
STANDARD SERVICE TERMS AND CONDITIONS

BACKGROUND:

Cadence Innova Ltd (the "Service Provider") provides advisory, business consulting and transformation, commercial, cloud, digital, empowering staff, and people services for business Clients. The Service Provider has reasonable skill, knowledge, and experience in that field. These Terms and Conditions shall apply to the provision of services by the Service Provider to its Clients.

1. Definitions and Interpretation

1.1. In these Terms and Conditions, unless the context otherwise requires, the following expressions have the following meanings:

"Agreement" means the agreement entered into by the Service Provider and the Client comprising the Engagement Letter and these Terms and Conditions (or variation thereof agreed upon by both Parties) which shall govern provision of the Services;

"Business Day" means, any day (other than Saturday or Sunday) on which ordinary banks are open for their full range of normal business in England;

"Calendar Day": Means the twenty-four hour period from midnight to midnight. Saturdays and Sundays and all holidays are considered calendar days

"Client" means the party procuring the Services from the Service Provider who shall be identified in the Agreement;

"Commencement Date" means the date on which provision of the Services will commence, as defined in the Agreement;

"Commissioner" takes the meaning given in the DPA 2018;

“Confidential Information”	means, in relation to either Party, information which is disclosed to that Party by the other Party pursuant to or in connection with the Agreement and relating to the business, customers, products, affairs and finances of the Parties or any Group Company (whether orally or in writing or any other medium, and whether or not the information is expressly stated to be confidential or marked as such) including, without limitation, in relation to the Client, trade secrets, technical data and know-how relating to the activities and business of the Client or any Group Company or any of its or their suppliers, customers, agents, distributors, shareholders, management or business contacts, including in particular (by way of illustration only and without limitation) its member train operating companies and their owning groups and including (but not limited to) information that the Service Provider or the Resources create, develop, receive or obtain in connection with the Agreement;
“Controller”	Takes the meaning given in the Data Protection Legislation.
“Data Loss Event”	Any event that results, or may result, in unauthorised access to Personal Data held by the Service Provider under these Terms and Conditions, and/or actual or potential loss and/or destruction of Personal Data in breach of these Terms and Conditions, including any Personal Data Breach.
“Data Protection Impact Assessment”	An assessment by the Controller of the impact of the envisaged processing on the protection of Personal Data.
“Data Protection Legislation”	means the UK Data Protection Legislation [DPA 2018] and any other European Legislation [DPA 2018] and any other European Legislation relating to personal data and all other legislation and regulatory requirements in force from time to time which apply to a party relating to the use of personal data (including, without limitation, the privacy of electronic communications) and the guidance and codes of practice issued by the relevant data protection or supervisory authority and applicable to a Party;].
“Data Subject”	Takes the meaning given in the Data Protection Legislation.
“DPA 2018”	Data Protection Act 2018 c.12 and subsequent revisions (DPA 2018) is the United Kingdom's implementation of the General Data Protection Regulation (GDPR).
“Engagement Letter”	The letter that accompanies these Terms and Conditions that details the specific services to be provided under the Agreement.
“GDPR”	The General Data Protection Regulation (Regulation (EU) 2016/679). National Data Protection Authorities (DPAs) oversee compliance within the GDPR framework.

“Fees”	means any and all sums due under the Agreement from the Client to the Service Provider, as specified in the Agreement;
“Group Company”	in relation to the Client. This means any and all companies defined in the Agreement;
“Intellectual Property Rights”	means: <ul style="list-style-type: none"> a) any and all rights in any patents, trademarks, service mark registered designs, applications (and rights to apply for any of those rights) trade, business and company names, internet domain names and e-mail addresses, unregistered trademarks and service marks, copyrights, database right know-how, rights in designs and inventions; b) rights under licences, consents, orders, statutes, or otherwise in relation to a right in paragraph (a); c) rights of the same or similar effect or nature as or to those in paragraphs (a) and (b) which now or in the future may subsist; and d) (d) the right to sue for past infringements of any of the foregoing rights;
“LED”	Law Enforcement Directive (Directive (EU) 2016/680). The UK has incorporated the EU Law Enforcement Directive EU2016/680 into its law under Part 3 of the Data Protection Act 2018. [DPA 2018]
“Personal Data”	Takes the meaning given in the Data Protection Legislation.
“Personal Data Breach”	Takes the meaning given in the Data Protection Legislation.
“Processor”	Takes the meaning given in the Data Protection Legislation.
“Protected Data”	means Personal Data received from or on behalf of the Client or a Group Company of the Client in connection with the performance of the Service Provider's obligations under the Agreement;
“Protective Measures”	Appropriate technical and organisational measures which may include: pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability, and resilience of 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 such measures adopted by it.

“Resources”	means the Service Provider resources named in the Agreement;
“Sub-processor”	Any third party appointed to process Personal Data on behalf of the Service Provider under these Terms and Conditions.
“Services”	means the services to be provided by the Service Provider to the Client in accordance with Clause 2 of the Agreement, as fully defined in the Agreement, and subject to the terms and conditions of the Agreement; and
“Term”	means the term of the Agreement as defined therein.
“UK Data Protection Legislation”	means all applicable data protection and privacy legislation in force from time to time in the UK including the GDPR; the DPA 2018 and amendments; the Privacy and Electronic Communications Directive 2002/58/EC (as updated by Directive 2009/136/EC) and the Privacy and Electronic Communications Regulations 2003 (SI 2003/2426) as amended.

- 1.2. Unless the context otherwise requires, each reference in these Terms and Conditions to:
 - 1.2.1. “writing”, and any cognate expression, includes a reference to any communication effected by electronic or facsimile transmission or similar means;
 - 1.2.2. a statute or a provision of a statute is a reference to that statute or provision as amended or re-enacted at the relevant time;
 - 1.2.3. “these Terms and Conditions” is a reference to these Terms and Conditions as amended or supplemented at the relevant time;
 - 1.2.4. a Clause or paragraph is a reference to a Clause of these Terms and Conditions or to a Clause of the Agreement, as appropriate; and
 - 1.2.5. a “Party” or the “Parties” refer to the parties to the Agreement.
- 1.3. The headings used in these Terms and Conditions are for convenience only and shall have no effect upon the interpretation of these Terms and Conditions.
- 1.4. Words imparting the singular number shall include the plural and vice versa.
- 1.5. References to any gender shall include the other gender.
- 1.6. References to persons shall include corporations.

2. Provision of the Services

- 2.1.1. With effect from the Commencement Date, the Service Provider shall, throughout the Term of the Agreement, provide the Services to the Client.
- 2.1.2. The Service Provider shall act in accordance with all reasonable

instructions given to it by the Client provided such instructions are compatible with the specification of Services provided in the Agreement.

- 2.1.3. The Service Provider shall ensure that it complies with all statutes, regulations, byelaws, standards, codes of conduct and any other rules relevant to the provision of the Services.
- 2.1.4. The Service Provider shall use all reasonable endeavours to accommodate any reasonable changes in the Services that may be requested by the Client, subject to the Client's acceptance of any related reasonable changes to the Fees that may be due as a result of such changes.

3. Duties and obligations

- 3.1. During the Agreement, the Service Provider shall, and (where appropriate) shall procure that the Resources shall:
 - 3.1.1. provide the Services with all due care, skill and ability and use its or his best endeavours to promote the interests of the Client and any Group Company;
 - 3.1.2. promptly give to the Client all such information and reports as it may reasonably require in connection with matters relating to the provision of the Services or the Business of the Client or any Group Company.
- 3.2. If one or more of the Resources is unable to provide the Services due to illness or injury, the Service Provider shall advise the Client of that fact as soon as reasonably practicable.
- 3.3. The Service Provider may, with the prior written approval of the Client appoint suitably qualified and skilled substitute or substitutes to perform the Services instead of one or more of the Resources. For the avoidance of doubt, no fee shall be payable in respect of any period during which the Services are not provided.
- 3.4. The Service Provider shall use its reasonable endeavours to ensure that the Resources are available at all times on reasonable notice to provide such assistance or information as the Client may require.
- 3.5. Unless it has been specifically authorised to do so by the Client in writing:
 - 3.5.1. neither the Service Provider nor the Resources shall have any authority to incur any expenditure in the name of or for the account of the Client; and
 - 3.5.2. the Service Provider shall not, and shall procure that the Resources shall not, hold itself out as having authority to bind the Client.
- 3.6. The Service Provider will undertake the following checks on all Resources prior to the Commencement Date, the results of which will be considered to determine whether the individual is a fit and proper person to perform the Services:
 - 3.6.1. Photographic proof of identity
 - 3.6.2. Proof of legal right to work in the UK

- 3.6.3. Credit check (where required by the Client)
- 3.6.4. Criminal history check
- 3.6.5. Employment history (5 years)
- 3.6.6. Education history
- 3.7. Upon request, the results of the above checks shall be shared with the Client for review.
- 3.8. The Service Provider shall, and shall procure that the Resources shall, comply with all reasonable standards of safety and comply with the Client's health and safety procedures from time to time in force at the premises where the Services are provided and report to the Client any unsafe working conditions or practices.
- 3.9. Service Provider shall procure that the Resources shall comply with the Client's policies, including but not limited to: Acceptable Use Policy, Corporate Privacy Notice, Corporate Social Responsibility Policy, Privacy Notice for Employed and Non-Employed Workers, Security Policy, and Travel and Expenses Policy.
- 3.10. The Service Provider shall, and shall procure that the Resources shall:
 - 3.10.1. comply with all applicable laws, regulations, codes and sanctions relating to anti-bribery and anti-corruption including the Bribery Act 2010 (Relevant Requirements);
 - 3.10.2. comply with the Client's Code of Conduct and Anti-bribery Policies, in each case as the Client may update them from time to time (Relevant Policies);
 - 3.10.3. have and shall maintain in place throughout the term of the Agreement its own policies and procedures, including adequate procedures under the Bribery Act 2010, to ensure compliance with the Relevant Requirements and Clause 3.10.2, and will enforce them where appropriate;
 - 3.10.4. promptly report to the Client any request or demand for any undue financial or other advantage of any kind received by the Service Provider or the Resources in connection with the performance of the Agreement;
 - 3.10.5. forthwith notify the Client if a foreign public official becomes an officer or employee of the Service Provider or acquires a direct or indirect interest in the Service Provider (and the Service Provider warrants that it has no foreign public officials as officers, employees or direct or indirect owners at the date of the Agreement);
 - 3.10.6. ensure that all persons associated with the Service Provider or other persons who are performing services in connection with the Agreement comply with this Clause 3.10; and
- 3.11. Failure to comply with Clause 3.10 may result in the immediate termination of the Agreement.
- 3.12. For the purpose of Clause 3.10, the meaning of adequate procedures and foreign public official and whether a person is associated with another person shall be determined in accordance with section 7(2) of the Bribery Act 2010 (and any guidance issued under section 9 of that Act), section 6(5) and 6(6) of

that Act and section 8 of that Act respectively. For the purposes of Clause 3.10, a person associated with the Service Provider includes any Substitute for the Resources.

4. Intellectual Property Rights

- 4.1. Upon receipt of all sums due under the Agreement, the Service Provider shall assign the ownership of any and all Intellectual Property Rights that may subsist in anything produced by the Service Provider in the course of providing the Services.
 - 4.1.1. In complying with the provisions of sub-Clause 4.1, the Service Provider shall undertake to execute any such agreements and perform any such actions that may be necessary to put such assignments into effect and shall exclusively bear any costs associated therewith.
 - 4.1.2. The Service Provider shall waive all moral rights arising out of Chapter IV of the Copyright, Designs and Patents Act 1988.
 - 4.1.3. Service Provider agrees to indemnify the Client and keep it indemnified at all times against all or any costs, claims, damages or expenses incurred by the Client, or for which the Client may become liable, with respect to any intellectual property infringement claim or other claim relating to the anything produced by the Service Provider during the course of providing the Services.
 - 4.1.4. Service Provider will use reasonable endeavours to seek permission to assign to the Client any specified license that it enjoys over IP owned by a third party if requested so to do by the Client in writing, and that it will disclose all such licenses to the Client on request.

5. Client's Obligations

- 5.1. The Client shall use all reasonable endeavours to provide all pertinent information to the Service Provider that is necessary for the Service Provider's provision of the Services.
- 5.2. The Client may, from time to time, issue reasonable instructions to the Service Provider in relation to the Service Provider's provision of the Services. Any such instructions should be compatible with the specification of the Services provided in the Agreement.
- 5.3. In the event that the Service Provider requires the decision, approval, consent or any other communication from the Client in order to continue with the provision of the Services or any part thereof at any time, the Client shall provide the same in a reasonable and timely manner.
- 5.4. If any consents, licences or other permissions are needed from any third parties such as landlords, planning authorities, local authorities or similar, it shall be the Client's responsibility to obtain the same in advance of the provision of the Services (or the relevant part thereof).
- 5.5. If the nature of the Services requires that the Service Provider has access to the Client's offices or any other location, access to which is lawfully controlled by the Client, the Client shall ensure that the Service Provider has access to the same at the times to be agreed between the Service Provider and the Client

as required.

- 5.6. Any delay in the provision of the Services resulting from the Client's failure or delay in complying with any of the provisions of Clause 5 of these Terms and Conditions shall not be the responsibility or fault of the Service Provider.

6. Fees, Payment and Records

- 6.1. The Client shall pay the Fees to the Service Provider in accordance with the provisions of the Agreement.
- 6.2. The Service Provider shall invoice the Client for Fees due in accordance with the provisions of the Agreement. All invoices shall show the service Provider's VAT registration number and shall show VAT separately.
- 6.3. All payments required to be made pursuant to the Agreement by either Party shall be made within thirty (30) Business Days of receipt by that Party of the relevant and accurate invoice.
- 6.4. All payments required to be made pursuant to the Agreement by either Party shall be made in Pounds Sterling in cleared funds to such bank in England as the receiving Party may from time to time nominate.
- 6.5. Where any payment pursuant to the Agreement is required to be made on a day that is not a Business Day, it may be made on the next following Business Day.
- 6.6. Subject to Clause 6.8 and without prejudice to sub-Clause 11.4.1 of the Agreement, any sums which remain unpaid following the expiry of the period set out in sub-Clause 6.3 of the Agreement shall incur on a daily basis the current statutory interest rate of 8% plus the Bank of England base rate from time to time until payment is made in full of any such outstanding sums.
- 6.7. Each Party shall be required to:
- 6.7.1. keep, or procure that there are kept, such records and books of account as are necessary to enable the amount of any sums payable pursuant to the Agreement to be accurately calculated; and
 - 6.7.2. at the reasonable request of the other Party, allow that Party or its agent to inspect those records and books of account and, to the extent that they relate to the calculation of those sums, to take copies of them;
 - 6.7.3. If the Client disputes a payment in good faith, then the interest payable under Clause 6.6 is only payable after the dispute is resolved on sums found or agreed to be due, from the day after the dispute is resolved until payment.

7. Liability, Indemnity and Insurance

- 7.1. The Service Provider shall ensure that it has in place at all times suitable and valid insurance that shall include, but not be limited to, public liability insurance.
- 7.2. In the event that the Service Provider fails to perform the Services with reasonable care and skill it shall carry out any and all necessary remedial action at no additional cost to the Client.

- 7.3. Subject to Clause 7.5, the Service Provider's total liability to the Client, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, arising under or in connection with the Agreement shall be limited to 200% of the total Fees charged to the Client under the Agreement.
- 7.4. The Service Provider shall not be liable for any loss or damage suffered by the Client that results from the Client's failure to follow any reasonable instructions given by the Service Provider.
- 7.5. Nothing in these Terms and Conditions shall limit or exclude the Service Provider's or the Client's liability for:
 - 7.5.1. death or personal injury caused by its negligence, or the negligence of its personnel, agents or subcontractors;
 - 7.5.2. fraud or fraudulent misrepresentation;
 - 7.5.3. breach of the terms implied by section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession) any other liability which cannot be limited or excluded by applicable law; or
 - 7.5.4. Shall limit or exclude the Service Provider's liability under Clause 4.1.3 or Clause 27.
- 7.6. Subject to sub-Clause 7.3 of the Agreement the Service Provider shall indemnify the Client against any costs, liability, damages, loss, claims or proceedings arising out of the Service Provider's breach of the Agreement including any negligent or reckless act, omission or default in the provision of the Services.
- 7.7. The Client shall indemnify the Service Provider against any costs, liability, damages, loss, claims or proceedings arising from loss or damage to any equipment (including that belonging to any third parties appointed by the Service Provider) caused by the Client or its agents or employees.
- 7.8. Neither Party shall be liable to the other or be deemed to be in breach of the Agreement by reason of any delay in performing, or any failure to perform, any of that Party's obligations if the delay or failure is due to any cause beyond that Party's reasonable control.
- 7.9. Subject to Clause 7.5, the Client's total liability to the Service Provider, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, arising under or in connection with the Agreement shall be limited to 100% of the total Fees paid by the Client under this Agreement.
- 7.10. Notwithstanding the terms of clauses 7.1-7.9, neither party shall be liable to the other for any indirect or consequential losses.

8. Guarantee

- 8.1. The Service Provider shall guarantee that the product of all Services provided will be free from any and all defects for a period that shall be defined in the Agreement.
- 8.2. If any defects in the product of the Services appear during the guarantee period set out in the Agreement the Service Provider shall rectify any and all such defects at no cost to the Client.

9. Confidentiality

9.1. Each Party shall undertake that, except as provided by sub-Clause 9.2 or as authorised in writing by the other Party, it shall, at all times during the continuance of the Agreement:

- 9.1.1. keep confidential all Confidential Information;
- 9.1.2. not disclose any Confidential Information to any other party;
- 9.1.3. not use any Confidential Information for any purpose other than as contemplated by and subject to the terms of the Agreement;
- 9.1.4. not make any copies of, record in any way or part with possession of any Confidential Information; and
- 9.1.5. ensure that none of its directors, officers, employees, agents, sub-contractors or advisers does any act which, if done by that Party, would be a breach of the provisions of sub-Clauses 9.1.1 to 9.1.4 of the Agreement.

9.2. Either Party may:

- 9.2.1. disclose any Confidential Information to:
 - any sub-contractor of that Party;
 - any governmental or other authority or regulatory body; or
 - any employee or officer of that Party or of any of the aforementioned persons, parties or bodies;
- 9.2.2. to such extent only as is necessary for the purposes contemplated by the Agreement (including, but not limited to, the provision of the Services), or as required by law. In each case that Party shall, if legally permitted, first inform the person, party or body in question that the Confidential Information is confidential and (except where the disclosure is to any such body under sub-Clause 9.2.1.2 or any employee or officer of any such body) obtaining and submitting to the other Party a written confidentiality undertaking from the party in question. Such undertaking should be as nearly as practicable in the terms of Clause 9 of the Agreement, to keep the Confidential Information confidential and to use it only for the purposes for which the disclosure is made; and
- 9.2.3. use any Confidential Information for any purpose, or disclose it to any other person, to the extent only that it is at the date of the Agreement, or at any time after that date becomes, public knowledge through no fault of that Party. In making such use or disclosure, that Party must not disclose any part of the Confidential Information that is not public knowledge.
- 9.2.4. The provisions of Clause 9 of these Terms and Conditions shall continue in force in accordance with their terms, notwithstanding the termination of the Agreement for any reason.

10. Force Majeure

10.1. No Party to the Agreement shall be liable for any failure or delay in performing

their obligations where such failure or delay results from any cause that is beyond the reasonable control of that Party. Such causes include, but are not limited to: power failure, internet service provider failure, industrial action (where such action is not as a result of the employees of the party wishing to rely on this clause), civil unrest, fire, flood, storms, earthquakes, acts of terrorism, acts of war, governmental action or any other event that is beyond the control of the Party in question.

- 10.2. In the event that a Party to the Agreement cannot perform their obligations hereunder as a result of force majeure for a continuous period of thirty (30) Calendar Days, the other Party may at its discretion terminate the Agreement by written notice at the end of that period. In the event of such termination, the Parties shall agree upon a fair and reasonable payment for all Services provided up to the date of termination. Such payment shall take into account any prior contractual commitments entered into in reliance on the performance of the Agreement.

11. Term and Termination

- 11.1. The Agreement shall come into force on the agreed Commencement Date and shall continue for a defined Term from that date, subject to the provisions of Clause 11 of these Terms and Conditions.
- 11.2. The Client shall have the right, subject to the agreement and consent of the Service Provider and exercisable by giving not less than 10 Business Days written notice to the other at any time prior to the expiry of the Term specified in sub-Clause 11.1 of the Agreement (or any further period for which the Agreement is extended) to extend the Agreement for a further period to be defined between the parties.
- 11.3. Either Party may terminate the Agreement by giving to the other not less than 30 Calendar Days written notice, to expire on or at any time after the minimum term of the Agreement (which shall be defined in the Agreement).
- 11.4. Either Party may immediately terminate the Agreement by giving written notice to the other Party if:
- 11.4.1. any sum owing to that Party by the other Party under any of the provisions of the Agreement is not paid within 60 Calendar Days of the due date for payment;
 - 11.4.2. the other Party commits any other breach of any of the provisions of the Agreement and, if the breach is capable of remedy, fails to remedy it within 30 Calendar Days after being given written notice giving full particulars of the breach and requiring it to be remedied;
 - 11.4.3. an encumbrancer takes possession, or where the other Party is a company, a receiver is appointed, of any of the property or assets of that other Party;
 - 11.4.4. the other Party makes any voluntary arrangement with its creditors or, being a company, becomes subject to an administration order (within the meaning of the Insolvency Act 1986);
 - 11.4.5. the other Party, being an individual or firm, has a bankruptcy order made against it or, being a company, goes into liquidation (except for the purposes of bona fide amalgamation or re-construction and in

such a manner that the company resulting therefrom effectively agrees to be bound by or assume the obligations imposed on that other Party under the Agreement);

- 11.4.6. anything analogous to any of the foregoing under the law of any jurisdiction occurs in relation to the other Party;
 - 11.4.7. the other Party ceases, or threatens to cease, to carry on business; or
 - 11.4.8. control of the other Party is acquired by any person or connected persons not having control of that other Party on the date of the Agreement. For the purposes of Clause 11, "control" and "connected persons" shall have the meanings ascribed thereto by Sections 1124 and 1122 respectively of the Corporation Tax Act 2010.
- 11.5. For the purposes of sub-Clause 11.4.2, a breach shall be considered capable of remedy if the Party in breach can comply with the provision in question in all respects.
- 11.6. The rights to terminate the Agreement shall not prejudice any other right or remedy of either Party in respect of the breach concerned (if any) or any other breach.

12. Effects of Termination

12.1. Upon the termination of the Agreement for any reason:

- 12.1.1. any sum owing by either Party to the other under any of the provisions of the Agreement shall become immediately due and payable;
- 12.1.2. all Clauses which, either expressly or by their nature, relate to the period after the expiry or termination of the Agreement shall remain in full force and effect;
- 12.1.3. termination shall not affect or prejudice any right to damages or other remedy which the terminating Party may have in respect of the event giving rise to the termination or any other right to damages or other remedy which any Party may have in respect of any breach of the Agreement which existed at or before the date of termination;
- 12.1.4. subject as provided in Clause 12 of the Agreement and except in respect of any accrued rights neither Party shall be under any further obligation to the other; and
- 12.1.5. each Party shall (except to the extent referred to in Clause 9 of the Agreement) immediately cease to use, either directly or indirectly, any Confidential Information, and shall immediately irretrievably delete and return to the other Party any physical assets, ID passes, documents (whether physical or not) in its possession or control which contain or record any Confidential Information.

13. No Waiver

No failure or delay by either Party in exercising any of its rights under the Agreement shall be deemed to be a waiver of that right, and no waiver by either Party of a breach of any provision of the Agreement shall be deemed to be a waiver of any subsequent breach of the same or any other provision.

14. Further Assurance

Each Party shall execute and do all such further deeds, documents and things as may be necessary to carry the provisions of the Agreement into full force and effect.

15. Costs

Subject to any provisions to the contrary each Party shall pay its own costs of and incidental to the negotiation, preparation, execution and carrying into effect of the Agreement.

16. Set-Off

Neither Party shall be entitled to set-off any sums in any manner from payments due or sums received in respect of any claim under the Agreement or any other agreement at any time.

17. Assignment and Sub-Contracting

- 17.1. Subject to sub-Clause 17.2, the Agreement shall be personal to the Parties. Neither Party may assign, mortgage, charge (otherwise than by floating charge) or sub-licence or otherwise delegate any of its rights thereunder, or sub-contract or otherwise delegate any of its obligations thereunder without the written consent of the other Party, such consent not to be unreasonably withheld.
- 17.2. The Service Provider shall be entitled to perform any of the obligations undertaken by it through any other member of its group or through suitably qualified and skilled sub-contractors provided that such sub-contractors are approved in advance by the Client. Any act or omission of such other member or sub-contractor shall, for the purposes of the Agreement, be deemed to be an act or omission of the Service Provider.

18. Time

The times and dates referred to in the Agreement shall be for guidance only and shall not be of the essence of the Agreement and may be varied by mutual agreement between the Parties.

19. Relationship of the Parties

Nothing in the Agreement shall constitute or be deemed to constitute a partnership, joint venture, agency or other fiduciary relationship between the Parties other than the contractual relationship expressly provided for in the Agreement.

20. Non-Solicitation

Neither Party shall, for the Term of the Agreement and for a period of six (6) months after its termination or expiry, solicit or entice away from the other Party any customer, Client or employee where any such solicitation or enticement would cause damage to the business of that Party without the express written consent of that Party.

21. Third Party Rights

- 21.1. Except for the Client's Group Companies who shall be beneficiaries under the Agreement, no part of the Agreement shall confer rights on any third parties and accordingly the Contracts (Rights of Third Parties) Act 1999 shall not apply to the Agreement.
- 21.2. The Agreement shall continue and be binding on the transferee, successors and assigns of either Party as required.
- 21.3. The rights of the Parties to rescind or vary the Agreement are not subject to the consent of any other person.

22. Notices

- 22.1. All notices under the Agreement shall be in writing and be deemed duly given if signed by, or on behalf of, a duly authorised officer of the Party giving the notice.
- 22.2. Notices shall be deemed to have been duly given:
 - 22.2.1. when delivered, if delivered by courier or other messenger (including registered mail) during normal business hours of the recipient; or
 - 22.2.2. when sent, if transmitted by facsimile or e-mail and a successful transmission report or return receipt is generated; or
 - 22.2.3. on the fifth business day following mailing, if mailed by national ordinary mail, postage prepaid; or
 - 22.2.4. on the tenth business day following mailing, if mailed by airmail, postage prepaid.

In each case notices shall be addressed to the most recent address, e-mail address, or facsimile number notified to the other Party.

23. Entire Agreement

- 23.1. The Agreement contains the entire agreement between the Parties with respect to its subject matter and may not be modified except by an instrument in writing signed by the duly authorised representatives of the Parties.
- 23.2. Each Party shall acknowledge that, in entering into the Agreement, it does not rely on any representation, warranty or other provision except as expressly provided in the Agreement, and all conditions, warranties or other terms implied by statute or common law are excluded to the fullest extent permitted by law.

24. Counterparts

The Agreement may be entered into in any number of counterparts and by the Parties to it on separate counterparts each of which when so executed and delivered shall be an original, but all the counterparts together shall constitute the same instrument.

25. Severance

In the event that one or more of the provisions of the Agreement and/or of these

Terms and Conditions is found to be unlawful, invalid or otherwise unenforceable, that / those provision(s) shall be deemed severed from the remainder of the Agreement and/or these Terms and Conditions. The remainder of the Agreement and/or these Terms and Conditions shall be valid and enforceable.

26. Dispute Resolution

- 26.1. The Parties shall attempt to resolve any dispute arising out of or relating to the Agreement through negotiations between their appointed representatives who have the authority to settle such disputes.
- 26.2. If negotiations under sub-Clause 26.1 of the Agreement do not resolve the matter within 30 Calendar Days of receipt of a written invitation to negotiate, the parties will attempt to resolve the dispute in good faith through an agreed Alternative Dispute Resolution ("ADR") procedure.
- 26.3. If the ADR procedure under sub-Clause 26.2 of the Agreement does not resolve the matter within 30 Calendar Days of the initiation of that procedure, or if either Party will not participate in the ADR procedure, the dispute may be referred to arbitration by either Party.
- 26.4. The seat of the arbitration under sub-Clause 26.3 of the Agreement shall be England and Wales. The arbitration shall be governed by the Arbitration Act 1996 and Rules for Arbitration as agreed between the Parties. In the event that the Parties are unable to agree on the arbitrator(s) or the Rules for Arbitration, either Party may, upon giving written notice to the other Party, apply to the President or Deputy President for the time being of the Chartered Institute of Arbitrators for the appointment of an arbitrator or arbitrators and for any decision on rules that may be required.
- 26.5. Nothing in Clause 26 of the Agreement shall prohibit either Party or its affiliates from applying to a court for interim injunctive relief.
- 26.6. The decision and outcome of the final method of dispute resolution under Clause 26 of the Agreement shall be final and binding on both Parties.

27. Data Protection Legislation (GDPR and DPA 2018)

- 27.1. The Service Provider shall procure that all Resources consent to the Client holding and processing data, including where necessary sensitive personal data, relating to them for legal, personnel, administrative and management purposes relating to the provision of the Services.
- 27.2. The Parties will comply with the Data Protection Legislation and agree that the Client is the Controller and the Service Provider is the Processor. The only processing the Service Provider is authorised to do is listed in the Agreement and such list includes the scope, nature and purpose of processing Protected Data.
- 27.3. The Service Provider shall only process the Protected Data in accordance with the Controller's written instructions except where otherwise required by applicable law (and shall inform the Client of that legal requirement before processing, unless applicable law prevents it doing so on important grounds of public interest). If the Service Provider believes that any instruction received by it from the Client is likely to infringe the Data Protection Legislation it shall promptly inform the Client.

- 27.4. The Service Provider shall, taking into account the nature of the Processing of the Protected Data and the information available to the Processor at the relevant time, at the cost of the Service Provider, assist the Client:
- 27.4.1. In responding to requests from Data Subjects relating to the Service Provider's Processing of the Protected Data; and
 - 27.4.2. in ensuring compliance with the Client's obligations under the Data Protection Legislation, including in relation to:
 - I. security of Processing,
 - II. notification of a Personal Data Breach to the Commissioner,
 - III. communication of a Personal Data Breach to the Data Subject concerned,
 - IV. Data Protection Impact Assessments; and
 - V. consulting with the Commissioner prior to Processing when a Data Protection Impact Assessment indicates that the Processing would result in a high risk in the absence of measures taken by the Service Provider to mitigate the risk.
- 27.5. The Service Provider shall notify the Client in writing forthwith upon becoming aware of a Personal Data Breach in respect of any Protected Data.
- 27.6. The Controller and the Processor shall co-operate, on request, with the Commissioner in the performance of its tasks.
- 27.7. The Service Provider has and will continue to have in place Protective Measures, which have been reviewed and approved by the Client as appropriate, to guard against a Data Loss Event, which take into account the nature of the data, the harm that might result, the state of technology and the cost of implementing the measures.
- 27.8. The Service Provider will ensure that the Service Provider Personnel only process Personal Data in accordance with these Terms and Conditions and take all reasonable steps to ensure the reliability and integrity of Service Provider Personnel with access to Personal Data, including by ensuring they:
- 27.8.1. are aware of and comply with the Service Provider's obligations under this Clause;
 - 27.8.2. are subject to appropriate confidentiality undertakings with the Service Provider or relevant Sub-processor;
 - 27.8.3. are informed of the confidential nature of the Protected Data and do not publish, disclose or divulge it to any third party unless directed by the Client or in accordance with these Terms and Conditions; and
 - 27.8.4. are given training in the use, protection, and handling of Personal Data.
- 27.9. The Service Provider will not transfer Personal Data outside of the United Kingdom unless the prior written consent of the Client has been obtained and
- 27.9.1. the Client or the Service Provider has provided appropriate safeguards in relation to the transfer (whether in accordance with GDPR Article 46 or LED Article 37) as determined by the Client;

- 27.9.2. the Data Subject has enforceable rights and effective legal remedies;
 - 27.9.3. the Service Provider complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred (or, if it is not so bound, uses its best endeavours to assist the Client in meeting its obligations); and
 - 27.9.4. the Service Provider complies with any reasonable instructions notified to it in advance by the Client with respect to the processing of the Personal Data.
- 27.10. The Service Provider will delete or return Client's Personal Data (including copies) if requested in writing by the Client at the End or Expiry of these Terms and Conditions, unless required to retain the Personal Data by law.
- 27.11. The Service Provider will notify the Client immediately if it receives any communication from a third party relating to the Parties' obligations under the Data Protection Legislation, or it becomes aware of a Data Loss Event, and will provide the Client with full and ongoing assistance in relation to each Party's obligations under the Data Protection Legislation in accordance with any timescales reasonably required by the Client.
- 27.12. The Service Provider will maintain complete and accurate records and information to demonstrate its compliance with this Clause 27 where:
- 27.12.1. the Client determines that the processing is not occasional;
 - 27.12.2. the Client (as Data Controller) performs a Data Protection Impact Assessment (DPIA) on determining the processing includes special categories of data as referred to in Article 9(1) of the GDPR or Personal Data relating to criminal convictions and offences referred to in Article 10 of the GDPR; and
 - 27.12.3. the Client determines that the processing is likely to result in a risk to the rights and freedoms of Data Subjects.
- 27.13. Before allowing any Sub-processor to process any Personal Data related to these Terms and Conditions, the Service Provider must obtain the prior written consent of the Client, and shall remain fully liable for the acts and omissions of any Sub-processor.
- 27.14. On request, the Service Provider shall provide to the Client all information required by the Client to assess the Service Provider's compliance with the provisions of this Clause 27 and the Data Protection Legislation and allow for and contribute to audits, including inspections, conducted by the Client (or another auditor mandated by the Client) or by the Commissioner.
- 27.15. On request, the Service Provider shall take all necessary actions and provide the Client with all reasonable assistance necessary for the Client to comply with its obligations under the Data Protection Legislation in relation to the provision of information to Data Subjects, the rectification of inaccurate Personal Data in relation to a Data Subject, the erasure of a Data Subject's Protected Data, and the retrieval and transfer of the Protected Data of a Data Subject.

28. Modern Slavery

- 28.1. In performing its obligations under the agreement, the Service Provider shall

(and shall ensure that each of its subcontractors shall) comply with the Modern Slavery Act 2015.

28.2. The Service Provider represents and warrants that neither the Service Provider nor any of its officers, employees or other persons associated with it:

28.2.1. has been convicted of any offence involving slavery and human trafficking; and

28.2.2. has been or is the subject of any investigation, inquiry or enforcement proceedings by any governmental, administrative or regulatory body regarding any offence or alleged offence of or in connection with slavery and human trafficking.

28.3. The Service Provider shall implement due diligence procedures for its own suppliers, subcontractors and other participants in its supply chains, to ensure that there is no slavery or human trafficking in its supply chains.

29. Status

29.1. The relationship of the Service Provider and the individuals (Resources) to the Client will be that of independent contractor and nothing in this agreement shall render it (nor the individual) an employee, worker, agent or partner of the Client and the Service Provider shall not hold itself out as such and shall procure that the individual shall not hold himself out as such.

29.2. This agreement constitutes a contract for the provision of services and not a contract of employment and accordingly the Service Provider shall indemnify the Client and any Group Company for in respect of any income tax, National Insurance and social security contributions and any other liability, deduction, contribution, assessment or claim arising from a determination that the Engagement is Deemed Employment or made in connection with either the performance of the Services or any payment or benefit received by the Individual in respect of the Services, where such recovery is not prohibited by law. The Service Provider shall further indemnify the Client against all reasonable costs, expenses, and any penalty, fine or interest incurred or payable by the Client in connection with or in consequence of any such liability, deduction, contribution, assessment or claim.

29.3. The Service Provider warrants that it is not nor will it prior to the cessation of this agreement, become a managed service company, within the meaning of section 61B of the Income Tax (Earnings and Pensions) Act 2003.

30. Law and Jurisdiction

30.1. The Agreement and these Terms and Conditions (including any non-contractual matters and obligations arising therefrom or associated therewith) shall be governed by, and construed in accordance with, the laws of England and Wales.

30.2. Subject to the provisions of Clause 26 of the Agreement, any dispute, controversy, proceedings or claim between the Parties relating to the Agreement or these Terms and Conditions (including any non-contractual matters and obligations arising therefrom or associated therewith) shall fall within the jurisdiction of the courts of England and Wales.