions, whether prior or subsequent to the Contract under which the right of termination or suspension has arisen.

19. CONSEQUENCES OF TERMINATION

- 19.1. On termination for any reason:

- 19.1.1. all rights granted to the Customer under the Contract shall cease;
- 19.1.2. for the avoidance of doubt, all rights granted to the Customer under any End-User Agreement shall continue in accordance with the terms of that agreement;
- 19.1.3. the Customer shall cease all activities authorised by the Contract; and
- 19.1.4. the Customer shall immediately pay any sums due to CCS (including sums on a time and materials basis for any work in progress) without set off or deduction.

- 19.2. Subject to CCS' obligations with respect to any other Contract which remains in force:

- 19.2.1. each party shall return and make no further use of any equipment, property, documentation and other items (and all copies of them) belonging to the other party; and
- 19.2.2. provided all sums due to CCS's Group from Customer's Group have been paid, CCS shall make available to the Customer via CCS' FTP site a copy of all Customer Data in a commonly-readable electronic format for a period of no more than 6 days following termination. After such period, CCS may permanently delete all Customer Data residing on its systems.

20. ASSIGNMENT

- 20.1. The Customer may not freely assign, sub-contract, charge or otherwise deal in any other manner with all or any of its rights or obligations under a Contract without the consent of CCS, such consent not to be unreasonably withheld or delayed.
- 20.2. CCS may freely assign, sub-contract, charge or otherwise deal in any other manner with all or any of its rights or obligations under a Contract without the prior written consent of the Customer.
- 20.3. The Customer agrees that it shall co-operate and undertake all matters at CCS' cost and expense that are necessary to novate or assign any Contract or any parts thereof to any third party when requested to do so by the Customer.

21. FORCE MAJEURE

- 21.1. Neither party shall be in breach of a Contract nor liable for delay in performing, or failure to perform, any of its obligations under that Contract if such delay or failure results from events, circumstances or causes beyond its reasonable control, including strikes; lock-outs or other industrial disputes (except with respect to that party's own employees); acts of God; war; riot; civil commotion; compliance with any law or governmental order, rule, regulation or direction; accident; fire, flood, or storm. In such circumstances the affected party shall be entitled to a reasonable extension of the time for performing such obligations, provided that if the period of delay or non-performance continues for 2 months, the party not affected may terminate the relevant contract (together with any other Contract between the parties) by giving 10 Business Days' written notice to the other party.

22. NOTICES

- 22.1. A notice given pursuant to the Contract shall be in writing, addressed to the place of business of the relevant party, directed to the named individuals given in the Quote (if any) and shall be: (i) delivered personally; (ii) sent by e-mail; or (iii) sent by pre-paid special delivery.
- 22.2. A notice is deemed to have been received:
 - 22.2.1. if delivered personally, at the time of delivery;
 - 22.2.2. in the case of e-mail, at the time of transmission, provided a delivery notification is obtained evidencing delivery of the email; and
 - 22.2.3. in the case of special delivery, the date on which delivery takes place, as evidenced by the acknowledgement from the Royal Mail,

provided that, if receipt is not within Normal Business Hours on a Business Day, delivery shall be deemed to be when business next starts in the place of receipt.

23. DISPUTE RESOLUTION

- 23.1. If a dispute arises out of or in connection with these Conditions or the performance, validity or enforceability of a Contract (a “**Dispute**”) then the parties shall follow the procedure set out in this clause 23:
- 23.1.1. either party shall give to the other written notice of the Dispute, setting out its nature and full particulars (a “**Dispute Notice**”), together with relevant supporting documents. On service of the Dispute Notice, the parties shall attempt in good faith to resolve the Dispute; and
- 23.1.2. if the parties are for any reason unable to resolve the Dispute within 20 Business Days from service of the Dispute Notice, the parties will attempt to settle it by mediation in accordance with the CEDR Model Mediation Procedure. Unless otherwise agreed between the parties, the mediator shall be nominated by CEDR Solve. To initiate the mediation, a party must serve notice in writing (an “**ADR Notice**”) to the other party to the Dispute, requesting mediation. A copy of the ADR Notice should be sent to CEDR Solve. The mediation will start not later than 10 Business Days after the date of the ADR Notice.
- 23.2. If the Dispute is not resolved within 1 month of the mediator’s appointment, then either party may commence Court proceedings, but provided that nothing in this clause 23.2 shall prevent either party from either continuing with any means of alternative dispute resolution as may be agreed in writing from time to time, or seeking an injunction or other interim relief at any time if it reasonably believes such action is necessary to prevent irreparable damage.

24. GENERAL

- 24.1. A natural or legal person who is not a party to the Contract shall have no rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any of its terms. This clause does not alter any right or remedy of any person which exists or is available otherwise than pursuant to that Act.
- 24.2. Day to day communications between the Parties may be recorded for quality and training purposes and may be used in the event of a dispute.
- 24.3. Except as set out in these Conditions, any variation, including the introduction of any additional terms and conditions, to the Contract shall only be binding when agreed in writing and signed by CCS. A waiver of any right is only effective if it is in writing and shall not be deemed to be a waiver of any subsequent breach or Default. No failure or delay by a party in exercising any right or remedy under the Contract or by law shall constitute a waiver of that or any other right or remedy, nor preclude or restrict its further exercise. No single or partial exercise of such right or remedy shall preclude or restrict the further exercise of that or any other right or remedy. Unless specifically provided otherwise, rights arising under the Contract are cumulative and do not exclude rights provided by law.
- 24.4. The construction, validity and performance of each Contract shall be governed by the laws of England and Wales and the parties submit to the exclusive jurisdiction of the English Courts.
- 24.5. No delay or omission by the Customer in exercising any of its rights or remedies under a Contract or under any Applicable Law on any occasion shall be deemed a waiver of, or bar to, the exercise of such right or remedy or any other right or remedy upon any other occasion.
- 24.6. In the event that any provision of a Contract shall be void or unenforceable by reason of any provision of Applicable Law, it shall be deleted and the remaining provisions hereof shall continue in full force and effect and, if necessary, be so amended as shall be necessary to give effect to the original intent of the Contract so far as possible.
- 24.7. Nothing in a Contract is intended to, or shall be deemed to, constitute a partnership or joint venture of any kind between the parties, nor constitute any party the agent of the other party for any purpose. No party shall have authority to act as agent for, or to bind, the other party in any way.
- 24.8. Each party undertakes to the other that it will not, and will procure that its employees will not, in the course of performing its obligations under a Contract, knowingly engage in any activity which would constitute a breach of the Bribery Act 2010 and that it has in place a compliance programme designed to ensure compliance with the terms of the Bribery Act 2010 and has

and will maintain in place, adequate procedures designed to prevent any of its third party contractors or sub-contractors from undertaking any conduct that would give rise to an offence under the Bribery Act 2010.