



THIS MASTER SERVICES AGREEMENT (the "Agreement")

Between:

- (1) Valto Limited incorporated and registered in England and Wales with company number 10625574 whose registered office is at 10 Watergate Row, Chester, United Kingdom CH1 2LD ("Valto"); and
- (2) The Customer, the details of which are set out in the applicable Work Order (as defined below) ("Customer"),

BACKGROUND

- (1) Under this Agreement, the Customer may purchase Goods and/or Services via a Work Order.
- (2) The Supplier has agreed to provide, and the Customer has agreed to take and pay for, the Services, subject to the terms and conditions of this Agreement.
- (3) Multiple Work Orders may be incorporated under this Agreement.

AGREED TERMS

1. Interpretation

- 1.1 The definitions and rules of interpretation in this Clause apply in this Agreement.

Acceptance Criteria: means the acceptance criteria as specified in Clause 10.2 or referred to in a Work Order or as otherwise agreed by the Parties expressly in writing after the date of the Work Order against which the Acceptance Tests are to be carried out to determine whether the Deliverables meet the Work Order, are satisfactory and ready to be invoiced.

Acceptance Tests: means the acceptance tests as specified or referred to in the Work Order to be undertaken to determine whether the Deliverables meet the Acceptance Criteria.



Acceptable Use Policy: any acceptable use policy set out in the Work Order or as otherwise notified by Valto to the Customer and as amended from time to time.

Affiliate: means in relation to any entity:

- a) that entity;
- b) any subsidiary undertaking or parent undertaking of such entity or a subsidiary undertaking of any such parent undertaking from time to time (as defined by section 1162 of the Companies Act 2006); or
- c) any entity controlling, controlled by, or under common control with, the relevant entity or any of the aforementioned parent undertakings or subsidiary undertakings.

Applicable Laws: means all applicable laws, statutes, regulations from time to time in force which relate to the business of the applicable Party.

Applicable Data Protection Legislation: means:

- a) To the extent the UK data protection law applies: all applicable data protection and privacy legislation in force from time to time in the UK including the UK GDPR; the Data Protection Act 2018 (DPA 2018) (and regulations made thereunder) and the Privacy and Electronic Communications Regulations 2003 (SI 2003/2426) as amended.
- b) To the extent the EU GDPR applies, the law of the European Union or any member state of the European Union to which Valto is subject, which relates to the protection of personal data.

Assumptions: has the meaning given in Clause 8.7.

Background Materials: means all Intellectual Property Rights, know-how, information, methodologies, techniques, tools, schemata, diagrams, ways of doing business, trade secrets, instructions manuals and procedures (including, but not limited, to software, documentation, and data of whatever nature and in whatever media) owned, developed or controlled by Valto which may have been created outside the scope, or independently of, the Services and/or the Agreement, and including all updates, modifications, derivatives or future developments thereof.

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



Business Systems: the information technology and communication systems, including networks, Hardware, software and interfaces owned by, or licensed to, the Customers or any of its agents or Contractors.

Change Request: means any request to alter the Services pursuant to this Agreement as set out in Clause 15.

Change Request Form: means the form that all Change Requests must be made in, as set out [here](#).

Customer: the name of which is set out in the Work Order wishes to use Valto's Services in its business operations.

Customer Data: any information that is provided by the Customer to Valto as part of the Customer's use of the Services, including any information derived from such information.

Customer Personal Data: any personal data which Valto processes in connection with this Agreement, in the capacity of a processor on behalf of the Customer.

Customer's Operating Environment: the Customer's computing environment (consisting of Hardware and software) that is to be used by the Customer in connection with its use of the Managed Services and which interfaces with Valto's System in order for the Customer to receive the Managed Services, but excluding the Customer-side Equipment.

Customer-side Equipment: any equipment located or to be located on a Customer Site but controlled or to be controlled exclusively by Valto as part of the Services.

Customer Site: any premises used by the Customer at which it receives the Services.

Commencement Date: means the date as set out in the relevant Work Order.

Commissioner: the Information Commissioner (see section 114, DPA 2018)

Confidential Information: all confidential information (however recorded or preserved) disclosed by a Party or its employees, officers, representatives, advisers or subcontractors involved in the provision or receipt of the Services to the other Party and that Party's Representatives in connection with the Agreement which information is either labelled as such or should reasonably be considered as confidential because of its nature and the manner of its disclosure.



Customer Agreement: the CSP customer agreement, which is a direct agreement between Customer and Microsoft and is a condition of Cloud Solution Provider Program that the Customer enters into this Agreement, the terms of which are found at <https://www.microsoft.com/licensing/docs/customeragreement> and which may be updated from time to time, any such updates shall continue to form part of the Customer Agreement.

Deliverable: means all Documents, products and materials developed by Valto or its agents, Subcontractors, consultants and employees in relation to the Services in any form, including computer programs, data, reports and specifications (including drafts).

Dispute Resolution Procedure: the procedure described in Clause 29.

Document: means, in addition to any document in writing, any drawing, map, plan, diagram, design, picture or other image, tape, disk or other device or record embodying information in any form.

EU GDPR: the General Data Protection Regulation ((EU) 2016/679) as it has effect in EU law.

Excused Outage: means any outage, unavailability, delay or other degradation of the Service related to, associated with or caused by: planned maintenance events; any service not supported by a Valto Hardware component; any third party plugin or ancillary equipment not supplied by Valto; a Customer application running on a server (virtual or physical) which is not supported by Valto; the Customer actions or inactions or those of any third party excluding any sub-contractor or IT Partner of Valto (a third party used in the provision of the Services) directly involved in the performance, operation or maintenance of the Customer's Services.

Fees: the fees payable by the Customer to Valto, including any Third Party fees as applicable, as described in the Work Order.

Force Majeure: any cause preventing either Party from performing any or all of its obligations which arises from or is attributable to acts, events, omissions or accidents beyond the reasonable control of the Party so prevented including, without limitation, act of God, war, riot, civil commotion, pandemic, epidemic, compliance with any law or governmental order, rule, regulation or direction, flood or storm, computer viruses or malware, save that strike or lock out of the Party's own staff shall not entitle them to claim that to be a force majeure event.



Go-Live: the date specified in the Works Order for the relevant Services or any part of them to go live.

Good Industry Practice: the standards that fall within the upper quartile of a skilled and experienced provider of business-critical services similar or identical to the Services, having regard to factors such as the nature and size of the Parties, the Service Level Arrangements, the term, the pricing structure and any other relevant factors.

Goods: the goods to be provided as part of the Services (or any part of them), as set out in the Work Order or as otherwise agreed in writing between the Parties.

Hardware: all physical telecommunications, networking and computer equipment (including switches, routers, cables, servers, racks, cabinets and peripheral accessories) provided and used by Valto to deliver the Managed Services to the Customer.

Initial Term: the period commencing on the Commencement Date or the Services Commencement Date (as the case may be) and ending on the date [twelve (12)] months thereafter unless otherwise specified in the Work Order. For the avoidance of doubt, each Work Order will have its own Term, which will extend the Initial Term of the Agreement if the term of the Work Order is longer than the Initial Term of the Agreement.

Intellectual Property Rights or IPR: any and all intellectual property rights of any nature, whether registered, registerable or otherwise, including any patents, utility models, trademarks, registered designs and domain names, applications for any of the foregoing, trade or business names, goodwill, copyright and rights in the nature of copyright, design rights, rights in databases, moral rights, know-how and any other intellectual property rights that subsist in computer software, computer programs, websites, Documents, information, techniques, business methods, drawings, logos, instruction manuals, lists and procedures and particulars of Customers, marketing methods and procedures and advertising literature, including the "look and feel" of any websites, and in each case all rights and forms of protection of a similar nature or having equivalent or similar effect to any of these that may subsist anywhere in the world, in each case for their full term, together with any future rights and renewals or extensions.

IPR Claim: means a claim arising from the infringement of IPR belonging to third parties.



Issues List: means a written list of the non-conformities to the relevant Acceptance Criteria for a specific Deliverable.

Maintenance: means any maintenance, as described in the relevant Work Order to repair or replace any Goods which are faulty.

Managed Services: the support service described in the Work Order to be performed by Valto in accordance with the Agreement.

Normal Business Hours: 8.30 am to 5.00 pm local UK time on Business Days.

Out of Scope: those out of scope services specified as such in the Work Order together with any other services which are not detailed in the Work Order.

Professional Services: the professional service described in the Work Order to be performed by Valto in accordance with the Agreement.

Party: Valto and the Customer, each a 'party' or together, the 'parties'.

Project: the project agreed between the Parties as set out in the Work Order which may be amended by the Parties in writing from time to time.

Purpose: the purposes for which the Customer Personal Data is processed, as set out [here](#).

Relief Events: the following events:

- (a) the negligence, act, omission, or default of the Customer;
- (b) any failure by the Customer to comply with its obligations under the Agreement;
- (c) any error or malfunction in the Business Systems or any other software, Hardware or systems for which Valto is not responsible or any failure by the Customer, its agents or Contractors (including any existing service provider) to obtain sufficient support and Maintenance, as required, for any software, Hardware or systems for which Valto is not responsible;
- (d) any failure by the Customer or its agents or Contractors (including any existing service provider) to provide any information, co-operation or instructions or failure to provide accurate, correct and complete information, co-operation or instructions, to Valto which is reasonably required by Valto for the proper performance of its obligations under the Agreement;



- (e) any failure caused by Third-Party Software;
- (f) any of the causes or events set out in Clause 12.8; or
- (g) an event of a Force Majeure.

Representative: means the person nominated by each Party in accordance with the Agreement.

Retail Prices Index: means the Retail Prices Index (all Items, excluding mortgages) as published by the Office for National Statistics from time to time, or failing such publication, such other index as the Parties may agree (such agreement not to be unreasonably withheld or delayed), acting reasonably, most closely resembles such index.

Services Commencement Date: the commencement date set out in the applicable Work Order or as otherwise agreed between the Parties for the commencement of the Services.

Service Level Arrangements: the service level arrangements set out in the Work Order.

Services: means the use , Managed Services, the Professional Services or any other services performed by Valto under a Work Order or otherwise agreed in writing between the Parties.

Supplier's System: the system to be used by Valto in performing the Managed Services, including the Hardware, the Customer-side Equipment and communications links between the Hardware and the Customer-side Equipment and the Customer's Operating Environment.

Term: means the Initial Term and any Extended Term (as defined in Clause 17.2 below), as applicable.

Third Party: any third party that supplies Third-Party Software to Valto and/or the Customer (as the case may be) during the provision of the Services.

Third-Party Software: any code or software programs written or provided by Microsoft ® or other third parties which are used by the Customer during the provision of the Services.

Third Party Terms: any terms and conditions relating to Third-Party Software.



UK GDPR: has the meaning given to it in section 3(10) (as supplemented by section 205(4)) of the Data Protection Act 2018.

Valto: VALTO LIMITED incorporated and registered in England and Wales with company number 10625574 whose registered office is at 10 Watergate Row, Chester, United Kingdom, CH1 2LD.

Variation Agreement: means an alteration or variation to this Agreement as agreed between the Parties.

Work Order: the Work Order document and/or a specification for the Services and any other services agreed between the Parties as set out in the document headed 'Work Order' and/or 'Quotation' and/or 'Statement of Work'.

- 1.2 Clause and paragraph headings shall not affect the interpretation of this Agreement.
- 1.3 A reference to a company shall include any company, corporation or other body corporate, wherever and however incorporated or established.
- 1.4 Unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular.
- 1.5 Unless the context otherwise requires, a reference to one gender shall include a reference to the other genders.
- 1.6 A reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time.
- 1.7 A reference to a statute or statutory provision shall include all subordinate legislation made from time to time under that statute or statutory provision.
- 1.8 A reference to writing or written includes e-mail.
- 1.9 Any phrase introduced by the words including, includes, in particular or for example, or any similar phrase, shall be construed as illustrative and shall not limit the generality of the related general words.



- 1.10 References to Clauses, Schedules and paragraphs are to the Clauses, Schedules and paragraphs of this Agreement, including Schedules provided by hyperlinks within this Agreement.
- 1.11 A person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
- 1.12 A reference to the Agreement or to any other agreement or Document referred to in the Agreement is a reference to the Agreement or such other agreement or Document as varied or novated (in each case, other than in breach of the provisions of the Agreement) from time to time.
- 1.13 In the event of any conflict or inconsistency between the Clauses of this Agreement, the Variation Agreement and the Work Order (including any changes to the Work Order) the following order of precedence shall apply (in decreasing order) to the extent of such conflict or inconsistency:
 - (a) the Variation Agreement;
 - (b) the Work Order; and
 - (c) the Clauses in this Agreement.

2. [Provision of Services](#)

- 2.1 This Agreement sets out the terms and conditions under which Valto shall provide to the Customer the Services.
- 2.2 The Agreement shall (i) be in substitution for any prior oral or other prior arrangements between Valto and the Customer in connection with the purchase of the relevant Services; and (ii) prevail over any inconsistent terms or conditions contained in, or referenced in, any order confirmation or other acknowledgement, quotation, delivery note, invoice or similar Document or implied by law, trade custom or practice.
- 2.3 No addition to, variation of or other amendment or purported amendment to this Agreement, any Work Order shall be binding on the Parties unless expressly



stated as such, made in writing and signed by a duly authorised Representative of both Parties.

2.4 Any quote given by Valto is for budgetary purposes until financial and technical validation and shall not constitute an offer. For:

- (a) Managed Services or Professional Services, is only valid for a period of thirty (30) days; and, or
- (b) the supply of Goods, it is only valid for a period of fourteen (14) days,

in each case, from its date of issue unless otherwise agreed by the Supplier in writing and shall only become binding upon the signing of a Statement of Work.

3. [Managed Services](#)

3.1 Valto will provide the Managed Services with due care, skill and ability during the Term unless earlier terminated in accordance with this Agreement.

3.2 Valto shall use commercially reasonable endeavours to provide the Managed Services in accordance with the Service Level Arrangements as stated in the Work Order. Any dates and timescales specified in the Work Order for performance of a Supplier obligation are estimates only and time shall not be of the essence.

3.3 The Customer shall not store, distribute or transmit any material through the Managed Services that:

- (a) is unlawful, harmful, threatening, defamatory, obscene, harassing or racially or ethnically offensive;
- (b) facilitates illegal activity;
- (c) depicts sexually explicit images;



- (d) promotes unlawful violence, discrimination based on race, gender, age, disability, sexual orientation, religion and belief, gender reassignment; and, or
- (e) is otherwise illegal or causes damage or injury to any person or property,

and Valto reserves the right, without liability or prejudice to its other rights to the Customer, to disable the Customer's access to any material that breaches the provisions of this Clause.

- 3.4 The Customer shall remain responsible for the use of the Managed Services under its control, including any use by third parties (whether fraudulent or authorised by the Customer).
- 3.5 The Customer must take reasonable measures to ensure it does not jeopardise Services supplied to third parties on the same shared access infrastructure as notified to the Customer by Valto in writing. This includes informing Valto promptly in the case of a denial-of-service attack or distributed denial-of-service attack. In the event of any such incident, Valto will work with the Customer to alleviate the situation as quickly as possible. The Parties shall discuss and agree appropriate action (including suspending the Managed Services).
- 3.6 The Customer shall not provide the Managed Services to third parties without the prior written consent of Valto.
- 3.7 The Customer acknowledges that Valto may at any time, with the Customer's prior written approval, incorporate licence management software into elements of the Managed Services for the purposes of ensuring that licence rights are not exceeded, where Valto has a licencing responsibility for software installed on the Customer server. Any such costs relating to such incorporation shall be at the Customer's sole cost and expense.
- 3.8 The Customer acknowledges that certain conditions outside of Valto's control may adversely impact the ability of Valto to perform functions of the Managed



Services and as a result, Valto disclaims any and all liability resulting from or related to such conditions. Examples of such conditions are listed below:

- (a) failure of Customer Hardware, software or operating system;
- (b) partial or full failure of Third-Party Software;
- (c) network connectivity issues between Customer server and Valto's monitoring platform; and/or
- (d) network connectivity issues between Customer server and third party products.

3.9 Valto reserves the right to:

- (a) modify Valto's System, its network, system configurations or routing configuration; or
- (b) modify or replace any Hardware or software in its network or in equipment used to deliver any Managed Service over its network,

provided that this has no adverse effect on Valto's obligations or performance under the Agreement and its provision of the Managed Services or the Service Level Arrangements. If such changes will have an adverse effect, Valto shall notify the Customer and the Parties shall follow the Change Request.

3.10 Valto will not provide the Managed Service, and bear no liability, in respect of defects or errors:

- (a) resulting from any modifications or enhancements of the Third-Party Software not made by Supplier;
- (b) resulting from incorrect use of the Third-Party Software ;
- (c) for any reason external to the Third-Party Software including, but not limited to, failure of electrical supplies or natural disasters; and



- (d) resulting from the inter-relationship between the Third-Party Software and any other software not supported by Supplier.
- 3.11 The Managed Services acquired by the Customer under the Agreement are solely for the Customer's own internal use and not for resale or sub-licensing, unless otherwise agreed in writing or set out in the Works Order.
- 3.12 Valto may suspend, revoke or limit use of the Managed Services, wholly or partly (i) in case of late payments, (ii) if Valto in its absolute discretion finds that a risk to the overall integrity of the Managed Services has occurred, or (iii) other reasonable grounds exist. If the cause of the suspension is reasonably capable of being remedied, Valto will provide the Customer notice of what actions the Customer must take to reinstate the Managed Services. If the Customer fails to take such actions within a reasonable time, Valto may terminate the applicable Managed Services.
- 3.13 Notwithstanding the foregoing, Valto does not warrant that the Customer's use of the Managed Services and Products (if applicable) will be:
 - (a) free from faults, interruptions or errors;
 - (b) available one hundred percent (100%) of the time.
- 4. **Goods**
 - 4.1 Any samples, drawings, descriptive matter or advertising produced by Valto and any descriptions or illustrations contained in Valto's catalogues, brochures or website are produced for the sole purpose of giving an approximate idea of the Goods described in them. They shall not form part of the Agreement or have any contractual force.
 - 4.2 To the extent that the Goods are to be manufactured in accordance with the relevant section of a Work Order supplied by the Customer, the Customer shall indemnify Valto against all liabilities, costs, expenses, damages and losses (including any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal and other reasonable professional costs and expenses) suffered or incurred by Valto in connection with any claim made against Valto for actual or alleged infringement of a third party's Intellectual Property Rights arising out of or in connection with Valto's



use of the Work Order. This Clause 4.2 shall survive termination of the Agreement.

- 4.3 Valto reserves the right to amend the Work Order if required by any applicable statutory or regulatory requirements.

Delivery and Acceptance

- 4.4 Valto shall endeavour to deliver Goods to the agreed delivery location on the agreed delivery date, but any such date is an estimate only.
- 4.5 If Valto fails to deliver Goods by the relevant delivery date after being given a reasonable opportunity to remedy such delay, except to the extent that such delay is due to a third party for which Valto shall have no liability, its liability shall be limited to the costs and expenses incurred by the Customer in obtaining replacement goods of similar description and quality in the cheapest market available, less the price of the Goods. Valto shall have no liability for any failure to deliver Goods to the extent that such failure is caused by:
- (a) a delay from the manufacturer, third party supplier or other third party;
 - (b) a Force Majeure Event (as defined in Clause 20.1 below); or
 - (c) the Customer's failure to provide Valto with adequate delivery instructions or any other instructions that are relevant to the supply of the Goods.
- 4.6 If ten (10) Business Days after the day on which Valto attempted to make delivery of Goods the Customer has not taken delivery of those Goods, Valto may resell or otherwise dispose of part or all of the Goods and, after deducting reasonable storage and selling costs, account to the Customer for any excess over the price of the Goods, or charge the Customer for any shortfall below the price of the Goods.
- 4.7 Valto may deliver Goods by instalments, which shall be invoiced and paid for separately. The Customer may not cancel an instalment because of any delay in delivery or defect in another instalment.
- 4.8 The Customer shall have up to 48 hours from the date of delivery to inform Valto if a delivery contains damaged or missing items giving full details of the



non-conformance. Where the Customer fails to inform Valto within this period, Valto shall have no liability for such non-conformance.

Warranties and Liability

- 4.9 For Goods supplied to the Customer, Valto shall pass onto the Customer to the extent that it is able to do so, the benefit of any standard warranty or guarantee that is provided to the end user of the Products by the manufacturer/third party supplier(s) ("OEM Warranty"). Valto's only liability will be limited by the terms set out in such OEM Warranty.
- 4.10 Valto shall have no liability whatsoever (except what is provided under the OEM Warranty) for any losses or damages which may be suffered by the Customer (or any person claiming under or through that Customer), whether the same are suffered directly or indirectly or are immediate or consequential, and whether the same arise in agreement, tort (including negligence) or otherwise howsoever arising under this Clause 4.

Title and risk

- 4.11 Risk in Goods shall pass to the Customer on completion of unloading the Goods at the agreed delivery location.
- 4.12 Title to Goods shall only pass to the Customer once Valto receives payment in full (in cash or cleared funds) for them.
- 4.13 Until title to the Goods has passed to the Customer, the Customer shall:
 - (a) store the Goods separately from all other goods held by the Customer so that they remain readily identifiable as Valto's property;
 - (b) not remove, deface or obscure any identifying mark or packaging on or relating to the Goods;
 - (c) maintain the Goods in satisfactory condition and keep them insured against all risks for their full price from the date of delivery;
 - (d) notify Valto immediately if it becomes subject to any of the events listed in Clause 17.3(d); and



- (e) give Valto such information relating to the Goods as Valto may require from time to time.

4.14 Valto may recover Goods in which title has not passed to the Customer. The Customer irrevocably licenses Valto, its officers, employees and agents, to enter any premises of the Customer (including with vehicles), in order to satisfy itself that the Customer is complying with the obligations in Clause 4.13, and to recover any Goods in which property has not passed to the Customer.

4.15 Once an order for Goods has been accepted by Valto, no order may be cancelled by the Customer except with the agreement in writing of Valto and on terms that the Customer shall indemnify the Supplier in full against all reasonable losses, costs (including the cost of all labour and materials used), damages, charges and expenses incurred by Valto as a result of such cancellation.

5. Responsibilities of Valto

5.1 Valto shall:

- (a) provide the Services in accordance with the terms of this Agreement and the Work Order;
- (b) use its commercially reasonable endeavours to complete any Deliverables set out in any Work Order;
- (c) use its commercially reasonable endeavours to meet any performance dates set out in any Work Order but unless otherwise expressly agreed in writing in such Work Order, any performance dates shall be estimates only and time shall not be of the essence for the provision of any Services, Goods, Third-Party Software and/or Deliverables;
- (d) commit sufficient resources to the provision of the Services to enable their delivery in accordance with this Agreement and Work Order;
- (e) provide the Services with due care, skill and ability in accordance with Good Industry Practice;
- (f) take such steps as may be required to fulfil its obligations under this Agreement and any Work Order;



- (g) utilising suitably skilled, qualified, experienced, supervised and vetted employees, agents, Representatives and authorised sub-Contractors who will exercise all reasonable skill and care;
 - (h) notify the Customer promptly if Valto is unable to comply with any of the terms of this Agreement or any Work Order; and
 - (i) observe and ensure that its personnel observe all health and safety rules and regulations and any other security requirements that apply at any of the Customer Sites and which have been communicated to it 2 weeks prior to the Services commencing, where Valto is required to be on such Customer Sites for the provision of the Services.
- 5.2 Valto shall co-operate with the Customer in all matters relating to the Services and shall appoint a Representative ("Valto Representative"), as the contact throughout the Services.
- 5.3 The Customer confirms that Valto may employ sub-contractors without seeking the prior consent of the Customer. Notwithstanding the foregoing, Valto shall at all times be responsible for and liable in respect of the performance of all obligations under the Agreement, whether such obligations are performed by Valto itself, or any sub-contractor engaged by Valto. For the avoidance of doubt, Valto shall not be held liable for the actions or omissions of any third parties that are not its subcontractors including but not limited to Microsoft.
- 5.4 Valto shall provide reasonable notice to the Customer of any change in its senior personnel engaged as part of the Project. Where relevant, Valto shall replace any senior personnel who are removed with another appropriately skilled person.
- 5.5 Valto will carry out network management routines to test the operations and functions of the relevant Services from time to time, notifying the Customer in advance.
- 5.6 Valto does not and cannot control the flow of data to or from its network and other portions of the internet. Such flow depends in large part on the performance of internet services provided or controlled by third parties. At times, actions or omissions of such third parties can impair or disrupt connections to the internet (or portions thereof). Whilst Valto will use commercially reasonable



efforts to take all actions it deems appropriate to remedy and avoid such events, Valto cannot guarantee that such events will not occur. Accordingly, Valto disclaims any and all liability resulting from or related to such events.

5.7 In relation to the Managed Services specifically and notwithstanding Valto's obligations under Clause 5.1, Valto shall:

- (a) staff Valto support desk with a team of skilled individuals (whether subcontracted or not);
- (b) maintain a team skilled in the platform and with knowledge of the code developed to deliver the solution;
- (c) maintain a comprehensive IT service management solution, with integrated knowledge base and how-to guides to reduce the time to issue resolution;
- (d) undertake a regular account review, to discuss the Customer's service needs and ensure that the Agreement is in alignment with its needs;
- (e) use commercially reasonable endeavours to follow the instructions of the Customer and will remain courteous during any communications with Customer personnel; and
- (f) provide the Customer with reasonable co-operation in relation to the Agreement.

5.8 Valto shall be under no obligation to provide the Managed Services to the Customer in the following circumstances:

- (a) providing the Managed Services outside Normal Business Hours unless otherwise agreed between the Parties in writing or as set out in the relevant Work Order;
- (b) providing any other services which are Out of Scope;
- (c) training in use of any upgrades (unless specifically set out in the Work Order); and
- (d) providing the Managed Services to the Customer where such support would have been unnecessary if the Customer had implemented



update(s) and upgrade(s) supplied or offered to the Customer pursuant to the call for technical support.

6. Responsibilities of the Customer

- 6.1 To the extent that Valto requires access to the Customer Site to perform the Services, the Customer shall use reasonable endeavours to provide such access during Normal Business Hours and to provide a suitable work environment to enable Valto to perform such Services subject to Valto complying with such internal policies and procedures of the Customer (including those relating to security and health and safety) as may be notified to Valto in writing from time to time.
- 6.2 The Customer shall co-operate with Valto in all matters relating to the Services and shall appoint a Representative ("Customer Representative"), who shall have authority to commit the Customer on all matters relating to the relevant Project.
- 6.3 The Customer agrees and acknowledges the terms of the Customer Agreement and the 'CSP Managed Services Terms' as more fully set out [here](#), shall form part of this Agreement, and shall ensure that it meets and observes its responsibilities thereunder. For the avoidance of doubt, in the event that the CSP Managed Services Terms is not applicable to the Services being received or delivered by Valto to the Customer under the Agreement references to the Customer Agreement and CSP Managed Services Terms shall not apply.
- 6.4 The Customer shall:
 - (a) notwithstanding Clause 13.2, be a bona fide licensed user of, and comply with the terms of the applicable licences for, all Third-Party Software used in the provision of the Services;
 - (b) co-operate with Valto in all matters relating to the Services as reasonably requested by Valto;
 - (c) adhere to the dates scheduled for provision of Services (including Service provision milestones or other relevant dates), by Valto to the Customer as stated in the applicable Work Order or otherwise agreed between the Parties in writing. In the event the Customer wishes to reschedule or cancel any dates for the provision of Services Valto will



use reasonable endeavours to re-assign allocated resources to other Customers. If such re-assignment is not possible and the Customer has not provided more than fourteen (14) days advance written notice, then unless otherwise stated in the applicable Work Order, the Customer shall be liable to pay the following cancellation charges ("Cancellation Charges") relating to this action, in addition to any specific costs relating to cancelling pre-booked travel arrangements and to unpaid Fees (if any) for any Services work that has been performed:

- (i) if dates are changed or cancelled at the Customer's request more than fourteen (14) days before the scheduled start date, no Cancellation Charges are payable;
 - (ii) if dates are changed or cancelled between seven (7) days and fourteen (14) days before the scheduled start date, Cancellation Charges equivalent to fifty percent (50%) of the Fees for the Services to be provided at that time will be payable;
 - (iii) if dates are changed or cancelled less than seven (7) days before the scheduled start date, Cancellation Charges equivalent to one hundred percent (100%) of the Fees for the Services to be provided at that time will be payable;
- (d) provide such access to the Customer's systems, software and platforms as may reasonably be requested by Valto;
- (e) inform Valto in writing of all health and safety rules and regulations and any other reasonable security requirements that apply at any of the Customer's premises;
- (f) in respect of any Microsoft funded services, sign and deliver the Proof of Execution (POE) on the last day of scheduled work within seven (7) days of the date of issue by Microsoft. In the event that the Customer does not return the POE within the seven (7) days' notice period, Valto may be entitled to charge the Customer the amounts directly and the Customer shall follow the payment terms in this Agreement;
- (g) allow the Supplier or its designated subcontractors and third parties, global admin access, or such other access as is necessary, to the Customer's relevant Microsoft cloud services portals and relevant servers and networking systems from a user account dedicated to Valto for the duration of the Agreement;



- (h) where a Microsoft Cloud service is deployed / utilised the Customer shall assign Valto as the Digital Partner of Record and/or Claiming Partner of Record and/or Transacting Partner of Record (TPOR) and/or Partner Admin Link (PAL) and/or given Delegated Administration Privileges (DAP) and/or Granular Delegated Admin Privileges (GDAP and Admin on Behalf of (AOBO) (as applicable) for that particular Service for a minimum of twelve (12) months from Project completion date. For the avoidance of doubt, in the event Microsoft adds to, updates and/or replaces any of the foregoing designations, this Clause Error! Reference source not found.6.4(h) will apply to any such added, updated and/or replaced designations from time to time;
- (i) allow Valto to publicise the work Valto undertakes under the Agreement for the Customer including but not limited to case studies. For the avoidance of doubt, this shall, subject to obtaining the Customer's consent in accordance with Clause 30, include use of any and all logo's and trademark names;
- (j) provide appropriate Hardware interface, software and access authorisation to enable remote diagnosis, should such capability be required;
- (k) provide all information, documentation and materials and make available all resources as reasonably requested by Valto in the execution of its obligations under the Agreement;
- (l) use all reasonable efforts to follow the reasonable instructions of Valto support personnel with respect to the resolution of defects;
- (m) gather all relevant information prior to requesting assistance in respect of any defects including detailed defect description, and procedures required to replicate a problem if possible. Any additional information which may help in the diagnosis of a defect should be included such as network configuration details;
- (n) provide Valto with access to the Customer's production computer system via a secure broadband link operating at the industry accepted bandwidth for the purposes of remote diagnostics should such capability be required;



- (o) use the Third-Party Software correctly in accordance with its operating instructions;
- (p) notify Valto promptly of any problems with the Third-Party Software;
- (q) keep secure from third parties any passwords issued to the Customer by Valto;
- (r) fully virus-check all data supplied to Valto pursuant to the Agreement;
- (s) provide notice of intention to change applicable Customer-side Equipment or Customer Operating Environment or data-feeds that will directly impact the Managed Services;
- (t) comply with all Applicable Laws and regulations with respect to its activities under the Agreement, including those set out in Clause 21 and with any Acceptable Use Policy of Valto; and
- (u) carry out all other Customer responsibilities set out in the Agreement in a timely and efficient manner. In the event of any delays in the Customer's provision of such assistance as agreed by the Parties, Valto may adjust any timetable or delivery schedule set out in the Agreement as reasonably necessary; and
- (v) agree that if, in the course of performing the Services, it is reasonably necessary for Valto's performance of its obligations under a Work Order for Valto to access or use any equipment, software or data of the Customer (or which is in the possession of the Customer) then it shall where it is able to do so grant to Valto a nonexclusive, royalty free, terminable licence to use the same solely for the purpose of delivering the Services only for as long as is strictly necessary to deliver such Services.

6.5 In the event that the Customer is in breach of its obligations under the Agreement (including payment obligations) then Valto shall provide written notice of such breach, specifying in detail the nature of the breach and providing fourteen (14) Business Days' notice to remedy such breach if capable of remedy. If the Customer fails to remedy such breach, Valto shall be entitled to terminate or suspend the Services without prejudice to any pre-existing rights and obligations of either Party. Valto shall have no liability or responsibility should the Services



fail to comply with the Work Orders and/or Service Level Arrangements as a result of the Customer (including without limitation any of its employees, subcontractors or any of its staff) being in breach of the Agreement.

- 6.6 For the avoidance of doubt, if Valto suspends the Services, the Customer shall remain liable to pay all Fees as though the Services had continued as agreed for the period of suspension.

7. [Project organisation](#)

- 7.1 The Customer Representative and Valto Representative shall have such meetings as are agreed between the Parties to monitor and review the performance of the Agreement, to discuss any changes proposed in accordance with Clause 15 and to discuss the Service Level Arrangements.
- 7.2 Before each meeting, the Customer Representative shall notify Valto Representative, and vice versa, of any problems relating to the provision of the Services for discussion at the meeting. At each such meeting, the Parties shall agree a plan to address such problems. In the event of any problem being unresolved or a failure to agree on the plan, the matter shall be resolved in accordance with the Dispute Resolution Procedure. Progress in implementing the plan shall be included in the agenda for the next meeting.

8. [Price and payments](#)

- 8.1 Valto will invoice the Customer for its Fees monthly in advance as specified in the Work Order unless the Work Order specifies otherwise.
- 8.2 If Valto has agreed with the Customer that any Fees will be payable in arrears, the delivery of the Services is subject to credit approval at the beginning of the Term.
- 8.3 If the Work Order provides that the Fees or any part of the Fees are payable in arrears, then Valto may withdraw or vary such arrangements at any time if:
 - (a) Valto serves a notice of termination of the Agreement; or
 - (b) there is in the sole opinion of Valto a material adverse change in the creditworthiness of the Customer.



- 8.4 Applicable Third Party support and licensing Fees will be payable at initial purchase and any subsequent renewal dates.
- 8.5 When the Customer first orders Services not previously supplied, or it is agreed by the Parties as being either an addition to, or change to existing Services being supplied, then a non-recurring charge may be specified as part of the Fees. This non-recurring charge is for installation of additional network infrastructure, cabling, electronics or other materials or consultancy. Non-recurring charges are payable by the Customer after delivery of the relevant Services and will be billed in arrears. If the Customer fails to pay such non-recurring charges within thirty (30) calendar days following Valto's invoice for such non-recurring charges then:
- (a) such failure to pay shall be an Excused Outage for the purposes of provisioning and/or installation of the Services;
 - (b) Valto may issue a revised scheduled start date and/or Go-live and, or Services Commencement Date; and
 - (c) Valto may suspend installation of the Services until receipt of such non-recurring charges.
- 8.6 The Customer shall pay the Fees (and all fees arising from Third-Party Software fees) for the Services in accordance with the Work Order. If no Fee is quoted, the Fee shall be calculated in accordance with Valto's daily fee rates set out in the Work Order as amended from time to time in accordance with this Agreement.
- 8.7 Where a Fee has been quoted, this is a best estimate based on the information given to Valto by the Customer and/or which is available at that time and may be based on a number of assumptions set out in the Work Order ("Assumptions"). If it materialises that in Valto's reasonable opinion, the information provided and/or Assumptions made are incorrect, inaccurate or have changed and/or that the proposed scope of Services is not feasible, Valto shall be entitled to charge (at Valto's current rate card) the Customer for any Out of Scope Services or other additional Services provided to those detailed in the Work Order together with all related costs and expenses incurred by Valto.
- 8.8 Where the Services are provided on a time-and-materials basis:



- (a) Valto's standard hourly or daily rates are calculated on the basis of Normal Business Hours;
 - (b) Valto shall be entitled to charge an overtime rate for time worked outside Normal Business Hours as set out in the Work Order;
 - (c) Valto shall complete the relevant time recording systems to calculate the Fees for each invoice charged on a time and materials basis; and
 - (d) travelling time to and from any Customer Site to be charged on a pro rata basis at the standard daily fee rate. Valto shall use reasonable endeavours to minimise travel time.
- 8.9 The Customer acknowledges that the Fees chargeable in respect of certain Managed Services (for example, Azure, cloud backup) are based on the Customer's actual usage, and that the level of usage of such Managed Services is controlled by the Customer. The Customer therefore agrees in respect of such Managed Services to pay such Fees as the Customer may incur as a result of its actual usage, without the requirement for any additional purchase order.
- 8.10 Valto shall invoice the Fees in accordance with the payment intervals stated in the Work Order.
- 8.11 The Fees will set out and include (where applicable) the cost of hotel, subsistence, travelling and any other ancillary expenses reasonably incurred by Valto or its subcontractors in providing the Services; however the Fees exclude the cost of any materials and the cost of services reasonably and properly provided by third parties and required by the Customer for the Services, such rates are set out [here](#) but may be increased by Valto every twelve (12) months following the Commencement Date ("Expenses"). Valto shall obtain the Customer's prior written approval before incurring any such expense, material or service exceeding a total cost of five hundred pounds (£500) in aggregate per day and shall be payable by the Customer in accordance with Clause 12.
- 8.12 The Customer shall pay each undisputed invoice for the Fees and Expenses in full and cleared funds (without deduction or set-off) within thirty (30) days of the date of such invoice unless otherwise agreed in writing by Valto. In the event of any dispute, the Customer shall raise such dispute with Valto within seven (7) days of the date of invoice.



- 8.13 All payments by the Customer hereunder shall be in United Kingdom pound sterling unless otherwise agreed or set out in the Work Order and shall be paid to Valto's bank account as advised by Valto to the Customer in writing.
- 8.14 All amounts stated are gross amounts but exclusive of VAT or other sales tax which shall be paid by the Customer, if applicable, at the then prevailing rate subject to receipt of a valid VAT invoice or other sales tax invoice.
- 8.15 Should the Customer be required by any law or regulation to make any deduction on account of tax including but not limited to withholding tax or otherwise on any sum payable under the Agreement the Fees payable shall be increased by the amount of such tax to ensure that Valto receives a sum equal to the amount to be paid under the applicable Work Order.
- 8.16 Without prejudice to any other remedy that Valto may have, if payment of the Fees or any part thereof is overdue then unless the Customer has notified Valto in writing that such payment is in dispute within seven (7) days of the receipt of the corresponding invoice Valto may, without prejudice to any other rights or remedies:
- (a) suspend the Services in whole or in part in accordance with Clause 6.6 until payment has been made in full; and
 - (b) charge the Customer interest on the overdue amount at the rate of four percent (4%) per annum above Bank of England's base rate from time to time. Such interest shall accrue on a daily basis from the due date until actual payment of the overdue amount, whether before or after judgment. The Customer shall pay the interest together with the overdue amount.
- 8.17 The Customer shall not be able to dispute any amounts which have been paid by the Customer after a period of three (3) months has elapsed from the date of invoice.
- 8.18 Valto shall not be obliged to provide any of the Services while any duly issued invoice(s) remain unpaid under any Work Order, but should Valto choose to continue to do so, this shall not in any way be construed as a waiver of Valto's rights or remedies.
- 8.19 Subject to clause 8.21 below, Valto reserves the right, on giving the Customer forty-five (45) days' notice, to increase the Fees on an annual basis with effect from each anniversary of the Agreement. If the Customer does not agree with



this increase, then they may terminate this Agreement upon thirty (30) days written notice and before such price increase takes effect. If Valto does not receive written acknowledgement within thirty (30) days, the Customer is deemed to have agreed to the amendment to the Fees.

- 8.20 Notwithstanding clause 8.19 above and subject to clause 8.21 below, the Fees relating to the provision of Services may increase on an annual basis with effect from each anniversary of the Commencement Date in line with the percentage increase in the Retail Prices Index in the preceding 12-month period.
- 8.21 For the avoidance of doubt, Valto may increase any fees related to Third-Party Software fee in line with any increases imposed upon Valto by such third party.

9. [Warranties](#)

9.1 The Customer warrants that:

- (a) it has the full capacity and authority to enter into and perform the Agreement and that the Agreement is executed by the Customer Representative;
- (b) it has the authority to grant any rights to be granted to Valto under the Agreement, including the right to provide any Third-Party Software and Hardware to Valto as indicated in the Agreement and for the same to be used in the provision of the Services and otherwise in connection with the Agreement;
- (c) it owns or has obtained valid licences, consents, permissions and rights to use, and where necessary to licence to Valto, any materials reasonably necessary for the fulfilment of all its obligations under the Agreement, including any third-party licences and consents in respect of any Third-Party Software;
- (d) it will comply with all Applicable Laws in performing its obligations under this Agreement; and
- (e) Valto's use in the provision of the Managed Services or otherwise in connection with the Agreement of any third-party materials, including any Hardware or software supplied by the Customer to Valto for use in the provision of the Managed Services or otherwise in connection with



the Agreement, shall not cause Valto to infringe the rights, including any Intellectual Property Rights, of any third party.

9.2 Valto warrants and represents that:

- (a) it has the full capacity and authority to enter into and perform the Agreement and that the Agreement is executed by Valto Representative;
- (b) it owns or has obtained valid licences, consents, permissions and rights to enable Valto to comply with the Agreement and to use any of the Intellectual Property Rights necessary for the fulfilment of all its obligations under the Agreement including for the Customer's use and receipt of the Managed Services, and Valto shall not breach the provisions of any such necessary licences, consents, permissions and rights or cause the same to be breached;
- (c) it will comply with all Applicable Laws in performing its obligations under the Agreement; and
- (d) the Customer's use of any Valto materials shall not cause the Customer to infringe the rights, including any Intellectual Property Rights, of any third party.

9.3 Except for any warranties expressly set forth in this Agreement, the Services are provided on an "as is" basis, and Customer's use of the Services is at its own risk. Valto does not make, and hereby disclaims, any and all other express and/or implied warranties, statutory or otherwise, including, but not limited to, warranties of merchantability, fitness for a particular purpose and any warranties arising from a course of dealing, usage, or trade practice.

9.4 Save only as may be provided for otherwise under any Work Order, Valto makes no warranty or representation of any data backup with the Services. The Customer is responsible for all database and/or system back-ups as required before any change is carried out.

9.5 Valto warrants that the Managed Services will be performed with reasonable skill and care and that it will be provided in accordance with the Work Order and the terms and conditions of this Agreement.



- 9.6 The warranty in Clause 9.5 shall not apply to the extent of any non-conformance that is caused by use of the Managed Services contrary to Valto's instructions.
- 9.7 Valto shall not in any circumstances be liable under the warranties in this Clause 9 if it can demonstrate that any failure of the Services to comply with such warranties was caused or contributed to by any Relief Event.
- 9.8 If the Managed Services do not conform with the warranty in Clause 9.5, Valto shall, at its expense, use commercially reasonable endeavours to correct any such non-conformance in accordance with the Service Level Arrangements.
- 9.9 Notwithstanding the foregoing, Valto does not warrant that the Customer's use of the Services will be uninterrupted or error-free.
- 9.10 The Customer hereby warrants that it has not been induced to enter into the Agreement by any prior representations, nor has it relied on any oral representation made by Valto or upon any descriptions, illustrations or specifications contained in any catalogues and publicity material produced by Valto.

10. [Acceptance](#)

- 10.1 The relevant Work Order shall specify the Deliverables under a Professional Service that are to be subject to Acceptance Testing and provide a framework for the nature of the testing that will be required.
- 10.2 In relation to any Acceptance Testing:
 - (a) The Customer shall have a reasonable period of time, up to five (5) Business Days unless otherwise specified in the Work Order, from Valto's delivery of each Deliverable under the relevant Work Order (the "Acceptance Period") to confirm that such Deliverable conforms to the acceptance criteria as agreed between the Parties (collectively, the "Acceptance Criteria"). If the Customer determines that a Deliverable does not conform to the Acceptance Criteria, the Customer shall by the last day of the Acceptance Period provide to Valto an Issues List of the non-conformities to the Acceptance Criteria.



- (b) The Customer shall use best efforts to correctly and efficiently ensure appropriate Acceptance Testing in relation to any Deliverable which is subject to Acceptance Tests and shall notify Valto within the Acceptance Period (as defined in Clause 10.2(a)) if any of the Deliverables do not conform to the Acceptance Criteria. In the event that the Customer:
 - (i) has undertaken the Acceptance Testing within the Acceptance Period and fails to reject any Deliverable within the relevant Acceptance Period; or
 - (ii) commences live running of the whole or part of such Deliverable other than in the course of undertaking Acceptance Testing,for all purposes under this Agreement, such Deliverable shall be deemed accepted as if the Customer had issued a written acceptance thereof.
- (c) Once the Deliverable has been accepted by the Customer or deemed to have been accepted in accordance with Clause 10.2(b) and payment has been settled in accordance with Clause 8, the Deliverable shall become the property of the Customer. For the avoidance of doubt, should any non-conformities be found in earlier stages of the Deliverables but which were not highlighted to Valto during the applicable Acceptance Period, such non-conformities shall not be subject to the remedies as set out in Clause 10.2(d) below.
- (d) If there are any non-conformities within any Deliverable, which have been highlighted by Customer or Valto during the Acceptance Period and whereby the Deliverable has not been accepted by the Customer for this reason and such non-conformity is directly attributable to any act or omission on the part of Valto (and not subject to a Change Request (as defined in Clause 15 or attributable to the Customer's acts or omissions including inadequate Acceptance Testing) Valto shall (without prejudice to the Customer's other rights and remedies) carry out all necessary remedial work without additional charge as part of the next Deliverable which shall accordingly be modified. In the event of any such remedial work, the Customer shall have up to two (2) Business Days unless otherwise agreed by Valto (the "Retest Period") to confirm that the Deliverable meets the Acceptance Criteria. If the Customer fails to notify Valto of any issues within the Retest Period, that Deliverable shall be deemed accepted.



- (e) If any non-conformity cannot be remedied by Valto due to an error, defect or fault which Valto is able to demonstrate to the reasonable satisfaction of the Customer to be outside Valto's control and which has disabled Valto's ability to remedy such non-conformity, then Valto reserves the right to terminate work on that specific Deliverable. Valto agrees not to charge the Customer, any amounts paid or payable by the Customer to Valto which specifically relate to the non-conforming Deliverable which cannot be remedied.

11. Customer Data

- 11.1 Valto shall promptly notify the Customer in writing of any actual or suspected loss or damage to the Customer Data. In the event of any loss or damage to Customer Data, the Customer's sole and exclusive remedy shall be for Valto to use reasonable commercial endeavours to restore the lost or damaged Customer Data from the latest backup of such Customer Data. Valto shall not be responsible for any loss, destruction, alteration or unauthorised access to or disclosure of Customer Data caused by any third party (except those third parties sub-contracted by Valto to perform services related to Customer Data maintenance and back-up).
- 11.2 For the purposes of this Clause 11, the terms controller, processor, data subject, personal data, personal data breach and processing shall have the meaning given to them in the Applicable Data Protection Legislation.
- 11.3 Both Parties will comply with all applicable requirements of Applicable Data Protection Legislation. This Clause 11 is in addition to, and does not relieve, remove or replace, a Party's obligations or rights under Applicable Data Protection Legislation.
- 11.4 The Parties have determined that, for the purposes of Applicable Data Protection Legislation, Valto shall process the personal data set out [here](#) ("Data Protection Particulars") as a processor on behalf of the Customer.
- 11.5 Without prejudice to the generality of Clause 11.3, the Customer will ensure that it has all necessary appropriate consents and notices in place to enable lawful transfer of the Customer Personal Data to Valto for the duration and purposes of this Agreement.



- 11.6 In relation to the Customer Personal Data, the Data Protection Particulars sets out the scope, nature and purpose of processing by Valto, the duration of the processing and the types of personal data and categories of data subject.
- 11.7 Without prejudice to the generality of Clause 11.3 Valto shall, in relation to Customer Personal Data:
- (a) Process that Customer Personal Data only on the documented instructions of the Customer, which shall be to process that Personal Data for the purpose as set out in the Data Protection Particulars;
 - (b) implement appropriate the technical and organisational measures to protect against unauthorised or unlawful processing of Customer Personal Data and against accidental loss or destruction of, or damage to, Customer Personal Data, which the Customer has reviewed and confirms are appropriate to the harm that might result from the unauthorised or unlawful processing or accidental loss, destruction or damage and the nature of the data to be protected, having regard to the state of technological development and the cost of implementing any measures;
 - (c) ensure that any personnel engaged and authorised by Valto to process Customer Personal Data have committed themselves to confidentiality or are under an appropriate statutory or common law obligation of confidentiality;
 - (d) assist the Customer insofar as this is possible (taking into account the nature of the processing and the information available to Valto), and at the Customer's cost and written request, in responding to any request from a data subject and in ensuring the Customer's compliance with its obligations under Applicable Data Protection Legislation with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators;
 - (e) notify the Customer without undue delay on becoming aware of a personal data breach involving the Customer Personal Data;
 - (f) at the written direction of the Customer, delete or return Customer Personal Data and copies thereof to the Customer on termination of the Agreement unless Valto is required by Applicable Law to continue to process that Customer Personal Data. For the purposes of this Clause 11.7(f) Customer Personal Data shall be considered deleted where it is put beyond further use by Valto; and



- (g) maintain records to demonstrate its compliance with this Clause 11 and allow for reasonable audits by the Customer or the Customer's designated auditor, for this purpose, on reasonable written notice.

11.8 The Customer hereby provides its prior, general authorisation for Valto to:

- (a) appoint processors to process the Customer Personal Data, provided that Valto:
 - (i) shall ensure that the terms on which it appoints such processors comply with Applicable Data Protection Legislation, and are consistent with the obligations imposed on Valto in this Clause 11;
 - (ii) shall remain responsible for the acts and omission of any such processor as if they were the acts and omissions of Valto; and
 - (iii) shall inform the Customer of any intended changes concerning the addition or replacement of the processors, thereby giving the Customer the opportunity to object to such changes provided that if the Customer objects to the changes and cannot demonstrate, to Valto's reasonable satisfaction, that the objection is due to an actual or likely breach of Applicable Data Protection Legislation, the Customer shall indemnify Valto for any losses, damages, costs (including legal fees) and Expenses suffered by Valto in accommodating the objection.
- (b) transfer Customer Personal Data outside of the UK as required for the Purpose, provided that Valto shall ensure that all such transfers are effected in accordance with Applicable Data Protection Legislation. For these purposes, the Customer shall promptly comply with any reasonable request of Valto, including any request to enter into standard data protection clauses adopted by the EU Commission from time to time (where the EU GDPR applies to the transfer) or adopted by the Commissioner from time to time (where the UK GDPR applies to the transfer).

12. Intellectual Property Rights and Domain Names

12.1 Subject to Clause 12.2 below, on creation by Valto and upon Valto receiving payment in full, all Intellectual Property Rights in bespoke materials or code created under the Services ("Bespoke IPR") for the Customer shall vest



automatically in the Customer. Valto hereby assigns to the Customer its present and future rights and full title and interest in such creations, including but not limited to workflows, widgets, business processes, and customised web coding which are used in order to provide the Services. The Customer hereby provides a irrevocable, worldwide, royalty-free licence to Valto for the duration of the Agreement to use such Bespoke IPR strictly for the purposes of providing the Services.

- 12.2 Notwithstanding Clause 12.1 above, Valto shall retain exclusive ownership of:
- (a) all of its Background Materials; and
 - (b) ideas, concepts, techniques and know-how discovered, created or developed by Valto during the performance of the Services that are of general application and that are not based on or derived from the Customer's business or Confidential Information ("General IP", together with the Background Materials, the "Valto Intellectual Property").
- 12.3 Valto grants to the Customer a non-exclusive, irrevocable, worldwide royalty free and non-transferable licence to use Valto Intellectual Property solely for the purpose of utilising the Services and/or Deliverable.
- 12.4 The Customer shall pay and indemnify Valto and hold it harmless on demand, from and against all actions, claims, liabilities, demands, costs suffered or incurred by Valto, arising by reason of claims that:
- (a) Valto's possession of or use of the Customer's Intellectual Property in connection with the provision of the Services infringes the Intellectual Property Rights of a third party;
 - (b) the Customer or any of its clients, modify, alter, replace combine with any other data, code, Documents or other software, which alters Valto's Intellectual Property and such alterations infringe the Intellectual Property Rights of a third party.
- This indemnity applies whether or not legal proceedings are instituted and, if such proceedings are instituted, irrespective of the means, manner or nature of any settlement, compromise or determination.
- 12.5 Valto shall pay and indemnify the Customer and hold it harmless on demand, from and against all actions, claims, liabilities, demands, costs suffered or incurred by Customer, arising by reason of claims that:



- (a) the Customer's possession of or use of Valto's Intellectual Property Rights and/or the Customer-side Equipment in connection with the provision of the Services infringes the Intellectual Property Rights of a third party;
 - (b) Valto, modifies, alters, replaces combines with any other data, code, Documents or other software, which alters the Customer's Intellectual Property and such alterations infringe the Intellectual Property Rights of a third party. This indemnity applies whether or not legal proceedings are instituted and, if such proceedings are instituted, irrespective of the means, manner or nature of any settlement, compromise or determination.
- 12.6 If an IPR Claim is brought or in the reasonable opinion of Valto is likely to be made or brought, Valto may at its own expense ensure that the Customer is still able to use the Deliverables by either:
 - (a) modifying any and all of the provisions of the Deliverables without reducing the performance and functionality for any or all of the provision of the Deliverables, so as to avoid the infringement or the alleged infringement, provided that the terms herein shall apply mutatis mutandis to such modified or substituted Services and such modified or substituted Services shall be acceptable to the Customer, such acceptance not to be unreasonably withheld; or
 - (b) procuring a licence or permission to use the Deliverables on terms which are acceptable to the Customer, such acceptance not to be unreasonably withheld.
- 12.7 The Customer shall promptly notify Valto if any IPR Claim or demand is made or action brought against the Customer for infringement or alleged infringement of any third party right which may affect the provision of Deliverables.
- 12.8 Except to the extent that Valto should reasonably have known or advised the Customer the foregoing provisions of Clause 12.6, Valto shall have no obligation or liability for any IPR Claim to the extent such IPR Claim arises from:
 - (a) any use by or on behalf of the Customer of the combination with any item not supplied or recommended by Valto where such use of the Deliverables directly gives rise to the claim, demand or action; or



- (b) any modification carried out on behalf of the Customer to any item supplied by Valto under the Agreement if such modification is not authorised by Valto in writing where such modification directly gives rise to a claim, demands or action.

Domain names

- 12.9 If the Customer instructs Valto to obtain a domain name for the Customer, Valto shall act as an agent for the Customer in dealing with the relevant domain name registration authority. The contract for the domain name shall be between the Customer and the relevant domain name registration authority and the Customer agrees that it shall be solely responsible for renewals, and for legal, technical, administrative, billing or other requirements imposed by the relevant domain name registration authority (and relevant costs and expenses thereof).
- 12.10 Valto gives no warranty that the domain name requested shall not infringe the rights of any third party and all such enquiries shall be the responsibility of the Customer. The domain name shall form part of the Customer's Intellectual Property Rights for the purposes of this Agreement.
- 12.11 If Valto licenses to the Customer an IP address as part of the Services, such IP address shall (to the extent permitted by law) revert to Valto after expiry or termination of the Agreement for any reason, whereupon the Customer shall cease using the address. At any time after such expiry or termination, Valto may re-assign the address to another user.

13. [Third-Party Software](#)

- 13.1 Valto shall procure any Third-Party Software required by the Customer and agreed to by Valto for the provision of the Services. Valto expressly excludes any warranty to the Customer that the Third-Party Software supplied or licenced under this Agreement will operate substantially in accordance with, and perform, the material functions and features as set out in the marketing, sales or other associated documentations. The Customer shall remain liable for any and all payments owed to Valto throughout this Agreement and until the end of the respective licence terms.



- 13.2 It is a condition of this Agreement that the Customer shall enter into such Licence Agreements as so prescribed by the relevant Third Party, including software owners of each Third-Party Software identified within this Agreement and/or in the applicable Work Order. In the event the Customer does not accept the terms of such Licence Agreements, Valto reserves the right to suspend the provision of the Services until such time as the Customer enters into such Licence Agreement. For the avoidance of any doubt, the Customer shall not do any actions and/or omissions which will cause Valto to be in breach with any of its third-party terms.
- 13.3 The Customer acknowledges that:
- (a) it is responsible for ensuring that the Customer's Hardware, and operating software for such Hardware is compatible with the Third-Party Software and Valto gives no warranty in relation thereto unless agreed otherwise in writing between the Parties in the Work Order; and
 - (b) all back-up shall be the sole responsibility of the Client unless otherwise expressly agreed to by the Supplier in writing and set out as a service within the relevant Statement of Work.
- 13.4 The Customer acknowledges and accepts that where the Services are provided by Microsoft or a Third Party, any representations or warranties regarding the use of the Services are as set out in the Customer Agreement or Third Party Terms (as applicable). Valto has no responsibility for the suitability, availability, functionality or otherwise regarding the Services. The warranties provided in this Agreement are the exclusive warranties from Valto in relation to the Services.
14. [Exclusions, Limitations of Liability, Warranties and Indemnities](#)
- 14.1 The Customer acknowledges and agrees that, except as expressly provided in the Agreement, the Customer assumes sole responsibility for:
- (a) results obtained from the use of the Third-Party Software, as applicable and the Deliverables by the Customer, and for conclusions drawn from such use;
 - (b) procuring and maintaining the Business Systems, and all network connections and telecommunications links from the Business Systems to Valto's systems and data centres;



- (c) all problems, conditions, delays, delivery failures (including any of those concerning transfer of data) and all other loss or damage arising from or relating to the Customer's or its agents' or Contractors' (including any existing service provider's) network connections, telecommunications links or facilities, including the internet and acknowledges that the Services and the Deliverables may be subject to limitations, delays and other problems inherent in the use of such connections, links or facilities; and
 - (d) loss or damage arising from or relating to any Relief Event.
- 14.2 This Clause 14 sets out the entire financial liability of each Party (including any liability for the acts or omissions of its employees, agents and subcontractors) in respect of:
 - (a) any breach of the Agreement; and
 - (b) any representation, misrepresentation (whether innocent or negligent), statement or tortious act or omission (including negligence) arising under or in connection with the Agreement.
- 14.3 Nothing in the Agreement excludes or limits either Party's liability for:
 - (a) death or personal injury caused by negligence;
 - (b) fraud or fraudulent misrepresentation;
 - (c) breach of Clauses 12.4 and 21; or
 - (d) any other liability which cannot lawfully be excluded or limited.
- 14.4 Valto's liability for breach of their obligations under Clause 11 (Customer Data) and Clause 12.5 (Intellectual Property Rights) shall be limited to £500,000 in the aggregate which shall count towards the cap set out in Clause 14.6.
- 14.5 Subject to Clause 14.3, the Service Level Arrangements state the Customer's full and exclusive right and remedy, and Valto's only obligation and liability, in respect of the performance and availability of the Managed Services, or their non-performance and non-availability.



- 14.6 The Parties' total aggregate liability in Agreement, tort (including negligence or breach of statutory duty), misrepresentation (whether innocent or negligent), restitution or otherwise, arising in connection with the performance or contemplated performance of the Agreement shall be limited to one hundred and twenty five percent (125%) of the price paid for the Services during the twelve (12) months preceding the date on which the claim arose.
- 14.7 Except as expressly stated in Clause 14.3:
- (a) neither Party shall have any liability for any losses or damages which may be suffered by the other Party (or any person claiming under or through that Party), whether the same are suffered directly or indirectly or are immediate or consequential, and whether the same arise in agreement, tort (including negligence) or otherwise howsoever, which fall within any of the following categories:
 - (i) special damage even if the other Party was aware of the circumstances in which such special damage could arise;
 - (ii) loss of profits;
 - (iii) loss of actual or anticipated savings;
 - (iv) loss of business opportunity;
 - (v) loss of business;
 - (vi) loss of agreements;
 - (vii) loss of use of money;
 - (viii) loss of revenue;
 - (ix) loss of operation times;
 - (x) loss of goodwill;
 - (xi) loss of reputation; or



(xii) loss of, damage to or corruption of data.

14.8 Except as expressly and specifically provided in the Agreement:

- (a) the Customer assumes sole responsibility for results obtained from the use of the Services, and for conclusions drawn from such use. Valto shall have no liability for any damage caused by errors or omissions in any information, instructions or scripts provided to Valto by the Customer in connection with the Services, or any actions taken by Valto at the Customer's direction; and
- (b) all warranties, conditions and other terms implied by statute or common law are, to the fullest extent permitted by law, excluded from the Agreement.

14.9 Any indemnity set out in this Agreement shall not apply unless the Party claiming indemnification notifies (in writing) the other promptly of any matters in respect of which the indemnity may apply and of which the notifying Party has knowledge and gives the other Party full opportunity to control the response to and the defence of such claim; including without limitation, the right to accept or reject settlement offers and to participate in any litigation provided that in no event shall the indemnitor be liable for any settlement or compromise made without its consent, such consent not to be unreasonably withheld or delayed.

14.10 Valto shall maintain in force the following insurance policies:

- (a) Public Liability Insurance Policy - limit £5 million per claim;
- (b) Professional Indemnity Insurance Policy - limit £5 million per claim;
- (c) Employers Liability Policy – limit £10 million per claim.

15. [Change Requests](#)

15.1 Either Party may request changes to any Work Order (in each case, a "Change Request"). Any Change Request shall be made in writing in a Change Request Form and sent to the Customer Representative or Valto Representative (as appropriate) and shall set out the change in sufficient detail so as to enable the other Party to make a proper assessment of such change.



- 15.2 Where the Parties propose a Change Request Valto shall provide in the Change Request Form a written estimate of the likely time required to implement the change, any necessary variations to the Fees (in accordance with the latest rates of Valto) as a result of the change, the likely effect of the change on the Services; and any other impact of the change on the terms of the Agreement. The Customer shall notify Valto whether it accepts or reasonably rejects the Change Request within five (5) Business Days of its receipt of the Change Request Form.
- 15.3 A Change Request shall become a "Change Order" when the requirements of the 'Change Request Procedure' as set out in this Clause 15 have been satisfied and the Change Request Form is signed by a Representative of both Parties to signify their approval to the change. Until such time the Parties shall continue to perform their respective obligations under the Work Order without taking into account the Change Request Form. Once duly signed, the Change Request Form shall be deemed incorporated into Agreement and Work Order and Valto shall commence performance of the Change Order accordingly.
- 15.4 Neither Party shall be required to accept any Change Request made by the other Party and shall not be bound by the Change Request unless it has been agreed in writing as set out above.
- 15.5 Unless otherwise agreed in writing, Valto shall be entitled to charge the Customer at Valto's then current rates for investigating, reporting on and, if appropriate, implementing any Change Request requested by the Customer.
16. [Confidentiality](#)
- 16.1 Each Party agrees and undertakes that it will treat all Confidential Information disclosed to it by the other Party in connection with the Services as strictly confidential at all times during the Term of this Agreement and for 2 years thereafter and shall use it solely for the purpose intended by the Services and shall not, without the prior consent of the other Party, publish or otherwise disclose to any third party any such Confidential Information except for the purposes intended by the relevant Work Order.
- 16.2 To the extent necessary to implement the provisions of any Services, each Party may disclose Confidential Information to its employees, agents, sub-Contractors



and professional advisers, in each case under the same conditions of confidentiality as set out in Clause 16.

16.3 The obligations of confidentiality set out in this Clause 16 shall not apply to any information or matter which:

- (a) is in the public domain other than as a result of a breach of the Agreement;
- (b) was in the possession of the receiving Party prior to the date of receipt from the disclosing Party or was rightfully acquired by the receiving Party from sources other than the disclosing Party;
- (c) is required to be disclosed by law, or by a competent court, tribunal, securities exchange or regulatory or governmental body having jurisdiction over it wherever situated; or
- (d) was independently developed by the receiving Party without use of or reference to the Confidential Information.

17. Term and Termination

17.1 The Agreement shall commence on the Commencement Date and each Work Order shall commence on the Services Commencement Date or such date stated in the Work Order and shall continue in force unless and until terminated in accordance with the provisions of this Agreement or of any Work Order as applicable.

17.2 The Agreement and each Work Order shall, unless terminated earlier in accordance with this Clause, automatically be extended for successive twelve (12) month periods ("Extended Term") at the end of the Initial Term and at the end of each Extended Term, unless a Party gives written notice to the other Party, not later than ninety (90) days before the end of the Initial Term or the relevant Extended Term, to terminate the Agreement at the end of the Initial Term or the relevant Extended Term, as the case may be.

17.3 Without prejudice to any rights that the Parties have accrued under the Agreement or any of their respective remedies, obligations or liabilities, either Party may terminate the Agreement with immediate effect by giving written notice to the other Party if:



- (a) the other Party commits a material breach of any material term of the Agreement and (if such breach is remediable) fails to remedy that breach within a period of thirty (30) days after being notified to do so;
 - (b) the other Party breaches any of the terms of Clause 11, Clause 16 or Clause 21;
 - (c) the other Party suspends, or threatens to suspend, payment of its debts, or is unable to pay its debts as they fall due or admits inability to pay its debts, or is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986; or
 - (d) the other Party suspends or ceases, or threatens to suspend or cease, carrying on all or a substantial part of its business.
- 17.4 If for any reason an Agreement between a third party and Valto relating to Valto's right to use, install or support Third-Party Software which is the subject of the Agreement is terminated, then the Agreement or applicable Work Order (as the case may be) shall automatically terminate, save that where the Agreement relates to other Deliverables other than that Third-Party Software, termination of the Agreement shall operate only in so far as it relates to such Third-Party Software.
- 17.5 Termination of the Agreement, for any reason, shall not affect the accrued rights, remedies, obligations or liabilities of the Parties existing at termination.
- 17.6 On termination of the Agreement for any reason:
 - (a) Valto shall immediately cease provision of the Services;
 - (b) all amounts payable by the Customer to Valto under the Agreement shall become due immediately, including any and all outstanding fees and any termination fees relating to Third-Party Software prior to the date of termination and/or as otherwise specified by Valto to the Customer as being payable, unless otherwise agreed despite any other provision of the Agreement;
 - (c) all licences granted under the Agreement will terminate immediately except for fully-paid, fixed term and perpetual licences; and



- (d) each Party shall use reasonable endeavours to return and make no further use of any equipment, property, materials and other items (and all copies of them) belonging to the other Party.

- 17.7 Save as provided in this Clause 17 or elsewhere in the Agreement, or by mutual consent and on agreed terms, or due to a Force Majeure event, neither Party shall be entitled to terminate a Work Order.
- 17.8 Termination of any Work Order shall be without prejudice to any other rights which any Party may have under any other Work Order.
- 17.9 Termination of this Agreement, for any reason, shall not affect the accrued rights, remedies, obligations or liabilities of the Parties existing at termination.
- 17.10 Any provision of this Agreement that expressly or by implication is intended to come into or continue in force on or after termination or expiry of any Works Order or this Agreement shall remain in full force and effect.

18. [Staff Transfer and Non-Solicitation](#)

- 18.1 It is not intended that any staff be transferred from Valto to the Customer or from the Customer to Valto pursuant to the Agreement or that any 'relevant transfer' occur for the purposes of the Transfer of Undertakings (Protection of Employment) Regulations 2006 ("the Regulations").
- 18.2 Neither Party shall solicit the other Party's staff or Contractors who have been employed or engaged in the Services or the performance of the Agreement during the lifetime of the Agreement and for a period of twelve (12) months thereafter. For the purposes of this clause 'solicit' means the soliciting of such person with a view to engaging such person as an employee, director, sub-Contractor or independent Contractor.
- 18.3 In the event that either Party is in breach of Clause 18.2 above then the Party in breach shall pay to the other by way of liquidated damages an amount equal to fifty percent (50%) per cent of the gross annual budgeted fee income (as at the time of the breach or when such person was last in the service of the relevant Party) of the person so employed or engaged. This provision shall be without prejudice to either Party's ability to seek injunctive relief.



18.4 The Parties hereby acknowledge and agree that the formula specified in Clause 18.3 above is a reasonable estimate of the loss which would be incurred by the loss of the person so employed or engaged.

19. **Relief Events**

Subject to Clause 14.3, and notwithstanding any other provision of the Agreement, Valto shall have no liability for failure to perform the Services or its other obligations under the Agreement if it is prevented, hindered or delayed in doing so as a result of any Relief Event.

20. **Force Majeure**

20.1 Valto shall have no liability to the Customer under the Agreement and the Customer shall have no obligation to pay the Fees if Valto is prevented from, or delayed in, performing its obligations under the Agreement, or from carrying on its business, by acts, events, omissions or accidents beyond its reasonable control except to the extent that Valto could reasonably have avoided such circumstances by fulfilling its obligations in accordance with the terms of the Agreement or otherwise exercising the level of diligence that could reasonably have been expected of it (having exercised Good Industry Practice), including, but not limited to, strikes, computer viruses and malware, pandemics, epidemics, lock-outs or other industrial disputes (excluding any industrial disputes involving the workforce of Valto), act of God, war, riot, civil commotion, compliance with any law or regulation, fire, flood or storm (each a "Force Majeure Event"), provided that:

- (a) the Customer is notified of such an event and its expected duration; and
- (b) Valto uses all reasonable endeavours to mitigate, overcome or minimise the effects of the Force Majeure Event concerned,

20.2 and that if the period of delay or non-performance continues for ninety (90) days or more, the Party not affected may terminate the Agreement by giving fourteen (14) days' written notice to the other Party.



21. Anti-Bribery and Modern Slavery

21.1 The Parties shall:

- (a) comply with all Applicable Laws, regulations and sanctions relating to anti-bribery and anti-corruption, including the Bribery Act 2010 ("Relevant Requirements");
- (b) promptly report to the other Party any request or demand for any undue financial or other advantage of any kind received by Valto in connection with the performance of the Agreement.

21.2 The Parties shall procure that any person associated with them, who is performing the Services in connection with the Agreement, adheres to terms equivalent to those imposed on that Party in this Clause 21 ("Relevant Terms"). Both Parties shall be responsible for the observance and performance by such persons of the Relevant Terms, and shall be directly liable to the other Party for any breach by such persons of any of the Relevant Terms.

21.3 For the purpose of this Clause 21, 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) of that Act and section 8 of that Act respectively. For the purposes of this Clause 21 a person associated with Valto includes any subcontractor of Valto.

21.4 In performing its obligations under the Agreement, both Parties shall:

- (a) comply with all applicable anti-slavery and human trafficking laws, statutes, regulations from time to time in force the Modern Slavery Act 2015; and
- (b) not engage in any activity, practice or conduct that would constitute an offence under sections 1, 2 or 4, of the Modern Slavery Act 2015 if such activity, practice or conduct were carried out in the UK.

22. Waiver

No failure or delay by a Party to exercise any right or remedy provided under the Agreement or by law shall constitute a waiver of that or any other right or remedy, nor shall it preclude or restrict the further exercise of that or any other right or remedy. 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.

23. Severance

- 23.1 If any court or competent authority finds that any provision of the Agreement (or part of any provision) is invalid, illegal or unenforceable, that provision or part-provision shall, to the extent required, be deemed to be deleted, and the validity and enforceability of the other provisions of the Agreement shall not be affected.
- 23.2 If any invalid, unenforceable or illegal provision of the Agreement would be valid, enforceable and legal if some part of it were deleted, the Parties shall negotiate in good faith to amend such provision such that, as amended, it is legal, valid and enforceable, and, to the greatest extent possible, achieves the Parties' original commercial intention.

24. Entire agreement and amendment

- 24.1 The Agreement constitutes the entire agreement between the Parties and supersedes all previous discussions, correspondence, negotiations, arrangements, understandings and agreements between them relating to its subject matter.
- 24.2 Each Party acknowledges that in entering into the Agreement it does not rely on, and shall have no remedies in respect of, any representation or warranty (whether made innocently or negligently) that is not set out in the Agreement.
- 24.3 Each Party agrees that its only liability in respect of those representations and warranties that are set out in the Agreement (whether made innocently or negligently) shall be for breach of Agreement.



24.4 No alteration to or variation of the Agreement shall take effect unless and until a Variation Agreement is signed on behalf of each of the Parties by a Representative.

25. [Assignment](#)

25.1 The Customer shall not without the prior written consent of Valto (such consent not to be unreasonably withheld or delayed) assign, transfer, charge or deal in any other manner with either the benefit or the burden of this Agreement or any of its rights or obligations under it, or purport to do any of the same, nor sub-contract any or all of its obligations under this Agreement.

25.2 Valto may assign, transfer, charge or deal in any other manner with all or any of its rights or obligations under the Agreement to any of its Affiliates without the prior written consent of the Customer, but shall give the Customer reasonable notice of its intention to do so. Valto may at any time subcontract any of its and obligations under this Agreement without the prior written consent of the Customer.

26. [No partnership or agency](#)

Nothing in the Agreement is intended to, or shall be deemed to, establish any partnership or joint venture between any of the Parties, constitute any Party the agent of another Party, nor authorise any Party to make or enter into any commitments for or on behalf of any other Party.

27. [Third Party rights](#)

The Agreement is made for the benefit of the Parties to it and (where applicable) their successors and permitted assigns and Microsoft (in respect of enforcing the terms of the Customer Agreement), and is not intended to benefit or be enforceable by anyone else.



28. Notices

- 28.1 Any notice or other communication required to be given to a Party under or in connection with the Agreement shall be in writing and shall be delivered by hand or sent by pre-paid first class post or other next Business Day delivery service, at its registered office (if a company) or (in any other case) its principal place of business, or sent by fax to the other Party's main fax number.
- 28.2 Any notice or communication shall be deemed to have been received if delivered by hand, on signature of a delivery receipt, or if sent by fax, at 9.00 am on the next Business Day after successful transmission, or otherwise at 9.00 am on the second Business Day after posting or at the time recorded by the delivery service.
- 28.3 This Clause does not apply to the service of any proceedings or other Documents in any legal action or, where applicable, any arbitration or other method of dispute resolution. For the purposes of this Clause, "writing" shall include e-mail.

29. Dispute resolution

- 29.1 If a dispute arises under the Agreement ("Dispute"), including any Dispute arising out of any amount due to a Party hereto, then before bringing any suit, action or proceeding in connection with such Dispute, a Party must first give written notice of the Dispute to the other Party describing the Dispute and requesting that it is resolved under this dispute resolution process ("Dispute Notice").
- 29.2 If the Parties are unable to resolve the Dispute within thirty (30) calendar days of delivery of the Dispute Notice, then each Party will promptly (but no later than five (5) Business Days thereafter):
 - (a) appoint a designated representative who has sufficient authority to settle the Dispute and who is at a higher management level than the person with direct responsibility for the administration of the Agreement ("Designated Representative"); and
 - (b) notify the other Party in writing of the name and contact information of such Designated Representative.



29.3 The Designated Representatives will then meet as often as they deem necessary in their reasonable judgement to discuss the Dispute and negotiate in good faith to resolve the Dispute. The Designated Representatives will mutually determine the format for such discussions and negotiations, provided that all reasonable requests for relevant information relating to the Dispute made by one Party to the other Party will be honoured.

29.4 If the Parties are unable to resolve the Dispute within thirty (30) calendar days after the appointment of both Designated Representatives, then either Party may proceed with any other available remedy.

30. [Marketing](#)

Both Parties agree to reasonably cooperate in connection with the creation of mutually beneficial marketing communications, which shall include, at a minimum, a press release, case study and a reference to Customer on Valto and its Affiliate's website, provided that in no event shall either Party use the name, trademarks or other proprietary identifying symbols of the other Party without such Party's prior written consent, which consent shall not be unreasonably withheld or delayed.

31. [Governing law and jurisdiction](#)

31.1 The Agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be exclusively governed by and construed in accordance with the laws of England and Wales.

31.2 The Parties irrevocably agree that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with the Agreement or its subject matter or formation (including non-contractual disputes or claims).