

**DATED 2022**

**Terms and Conditions**

between

**KLR Consultancy Ltd**

**and**

**openbox**

## CONTENTS

CLAUSE		
1 INTERPRETATION		1
2 COMMENCEMENT & STATEMENTS OF WORK		6
3 DUTIES AND OBLIGATIONS		6
4 FEES		9
5 EXPENSES		9
6 OTHER ACTIVITIES	9	
7 CONFIDENTIAL INFORMATION AND TESCO BANK PROPERTY	10	
8 DATA PROTECTION	10	
9 INTELLECTUAL PROPERTY		13
10 INSURANCE AND LIABILITY		14
11 INDEMNITIES AND LIMITATION OF LIABILITY		15
12 RECORD RETENTION AND AUDIT		17
13 TERMINATION		18
14 OBLIGATIONS ON TERMINATION	20	
15 STATUS		21
16 RECOVERY AND RESOLUTION		22
17 DIVESTMENT		23
18 NOTICES		24
19 ENTIRE AGREEMENT		25
20 ASSIGNMENT AND SUB-CONTRACTING	25	
21 VARIATION		26
22 COUNTERPARTS		26
23 THIRD PARTY RIGHTS		26
24 GOVERNING LAW		26
25 JURISDICTION		26
SCHEDULE 1 - Statement of Work Template		28
SCHEDULE 2 - Fees		30
SCHEDULE 3 - Data Processing Particulars		32
SCHEDULE 4 - Data Transfer Risk Assessment		33
SCHEDULE 5 - Data Breach Details		34

**THIS AGREEMENT** is made between

- (1) **KLR CONSULTANCY LIMITED** incorporated and registered in Scotland with company number SC644922 whose registered office is at Unit 4, Gateway Business Park, Beancross Rd, Grangemouth FK3 8WX, trading as Openbox “**Supplier**” “**Openbox**”

and

(2) .....incorporated and registered in Scotland with company number ..... whose registered office is at ..... (“the client”),

each a “party” and together the “parties”.

## INTRODUCTION

The client shall engage the Supplier and the Supplier shall make available to the client the Consultant(s) to provide the Services on the terms of this Agreement. The number of Consultants required at any one time to provide the Services shall be as set out in a Statement of Work or as otherwise agreed between the parties from time to time.

### 1. INTERPRETATION

1.1 The following definitions and rules of interpretation apply in this Agreement (unless the context requires otherwise).

**Applicable Laws:** (a) any law, statute, regulation, by-law or subordinate legislation in force from time to time to which a party is subject and/or in any jurisdiction that the Services are provided to or in respect of; (b) the common law and laws of equity as applicable to the parties from time to time; (c) any binding court order, judgment or decree; (d) any applicable industry code, policy or standard; or (e) any applicable direction, policy, rule or order that is binding on a party and that is made or given by any regulatory body having jurisdiction over a party or any of that party’s assets, resources or business;

**Board:** the board of directors of the supplier (including any committee of the board duly appointed by it).

**Business of Supplier:** the provision of digital services and delivery.

**Business of the client:** ...

**Business Day:** any day which is not a Saturday, a Sunday or a bank or public holiday in England or in Scotland.

**Capacity:** as agent, consultant, director, employee, owner, partner, shareholder or in any other capacity.

**Change of Control:** means that there has been a direct or indirect change of Control of the Supplier;

**Claim:** means a claim, demand, proceeding or other action (including any brought by a Regulator) and including threats of the same made in writing.

**Commencement Date:** the last date of signature of this Agreement.

1

**Competitor:** any competitor of ....

**Confidential Information:** means any and all information relating to the trade secrets, operations, processes, plans, intentions, product information, prices, know-how, designs, customer lists, market opportunities, transactions, affairs and/or business of the parties and/or to their customers, suppliers, clients including (but not limited to) information that the Supplier or any Consultant creates, develops, receives or obtains in connection with this Agreement or any Statement of Work, whether or not such information (if in anything other than oral form) is marked confidential.

**Consultant:** such consultant(s) as is provided by the Supplier to carry out the Services as may be specified in a Statement of Work or otherwise agreed between the parties (and any Substitute pursuant to clause 3.3 from time to time).

**Control:** has the meaning given in the Corporation Tax Act 2010, s 1124 and **Controls** and **Controlled** shall be interpreted accordingly

**Controller:** has the meaning set out in the Data Protection Legislation.

**Data Processing Particulars:** in relation to any Processing: (a) the subject matter, duration, nature and purpose of the Processing; (b) the type of Personal Data being Processed; and (c) the categories of

Data Subjects.

**Data Protection Impact Assessment:** an assessment of the impact of the envisaged Processing operations on the protection of Personal Data, as required by Article 35 of the GDPR.

**Data Protection Legislation:** any law, statute, declaration, decree, directive, legislative enactment, order, ordinance, regulation, rule or other binding restriction (as amended, consolidated or re enacted from time to time) which relates to the protection of individuals with regards to the processing of personal data to which a Party is subject, including the Data Protection Act 2018 ("**DPA**") and the GDPR or, in the event that the UK leaves the European Union, all legislation enacted in the UK in respect of the protection of personal data for so long as such legislation remains enforceable under English law.

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

**Data Subject Request:** an actual or purported request, notice or complaint from (or on behalf of) a Data Subject exercising his rights under the Data Protection Legislation.

**Data Transfer:** transferring the Personal Data to, and/or accessing the Personal Data from and/ or Processing the Personal Data within, a jurisdiction or territory that is a Restricted Country.

**Data Transfer Risk Assessment:** a risk assessment completed by the Supplier in the form of Schedule 4 (Data Transfer Risk Assessment).

**Day Rates:** shall be as set out in Schedule 2 unless otherwise agreed in writing between the parties.

**Deliverables:** the deliverables described in the relevant Statement of Work.

**Event:** a Resolution Event or a Recovery Event.

**Event Date:** the date on which an Event occurs.

**Event Recipient:** a person to whom all or part of the business, assets, rights or liabilities of Openbox has been transferred pursuant to a Resolution Event or a Recovery Event.

**Exit Plan:** has the meaning given in clause 3.12.

**Fees:** the fees payable for the Services, calculated in accordance with Schedule 2 and as set out in each individual Statement of Work.

**GDPR:** Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of Personal Data and repealing Directive 95/46/EC (General Data Protection Regulation) OJ L 119/1, 4.5.2016.

**Good Industry Practice:** at any time, the exercise of that degree of care, skill, diligence, prudence, efficiency, foresight and timeliness which would be reasonably expected at such time from a leading and expert supplier of similar services to the Services to a customer like the client, such supplier seeking to comply with its contractual obligations in full and complying with all Applicable Laws (including the Data Protection Legislation).

**Holding company:** has the meaning given in clause 1.7.

**Information Security Minimum Standards for Third Party Suppliers:** Openbox prevailing information security standards and requirements which are notified to the Supplier from time to time.

**Insurance Policies:** commercial general liability insurance cover, employer's liability insurance cover, professional indemnity insurance cover and public liability insurance cover.

**Intellectual Property Rights:** patents, rights to Inventions, copyright and neighbouring and related rights, moral rights, trade marks, business names and domain names, rights in get-up, goodwill and the right to sue for passing off or unfair competition, rights in designs, rights in computer software, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how and trade secrets) and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and

rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.

**Invention:** any invention, idea, discovery, development, improvement or innovation made by the Supplier or by any Consultant in connection with the provision of the Services, whether or not patentable or capable of registration, and whether or not recorded in any medium.

**Material Adverse Effect:** a change in condition or circumstances the effect of which is materially adverse to the assets, business, financial condition or trading prospects of the Supplier such that it could reasonably be expected to be unlikely to be able to provide the Services or otherwise perform its obligations under this Agreement and/or any Statement of Work entered into pursuant to its terms.

**Overdue Fees:** Fees that (a) remain unpaid 4 months after the due date for payment; and (b) are not disputed by The Client in accordance with the provisions of this Agreement.

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

**Personal Data:** has the meaning given to it in the Data Protection Legislation and for the purposes of this Agreement includes Sensitive Personal Data.

**Personal Data Breach:** has the meaning set out in the GDPR and, for the avoidance of doubt, includes a breach of clause 8.2.1(c).

**Personal Data Breach Particulars:** the information that must be included in a Personal Data Breach notification, as set out in Article 33(3) of the GDPR.

**Policies:** the policies of Openbox as the same may be updated from time to time by Openbox, including, but not limited to, its Information Security Minimum Standards for Third Party Suppliers, Code of Conduct for Suppliers, Supplier Management Framework, Third Party Expenses Policy,

Supplier Pre Employment Screening Policy and Anti Bribery and Corruption Policy each as notified to the Supplier from time to time.

**Processing:** has the meaning set out in the Data Protection Legislation, and "**Process**" and "**Processed**" when used in relation to the Processing of Personal Data, will be construed accordingly.

**Processor:** has the meaning set out in the Data Protection Legislation.

**Restricted Country:** a country, territory or jurisdiction outside of the European Economic Area which the EU Commission has not deemed to provide adequate protection in accordance with Article 45(1) of the GDPR (as applicable).

**Security Requirements:** (a) the requirements regarding the security of the Personal Data, as set out in the Data Protection Legislation (including, in particular, the seventh data protection principle of the Data Protection Act 1998 and/ or the measures set out in Article 32(1) of the GDPR (taking due account of the matters described in Article 32(2) of the GDPR)) as applicable, and (b) the Information Security Minimum Standards for Third Party Suppliers.

**Sensitive Personal Data:** Personal Data that incorporates such categories of data as are listed in (i) Section 2 of the Data Protection Act 1998; and (ii) Article 9(1) of the GDPR, as applicable.

**Services:** the services described in the relevant Statement of Work.

**Service Level:** a required timescale, level and standard of service (if any) as set out in a Statement of Work, which the Supplier is required to comply with in providing the Services or part of them;

**Statement of Work:** an agreement (to be made in the form found in Schedule 1) between Openbox and the Client regarding the provision of Services by the Supplier to the client, agreed in accordance with the process in clause 2.4 and as amended from time to time;

**Subsidiary:** has the meaning given in clause 1.7.

**Substantial Disposal:** means a sale or other disposal of the whole or a substantial part of the business or assets of the Supplier;

**Supplier Property:** means:

(a) all documents, books, manuals, materials, records, correspondence, papers and information (on whatever media and wherever located) relating to the affairs or Business of Supplier or its customers and business contacts provided by the Supplier or the Consultants for the clients use during the term of this Agreement; and

4

(b) any equipment, keys, hardware or software provided by the Supplier or the Consultants for the clients use during the term of this Agreement,

but excluding all Deliverables.

**Termination Date:** the date of termination of this Agreement, howsoever arising.

**Third Party Request:** a written request from any third party for disclosure of Personal Data where compliance with such request is required or purported to be required by law or regulation.

**Works:** all records, reports, documents, papers, drawings, designs, transparencies, photos, graphics, logos, typographical arrangements, software programs, inventions, ideas, discoveries, developments, improvements or innovations and all materials embodying them in whatever form, including but not limited to hard copy and electronic form, prepared by the Supplier or any Consultant in connection with the provision of the Services.

1.2 The headings in this Agreement are inserted for convenience only and shall not affect its construction.

1.3 A reference to a particular law is a reference to it as it is in force for the time being taking account of any amendment, extension, or re-enactment and includes any subordinate legislation for the time being in force made under it.

1.4 Unless the context otherwise requires, a reference to one gender shall include a reference to the other genders.

1.5 Unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular.

1.6 The Schedules form part of this Agreement and shall have effect as if set out in full in the body of this Agreement. Any reference to this Agreement includes the Schedules.

1.7 A reference to a **holding company** or a **subsidiary** means a holding company or a subsidiary (as the case may be) as defined in section 1159 of the Companies Act 2006 and a company shall be treated, for the purposes only of the membership requirement contained in sections 1159(1)(b) and (c), as a member of another company even if its shares in that other company are registered in the name of (a) another

person (or its nominee), whether by way of security or in connection with the taking of security, or (b) as a nominee.

1.8 In the event of any conflict or inconsistency between them, the terms of the main body of this Agreement will prevail over the terms of the Schedules, and the relevant provisions of the Schedules should be construed accordingly. The parties acknowledge and agree that, notwithstanding the terms of any Statement of Work or other documents (even where such Statement of Work or other

5

documents are expressed to apply to the provision of Services), the terms of this Agreement will apply to the provision of the Services.

## **2. COMMENCEMENT & STATEMENTS OF WORK**

2.1 This Agreement shall commence on the Commencement Date and shall continue until terminated in accordance with its terms.

2.2 The Parties acknowledge that services under a Statement of Work may extend beyond the term of this Agreement. This Agreement shall continue in force solely in respect of any such Statement of Work until the term of each such Statement of Work is complete.

2.3 The provision of specific Services will be agreed as follows:

2.3.1 The Client will issue a request for proposal to the Supplier, giving information about the project and their requirements;

2.3.2 the Supplier will reply within 10 Business Days (or such time as otherwise agreed between the parties), providing the client with a proposal including details of the Services that will be carried out to meet the client's requirements, the Fees (based on Schedule 2 (unless the Fees are otherwise agreed between the parties)), a completed first draft Statement of Work and any further questions the Supplier has;

2.3.3 the Supplier's proposal will remain valid for 60 days from being received by the client, or such longer time as otherwise agreed between the parties;

2.3.4 if the client wishes to instruct Services, the Parties will agree and enter into a Statement of Work;

2.3.5 the Supplier shall not undertake any Services unless the Statement of Work has been signed by an authorised signatory of the client.

2.3.6 the terms and conditions of this Agreement will apply to each Statement of Work, to the exclusion of all other terms and conditions, including any terms and conditions proposed by the Supplier.

2.4 Each signed Statement of Work shall constitute a separate contract governing the performance of the Services detailed therein.

2.5 In the event of any conflict between the Statement of Work for particular Services and the terms and conditions of this Agreement, then the terms and conditions of this Agreement shall prevail and be applied unless the contrary is expressly stated in the Statement of Work.

## **3. DUTIES AND OBLIGATIONS**

3.1 During the term of this Agreement, the Supplier shall, and (where appropriate) shall procure that each Consultant shall provide the Services:

3.1.1 in accordance with Applicable Laws;

3.1.2 in accordance with Good Industry Practice and use its or his best endeavours to promote the interests of the client;

3.1.3 in accordance with the terms and conditions of this Agreement;

3.1.4 in accordance with the terms of each Statement of Work ranked in reverse chronological order (such that a more recent Statement of Work will take precedence over an older Statement of Work);

6

3.1.5 in accordance with all reasonable standards of safety and shall comply with the clients health and safety procedures from time to time in force at the premises where the Services are provided and report to the client any unsafe working conditions or practices;

3.1.6 in accordance with the Policies, standards, values and/or procedures notified to the Supplier from time to time;

3.1.7 in a manner which does not bring the name or reputation of Openbox or any Group Company into disrepute or prejudice the interests of the business of any Group Company; and

3.2 The Supplier warrants and undertakes to the client that it has, and that each Consultant has the necessary skill and expertise to perform the Services on the terms set out in this Agreement.

3.3 The Supplier will give the client all assistance that they reasonably require in order to comply with any request from the clients Regulators in relation to the Services, and the Supplier agrees to co-operate directly with the Regulators (and any persons appointed by the Regulators) if requested by them. The Supplier acknowledges and agrees that nothing in this Agreement shall prevent the client from disclosing this Agreement, either in part or in its entirety, to the Regulators

3.4 When instructed by the client, the Supplier shall procure that the Services shall be made available by the relevant Consultant(s) for the entire duration of the term of this Agreement. The parties acknowledge that the Supplier may make available any of the Supplier's suitably qualified and experienced Consultants (a "**Substitute**") in place of any Consultant appointed to provide the Services in the event that the relevant Consultant is unavailable for whatever reason. It will be the responsibility of the Supplier to ensure that any Substitute is brought up-to-speed with the Services to be provided or being provided under any specific Statement of Work.

3.5 If any Consultant is unable to provide the Services due to illness or injury, the Supplier shall advise the client of that fact as soon as reasonably practicable and provide a Substitute where appropriate. For the avoidance of doubt, no fee shall be payable in accordance with clause 4: (i) in respect of any period during which the Services are not provided or during which no Services are instructed by the client or (ii) in respect of any Consultant who is unable to provide the Services for any reason (in circumstances where no suitable Substitute has been made available).

3.6 The Supplier shall use its reasonable endeavours to ensure that each Consultant is available at all times on reasonable notice to provide such assistance or information as the client may require.

3.7 Unless it or he has been specifically authorised to do so by the client in writing:

3.7.1 neither the Supplier nor any Consultant shall have any authority to incur any expenditure in the name of or for the account of the client; and

3.7.2 the Supplier shall not, and shall procure that each Consultant shall not, hold itself out as having authority to bind the client.

3.8 The Supplier shall maintain a list detailing the names and contact details of all of the Consultants engaged on the client's premises in relation to the Services. Such list shall be reviewed and updated quarterly.

7

- 3.9 At the client's reasonable request and upon reasonable notice, the Supplier shall as soon as practically possible (at its own expense) replace any Consultant.
- 3.10 The Supplier shall, and shall procure that each Consultant shall:
- 3.10.1 comply with all applicable laws, regulations, codes and sanctions relating to anti-bribery and anti-corruption including but not limited to the Bribery Act 2010 ("**Relevant Requirements**");
  - 3.10.2 not engage in any activity, practice or conduct which would constitute an offence under sections 1, 2 or 6 of the Bribery Act 2010 if such activity, practice or conduct had been carried out in the UK;
  - 3.10.3 comply with the client's Anti-bribery and Corruption Policy and in each case as Tesco Bank may update such policy from time to time ("**Relevant Policy**");
  - 3.10.4 have and shall maintain in place throughout the term of this Agreement its own policies and procedures, including but not limited to adequate procedures under the Bribery Act 2010, to ensure compliance with the Relevant Requirements, the Relevant Policy and clause 3.10.2, and will enforce them where appropriate; and
  - 3.10.5 ensure that all persons associated with the Supplier or other persons who are performing services in connection with this Agreement comply with this clause 3.10.
- 3.11 The client shall have the right to immediately suspend the performance of this Agreement and/or immediately terminate this Agreement for material breach which is not capable of remedy under clause 13.3, or on such other time specified by the client, upon written notice to the Supplier if
- 3.11.1 the Supplier, or any person employed by it or acting on its behalf (whether with or without the knowledge of the Supplier) fails to comply with any of the Relevant Requirements; or
  - 3.11.2 The client has a reasonable suspicion that an occurrence as specified in clause 3.10.1 has occurred provided that in the event that any such suspicion is subsequently shown to be false, the client shall promptly reinstate the performance of the Services under this Agreement .
- 3.12 For the purpose of clause 3.10, the meaning of adequate procedures and whether a person is associated with another person shall be determined in accordance with section 7(2) of the Bribery Act 2010 (and any guidance issued under section 9 of that Act), section 6(5) and 6(6) of that Act and section 8 of that Act respectively.
- 3.13 The Supplier shall co-operate with the client to jointly develop and agree an exit plan within 60 Business Days of the date of this Agreement to effect an orderly winding-down of the relationship between the parties following the termination of this Agreement for any reason (the "**Exit Plan**") and shall keep the Exit Plan under continuous review and shall agree updates to the Exit Plan no less than once per annum.
- 3.14 The Supplier will advise the client immediately in writing on becoming aware: (i) that it may be unable to perform the Services in accordance with this Agreement; or (ii) of any development that may have a material impact on its ability to perform the Services in accordance with this Agreement (including the possibility of loss of any authorisation, license and/or permission that it requires to

provide the Services under this Agreement) or in compliance with Applicable Laws. The Supplier will also take such steps as may be required to:

- 3.14.1 prevent or remedy any potential or actual failure to provide the Services in accordance with this Agreement;
- 3.14.2 comply with Applicable Laws;
- 3.14.3 identify the root cause of any failure to meet the Service Levels, take reasonable steps to remedy such root cause and provide the client (on request) with a report summarising the identified root cause for such failure and the steps taken to remedy it.

3.15 If the Supplier fails to meet the Service Levels the client may, upon providing reasonable written notice to the Supplier, suspend all or part of the provision of the Services and through itself, or through a Tesco Group member or other third party (each, a "**Step In Party**"), step in (at the Supplier's expense) and provide the Services until the client (acting reasonably) is satisfied that the Supplier is capable of providing the Services in accordance with the Service Levels ("**Step In Right**"). To allow the Step In Right to be exercised, the Supplier will:

- 3.15.1 allow the Step In Party, on a temporary basis, to retain or replace (as appropriate) any Supplier Personnel engaged in the provision of the affected Services;
- 3.15.2 grant or procure such licences and rights as are reasonably required to allow the Step In Right to be exercised; and
- 3.15.3 provide to or procure the provision to the Step In Party such: (i) cooperation as the Step In Party may reasonably require; and (ii) use of and access to any premises, systems, equipment, data, documents, information, personnel or other items as the Step In Party may reasonably require for the purposes of exercising the Step In Right.

#### **4. FEES**

- 4.1 The client shall pay the Supplier the Fees (exclusive of VAT) in accordance with Schedule 2 (Fees) and the relevant Statement of Work.
- 4.2 On the last Business Day of each month during the term of this Agreement the Supplier shall submit to the client an invoice which gives details of the number of days which each Consultant has worked (which for the avoidance of doubt the client will have approved in advance), the Services provided and the amount of the Fee payable (plus VAT, if applicable) for the Services during that month. Such invoice shall take account of the pre-paid provision set out in Schedule 2.
- 4.3 In consideration of the provision of the Services, the client shall pay each invoice submitted by the Supplier in accordance with clause 4.1, within 30 days of receipt.
- 4.4 The client shall be entitled to deduct from the Fees (and any other sums) due to the Supplier any sums that the Supplier or any Consultant may owe to the client at any time and any element of the pre-paid provision set out in Schedule 2.
- 4.5 Payment in full or in part of the Fees or any expenses claimed under clause 5 shall be without prejudice to any claims or rights of the client against the Supplier or any Consultant in respect of the provision of the Services.

#### **5. EXPENSES**

The client shall reimburse all reasonable expenses properly and necessarily incurred by the Supplier or any Consultant in the course of providing the Services, subject to: (i) the Supplier or the

relevant Consultant obtaining prior approval of such expenses from the client; (ii) production of receipts or other appropriate evidence of payment; and (iii) unless otherwise agreed by the parties in writing, acting in accordance with the client's Expenses Policy (a copy of which has been provided to the Supplier and each Consultant).

#### **6. OTHER ACTIVITIES**

Nothing in this Agreement shall prevent the Supplier or any Consultant from being engaged, concerned or having any financial interest in any Capacity in any other business, trade, profession or occupation during the term of this Agreement provided that:

6.1 such activity does not cause a breach of any of the Supplier's obligations under this Agreement; and

6.2 the Supplier shall procure that each Consultant (to the extent such Consultant is engaged by the client at any appropriate time) shall not engage in any such activity if it relates to a Competitor without the prior written consent of the client.

## **7. CONFIDENTIAL INFORMATION AND CLIENT PROPERTY**

7.1 The parties acknowledge that in the course of providing the Services they (and in the case of the Supplier each Consultant) will have access to Confidential Information. The parties have therefore agreed to accept the restrictions in this clause 7.

7.2 The parties shall not (and in the case of the Supplier shall procure that each Consultant shall not) (except in the proper course of its or his duties), either during the term of this Agreement or at any time after the Termination Date, use or disclose to any third party (and shall use its best endeavours to prevent the publication and disclosure of) any Confidential Information. This restriction does not apply to:

7.2.1 any use or disclosure authorised by either party in writing or required by law; or

7.2.2 any information which is already in, or comes into, the public domain otherwise than through either party's (including in the case of the Supplier any Consultant's) unauthorised disclosure.

7.3 At any stage during the term of this Agreement, either party will promptly on request return to the other all and any the client Property or Supplier Property as the case may be in its (and in the case of the Supplier each Consultant's) possession, unless such return would inhibit the delivery of the Services or the Deliverables.

## **8. DATA PROTECTION**

### **8.1 Arrangement between the Parties**

8.1.1 The parties shall each Process the Personal Data. The parties acknowledge that the factual arrangement between them dictates the classification of each party in respect of the Data Protection Legislation. Notwithstanding the foregoing, the parties anticipate that the client shall act as a Controller and the Supplier shall act as a Processor, as follows:

(a) the client shall be a Controller where it is Processing (or instructing the Processing of) Personal Data in relation to the Permitted Purpose; and

(b) the Supplier shall be a Processor where it is Processing Personal Data in relation to the Permitted Purpose in connection with performing its obligations under this Agreement.

8.1.2 Each of the parties acknowledges and agrees that Schedule 3 (Data Processing Particulars) to this Agreement is an accurate description of the Data Processing Particulars.

10

8.1.3 Each party shall comply with (and in the case of the Supplier, shall procure that each Consultant shall comply with) the provisions of the Data Protection Legislation in relation to all Personal Data that is Processed by it in connection with this Agreement (and references in this clause to "Personal Data" shall mean Personal Data so Processed).

### **8.2 Processor obligations**

8.2.1 To the extent that the Supplier is acting as a Processor for and on behalf of the client (as the Controller) in relation to the Processing that it, or any Consultant, is carrying out arising out of, or in connection with, the Permitted Purpose, it shall, and shall ensure each Consultant shall:

(a) Process Personal Data for and on behalf of the client for the purposes of performing its obligations under this Agreement, and only in accordance with the

terms of this Agreement and any additional documented instructions from the client;;

- (b) notify the client immediately (and in any event within twenty-four (24) hours of becoming aware of the same in accordance with the process set out in clause 8.3) if it believes (or ought reasonably to have been aware) that:
  - (i) it is required by Applicable Law to act other than in accordance with the instructions of the client; or
  - (ii) any of the client's instructions under clause 8.2.1(a) infringes any of the Data Protection Legislation;
- (c) implement and maintain appropriate technical and organisational security measures which are sufficient to comply with at least the obligations imposed on the client by the Security Requirements;
- (d) ensure that:
  - (i) each Consultant and all other persons engaged or employed by the Supplier in connection with this Agreement has undergone reasonable levels of training in Data Protection Legislation and in the care and handling of Personal Data; and
  - (ii) access to the Personal Data is restricted to only those Consultants and all other persons engaged or employed by the Supplier in connection with this Agreement who require to have such access in order to discharge the Supplier's obligations under this Agreement;
- (e) take all reasonable steps to ensure the reliability and integrity of any Consultant and all other persons engaged or employed by the Supplier in connection with this Agreement who shall have access to the Personal Data, and ensure that each Consultant and all other persons engaged or employed by the Supplier in connection with this Agreement shall have entered into appropriate contractually binding confidentiality undertakings;
- (f) within thirty (30) calendar days of a request from the client, allow its data processing facilities, procedures and documentation to be submitted for scrutiny, inspection or audit by the client (and/ or its representatives, including its appointed auditors) in order to ascertain compliance with the terms of this clause 8, and provide reasonable information, assistance and co-operation to Tesco Bank, including access to relevant Consultants and all other persons engaged or employed by the Supplier in connection with this Agreement and/ or, on the request of the client, provide the client with written evidence of its compliance with the requirements of this clause 8;
- (g) not disclose Personal Data to a third party in any circumstances unless expressly permitted under this Agreement or otherwise without the client's prior written consent, save in relation to Third Party Requests. For Third Party Requests, the Supplier shall use reasonable endeavours to advise the client in advance of such disclosure, unless the Supplier is prohibited by law or regulation from notifying the client of that disclosure, in which case it shall do so as soon as practicable thereafter (where permitted by law or regulation);
- (h) notify the client promptly (and in any event within forty-eight (48) hours in accordance with the process set out in clause 8.3) following its receipt of any Data Subject Request or Regulatory Correspondence, and together with such notices, shall provide a copy of such Data Subject Request or Regulatory Correspondence and reasonable details of circumstances giving rise to it. In addition to providing the notice referred to in this clause 8.2.1(h), it shall:
  - (i) not disclose any Personal Data in response to any Data Subject Request or Regulatory Correspondence without the client's prior written consent, unless required by Applicable Law; and

(ii) provide the client with all reasonable co-operation and assistance required by the client in relation to any such Data Subject Request or Regulatory Correspondence;

(i) notify the client promptly (and in any event within twenty-four (24) hours, in accordance with the process set out in clause 8.3) upon becoming aware of any breach of the Data Protection Legislation and/or actual or suspected, threatened or 'near miss' Personal Data Breach and, together with such notice, shall provide a written description of the Data Protection Legislation breach and/or the Personal Data Breach Particulars. In addition to providing the notice referred to in this clause 8.2.1(i), it shall:

(i) implement:

(1) any measures necessary to restore the security of compromised Personal Data;

(2) any other measures reasonably requested by the client;  
and

(ii) assist the client to make any notifications to any relevant Regulator and affected Data Subjects;

(j) not make (nor instruct or permit a third party to make) a Data Transfer unless it:

(i) has first obtained the client's prior written consent (which consent may be given on such conditions as the client may in its absolute discretion dictate); and

(ii) provides, in advance of any such Data Transfer, a Data Transfer Risk Assessment to the client;

(k) except to the extent required by Applicable Law, upon the earlier of:

(i) termination or expiry of this Agreement (as applicable); and/ or

(ii) the date on which the Personal Data is no longer relevant to, or necessary for, the Permitted Purpose (which shall be assessed by reference to the client's prevailing data retention policy, as notified to the Supplier from time to time),

12

the Supplier shall cease Processing all Personal Data and return and/or permanently and securely destroy so that it is no longer retrievable (as directed in writing by the client) all Personal Data and all copies in its possession or control (and it shall provide the client with a certificate signed by one of its authorised signatories confirming it has done so);

(l) comply with the obligations imposed on a Processor under the Data Protection Legislation;  
and

(m) assist the client (in accordance with Best Industry Practice) to comply with the obligations imposed on the client by the Data Protection Legislation, including:

(i) compliance with the Security Requirements;

(ii) obligations relating to notifications required by the Data Protection Legislation to the Information Commissioner's Office and/ or any relevant Data Subjects;

(iii) maintaining a written record of the Processing activities that it carries out under this Agreement, the client's instructions referred to in clause 8.2.1(a) and all other records as the client may reasonably require and/ or which the Supplier is legally required to keep under Data Protection Legislation; and

(iv) undertaking any Data Protection Impact Assessments (and, where required by the Data Protection Legislation, consulting with the Information Commissioner's Office in respect of any such Data Protection Impact Assessments).

8.3 Any notification required under this Agreement must be sent to the dedicated mailbox, details of which will be notified to the Supplier, in a password protected file and password sent by separate email. Specific requirements are:

8.3.1 notification under clauses 8.2.1(b) and 8.2.1(h): full details to be included and contact details of Supplier representative; and

8.3.2 notification under clause 8.2.1(i): Schedule 5 to be completed in full and the Supplier must follow-up immediately with a phone call to the client's dedicated data protection notification phone line.

## 9. INTELLECTUAL PROPERTY

9.1 The Supplier warrants to the client that it has obtained from each Consultant a written and valid assignment of all existing and future Intellectual Property Rights in the Works and the Inventions and of all materials embodying such rights and a written irrevocable waiver of each Consultant's statutory moral rights in the Works, to the fullest extent permissible by law, and that each Consultant has agreed to hold on trust for the Supplier any such rights in which the legal title has not passed (or will not pass) to the Supplier. The Supplier agrees to provide to the client a copy of each assignment on request.

9.2 The Supplier hereby assigns to the client all existing and future Intellectual Property Rights in the Works and the Inventions and all materials embodying these rights to the fullest extent permitted by law. Insofar as they do not vest automatically by operation of law or under this Agreement, the Supplier holds legal title in these rights and inventions on trust for the client.

9.3 The Supplier undertakes to the client:

9.3.1 to notify to the client in writing full details of all Inventions promptly on their creation; 9.3.2 to keep confidential the details of all Inventions;

13

9.3.3 whenever requested to do so by the client and in any event on the termination of this Agreement, promptly to deliver to the client all correspondence, documents, papers and records on all media (and all copies or abstracts of them), recording or relating to any part of the Works and the process of their creation which are in its or each Consultant's possession, custody or power;

9.3.4 not to register nor attempt to register any of the Intellectual Property Rights in the Works, nor any of the Inventions, unless requested to do so by the client; and

9.3.5 to do all acts necessary to confirm that absolute title in all Intellectual Property Rights in the Works and the Inventions has passed, or will pass, to the client,

and confirms that each Consultant has given written undertakings in the same terms to the Supplier. 9.4

The Supplier warrants that:

9.4.1 it has not given and will not give permission to any third party to use any of the Works or the Inventions, nor any of the Intellectual Property Rights in the Works;

9.4.2 it is unaware of any use by any third party of any of the Works or Intellectual Property Rights in the Works; and

9.4.3 the use of the Works or the Intellectual Property Rights in the Works by the client will not infringe the rights of any third party,

and confirms that each Consultant has given written undertakings in the same terms to the Supplier.

- 9.5 The Supplier agrees to indemnify the client and keep it indemnified at all times against all or any costs, claims, damages or expenses incurred by the client, or for which the client may become liable, with respect to any intellectual property infringement claim or other Claim relating to the Works or Inventions supplied by the Supplier to the client during the course of providing the Services. The Supplier shall maintain adequate liability insurance coverage and ensure that the client's interest is noted on the policy, and shall supply a copy of the policy to the client on request. The client may at its option satisfy such indemnity (in whole or in part) by way of deduction from any payments due to the Supplier.
- 9.6 The Supplier acknowledges that no further remuneration or compensation other than that provided for in this Agreement is or may become due to the Supplier in respect of the performance of its obligations under this clause 9.
- 9.7 The Supplier undertakes to execute all documents, make all applications, give all assistance and do all acts and things, at the expense of the client and at any time either during or after the term of this Agreement, as may, in the opinion of the client, be necessary or desirable to vest the Intellectual Property Rights in, and register or obtain patents or registered designs in, the name of the client and to defend the client against claims that works embodying Intellectual Property Rights or Inventions infringe third party rights, and otherwise to protect and maintain the Intellectual Property Rights in the Works. The Supplier confirms that each Consultant has given written undertakings in the same terms to the Supplier.
- 9.8 The Supplier irrevocably appoints the client to be its attorney in its name and on its behalf to execute documents, use the Supplier's name and do all things which are necessary or desirable for the client to obtain for itself or its nominee the full benefit of this clause.

## **10. INSURANCE AND LIABILITY**

- 10.1 The Supplier shall have liability for and shall indemnify the client for any loss, liability, costs (including reasonable legal costs), damages or expenses arising from any breach by the Supplier or each Consultant of the terms of this Agreement including any negligent or reckless act, omission or default in the provision of the Services and shall accordingly maintain in force during the term of this Agreement full and comprehensive Insurance Policies.

14

- 10.2 The Supplier shall ensure that the Insurance Policies are taken out with reputable insurers acceptable to the client and that the level of cover and other terms of insurance are acceptable to and agreed by the client.
- 10.3 The Supplier shall on request supply to the client copies of the Insurance Policies and evidence that the relevant premiums have been paid.
- 10.4 The Supplier shall comply (and shall procure that each Consultant complies) with all terms and conditions of the Insurance Policies at all times. If cover under the Insurance Policies shall lapse or not be renewed or be changed in any material way or if the Supplier is aware of any reason why the cover under the Insurance Policies may lapse or not be renewed or be changed in any material way, the Supplier shall notify the client without delay.

## **11. INDEMNITIES AND LIMITATION OF LIABILITY**

- 11.1 Each party agrees to indemnify the other party against all losses damages, liability, fines, penalties, charges, costs and expenses (including professional fees) incurred by it as a result of any action, demand or Claim incurred by the other party:

11.1.1 by reason of a breach by the indemnifying party of:

(a) clause 7 (Confidential Information and the client Property);

(b) clause 8 (Data Protection);

(c) clause 9 (Intellectual Property); and

(d) clause 15 (Status); and

11.1.2 for any fraudulent act or omission by the indemnifying party during the term of this Agreement.

- 11.2 Neither the client nor the Supplier will be liable to each other regarding this Agreement for any indirect, special or consequential loss or damages whether caused by breach of contract or tort (including

negligence or breach of statutory duty) or arising in any other way. .

11.3 In the event of breach of this Agreement by the Supplier the following shall be considered as direct losses flowing from that breach:

11.3.1 reasonable costs of reconstructing or reloading the client Data which has been lost or rendered corrupt as a direct result of a breach by the Supplier and/or any Consultant of this Agreement that would not have been incurred but for a failure to back up in accordance with standard industry practice;

11.3.2 costs and expenses of the client reasonably and necessarily incurred in connection with migrating the Services back to the client or procuring replacement services;

11.3.3 additional administrative or management costs incurred by the client as a result of that breach of the Agreement by the Supplier and/or any Consultant;

11.3.4 any fine or penalty paid or incurred by the client arising from a breach of any Applicable Law that has been caused by or arisen out of that breach of this Agreement by the Supplier and/or any Consultant; and

11.3.5 costs of implementing a reasonably necessary temporary workaround to correct a breach by the Supplier and/or any Consultant of this Agreement that the Supplier fails to promptly remedy;

but the terms of this clause 11.3 shall not be considered an exhaustive list of direct losses recoverable by the client.

15

11.4 Subject to clauses 11.2 and 11.5, the total liability of:

11.4.1 the Supplier shall not exceed 300% of the total Fees paid and/or payable by the client in the preceding twelve (12) month period.; and.

11.4.2 the client shall not exceed 300% of the total Fees paid and / or payable in the preceding twelve (12) month period (provided that this limitation shall not apply to the Fees (and VAT and interest thereon) due and payable by the client to the Supplier under this Agreement).

11.5 The limits and exclusions of liability set out in clauses 11.2 and 11.4 do not apply to: 11.5.1

the liability of either party under the indemnities granted under clause 11.1;

11.5.2 the liability of the Supplier under the indemnity granted by the Supplier at clause 10.1;

11.5.3 liability for death or personal injury caused by a party's negligence or that of its employees or agents;

11.5.4 loss caused by fraud or fraudulent misrepresentation; and

11.5.5 any loss which by law cannot be excluded or limited.

11.6 Subject to clauses 11.7 and 11.8, in the event that either Party (the "**Indemnified Party**") receives notice of any Claim, it shall:

11.6.1 notify the other Party (the "**Indemnifying Party**") in writing as soon as reasonably practicable;

11.6.2 not make any admission of liability or agree any settlement or compromise of the Claim without the prior written consent of the Indemnifying Party (such consent not to be unreasonably withheld or delayed);

11.6.3 let the Indemnifying Party at its request and own expense have the conduct of or settle all negotiations and litigation arising from the Claim at its sole discretion provided that if the Indemnifying Party fails to conduct the Claim in a timely or proper manner the Indemnified Party may conduct the Claim at the expense of the Indemnifying Party;

11.6.4 take all reasonable steps to minimise the losses that may be incurred by it or by any third party as a result of the Claim; and

11.6.5 provide the Indemnifying Party with all reasonable assistance in relation to the Claim (at the expense of the Indemnifying Party) including the provision of prompt access to any relevant premises, officers, employees, contractors or agents of Indemnified Party.

11.7 The Supplier will only be permitted to conduct and/or settle the negotiations or litigation (excluding any application or threat of an application for an interim order/application against the client) where and for so long as:

11.7.1 the client, acting reasonably, is satisfied that the Supplier has sufficient financial and other resources to both defend the Claim and fulfil the indemnity in clause 11.1;

11.7.2 the Supplier takes over the conduct of the negotiations or litigation within a reasonable time after becoming aware of the Claim in question and thereafter diligently pursues the negotiations or litigation; and

11.7.3 the client, acting reasonably, is satisfied that the Supplier's conduct of the negotiations or litigation will not damage the reputation of the client.

16

11.8 Notwithstanding clauses 11.6 and 11.7, the client may elect to retain control over any Claim made against it. In the event that the client makes such an election, its remedy against the Supplier will be in damages rather than on an indemnity basis. If the client requests, the Supplier will give reasonable assistance with any negotiations or litigation at the Supplier's cost, including the provision of information relevant to the Claim and access to relevant staff to take witness statements. If Tesco Bank is conducting the defence of the Claim against the client and the Supplier is also defending a Claim from the same claimant relating to the same matter, the client will, if requested by the Supplier, apply to the court for a stay / stay of the Claim against the client pending resolution of the Claim against the Supplier.

## 12. RECORD RETENTION AND AUDIT

12.1 The client will be allowed to inspect and observe the work being carried out by the Supplier in providing the Services at reasonable intervals, with reasonable notice and during the Supplier's normal working hours.

12.2 The Supplier will maintain full and accurate records relating to the provision of the Services to Tesco Bank and otherwise to the Supplier's performance of any of its obligations under this Agreement, including records and all systems, policies, processes, equipment and materials relevant to the provision of the Services and of security control compliance (the "**Supplier's Contract Records**").

12.3 The Supplier will permit the client to inspect and audit: (a) the Supplier's Contract Records; (b) other relevant data relating to the performance of the Services, including any reports provided by the Supplier's internal auditors; and (c) the Supplier's processes, systems and controls all for the purposes of monitoring and checking the Supplier's compliance with this Agreement, auditing the Supplier's information security arrangements and otherwise for complying with the client's internal and external audit requirements (each an "inspection").

12.4 The Supplier will permit the client to take such copies of the Supplier's Contract Records and other relevant data relating to the Agreement as the client reasonably requires in connection with the purpose of its inspection. The Supplier will otherwise cooperate with the client to facilitate the successful conduct of such inspection, including by:

12.4.1 ensuring that relevant members of the Supplier's staff and where relevant, the Supplier's external auditors, are available to explain the Supplier's Contract Records and otherwise to answer any questions raised by the client; and

12.4.2 providing reasonable access to premises and equipment and materials used to provide the Services.

12.5 The Supplier's obligation under this clause 12 to maintain records and the client's rights under this clause 12 to have access to those records, will continue for the duration of the Agreement, and for a period of six (6) years following the expiry or other termination of this Agreement.

12.6 The restrictions on the frequency with which the client may exercise any of its rights under this clause and the notice requirements for the exercise of any such rights will not apply (i) in any case where the requirements of a Regulator oblige the client to exercise any of those rights sooner or more frequently

than this clause would otherwise allow, (ii) where the client (acting reasonably) deems the relevant circumstances giving rise to a need to exercise those rights to be an emergency or crisis, or (iii) where providing such notice would otherwise jeopardise the objective of the audit and inspection.

12.7 Any rights granted to the client in terms of this clause 12 may be exercised by the client itself and/or by the client's internal and external auditors or other professional advisers on its behalf and/or by any Regulator and the relevant provisions of this clause will be interpreted accordingly.

12.8 the client will exercise the rights set out in this clause 12 at its own cost, except in any case where such exercise reveals a breach by the Supplier or any Consultant of this Agreement, in which case the Supplier will pay the client's costs in respect of such exercise, subject to limitations detailed in clause 11.3.

17

12.9 At the client's request, the Supplier will make all reasonable changes required by, and take any other action necessitated by, any inspection. If the action comprises the correction of a defect in the Services or the manner in which the Services are provided (including any additional controls required to comply with the the client Pre-employment Screening Policy or Information Security Minimum Standards for Third Party Suppliers), the Supplier will implement the action at its own cost.

12.10 Any inspection or audit, or failure to inspect or audit, shall not in any way relieve the Supplier from its obligations under this Agreement.

### **13. TERMINATION**

13.1 the client may terminate:

13.1.1 this Agreement by giving not less than ninety (90) days' written notice to the Supplier at any time; and

13.1.2 any Statement of Work upon written notice to the Supplier at any time and, if it does so, shall pay for all Services provided prior to the date of termination, on a pro-rata basis where necessary. Notice under this clause 13.1.2 shall be effective immediately unless the relevant Statement of Work provides to the contrary.

13.2 The Supplier may terminate this Agreement by giving not less than six (6) months' notice to Tesco Bank at any time.

13.3 the client may terminate this Agreement and any and all Statements of Work:

13.3.1 immediately upon giving written notice to the Supplier, if the Supplier materially breaches this Agreement or the terms of a particular Statement of Work, except that where such breach is capable of being remedied, this Agreement may only be terminated where the Supplier has failed to remedy the breach within thirty (30) days of receipt of written notice of the breach. Notwithstanding the foregoing, this Agreement and / or any Statement of Work can be terminated immediately where any breach of this Agreement or any Statement of Work is persistent. A breach of this Agreement or any Statement of Work will be deemed persistent where the Supplier has already been asked to remedy the breach but it has recurred not less than three (3) further times in any continuous period of six (6) months;

13.3.2 in accordance with clause 3.10;

13.3.3 immediately upon giving written notice to the Supplier, if the Supplier is in breach of Applicable Law;

13.3.4 immediately upon giving written notice to the Supplier where impediments reasonably capable of impacting upon the Supplier's ability to provide the Services are identified, including where such impediments have been identified by the Supplier and notified to the client in accordance with clause 3.14;

13.3.5 immediately if the Supplier loses (or is expected to lose) any authorisation, licence, and/or permission that it requires in connection with the performance of its obligations under this Agreement;

13.3.6 in circumstances in which termination is necessary for the purposes of meeting the requirements from time to time of a Regulator, or where continuing with this Agreement would cause the client to breach its regulatory obligations. If such circumstances arise, termination may be effected immediately, or within such period of time as the requirements of the Regulator permit by giving written notice to the Supplier to that effect;

18

13.3.7 immediately upon giving written notice to the Supplier, if the client, acting reasonably, determines that the acts or omissions of the Supplier may materially damage or impair the reputation of the Tesco Group, including:

(a) any unacceptable behaviour of any Supplier personnel and/or Consultant;

(b) any Supplier breach of this Agreement resulting in any adverse news media report,

save in each case to the extent that the Supplier's breach was committed at the express direction of the client.

13.3.8 immediately or within such period of time as the client considers reasonably necessary by giving written notice to the Supplier if the client becomes aware that there had been a Change of Control or a Substantial Disposal provided that the client will not be entitled to terminate this Agreement or a Statement of Work under this clause 13.3.5 where the Change of Control or Substantial Disposal has been approved by the client in advance in writing and, for this purpose, the Supplier will notify the client in writing immediately on becoming aware that any such Change of Control or Substantial Disposal has taken or is due to take place;

13.3.9 immediately or within such period of time as the client considers reasonably necessary by giving written notice to the Supplier if the Supplier suffers any event or series of events which, in the opinion of the client, has or could reasonably be expected to have a Material Adverse Effect;

13.3.10 immediately upon giving written notice to the Supplier, where there are any material changes to the way in which the Supplier provides the Services or where there are material changes to the Supplier itself. Such material changes may include, but shall not be limited to, sub-outsourcing of the Services or any part thereof, or a change of sub-contractors used by the Supplier to provide the Services; and

13.3.11 immediately upon giving written notice to the Supplier, if the Supplier:

(a) ceases trading, admits that it is, becomes or is declared unable to pay its debts as they fall due within the meaning given by Section 123 of the Insolvency Act 1986, becomes or is declared insolvent, has a liquidator, receiver or administrative receiver ("**Insolvency Practitioner**") appointed or passes a resolution for winding up (otherwise than for the purpose of a scheme of solvent amalgamation or reconstruction where the resulting entity is at least as credit worthy as the Supplier and assumes all the obligations of the Supplier under this Agreement and all Statements of Work entered into hereunder) or if a court having proper authority makes an order to that effect; or

(b) enters into administration, is the subject of an administration order or proposes to or enters into any voluntary arrangement or scheme of arrangement with its creditors; or

(c) is the subject of any enforcement of security, or execution, distraint, sequestration or similar action over any of its assets by any creditor; or

(d) is the subject of the taking of any step by itself towards any of the events or procedures in clauses 13.3.11(a) to 13.3.11(c); or

(e) is the subject of any similar event or steps in any jurisdiction outside the United Kingdom which is analogous with any of the events or procedures in clauses 13.3.11(a) to 13.3.11(c);

13.4 The rights of the client under this clause 13 are without prejudice to any other rights that it might have at law to terminate this Agreement or any individual Statement of Work or to accept any breach of this Agreement on the part of the Supplier as having brought the Agreement to an end. Any delay by the client in exercising its rights to terminate shall not constitute a waiver of these rights.

13.5 Subject to clause 16.1.4, this Agreement and / or any Statement of Work may be terminated immediately by the Supplier if:

13.5.1 immediately upon giving written notice to the client, if the client materially breaches this Agreement or the terms of a particular Statement of Work, except that where such breach is capable of being remedied, this Agreement may only be terminated where Tesco Bank has failed to remedy the breach within thirty (30) days of receipt of written notice of the breach.

13.5.2 there are any Overdue Fees and the Supplier sends a written notice to the client notifying it of such Overdue Fees, and requesting payment of such Overdue Fees within thirty (30) days of receipt of such notice by the client;

13.5.3 the relevant Overdue Fees remain unpaid after expiration of the thirty (30) day period referred to in clause 13.5.2;

13.5.4 following expiry of the notice referred to in clause 13.5.2, the Supplier sends a second written notice to the client, notifying the client that the relevant Overdue Fees remain outstanding and that the Supplier intends to terminate this Agreement in accordance with this clause 13.5 if the relevant Overdue Fees are not paid within a further thirty (30) days of receipt of such second written notice by the client; and

13.5.5 the relevant Overdue Fees remain unpaid after expiration of the second thirty (30) day period referred to in clause 13.5.4.

13.6 The parties acknowledge that any breach by either party of clauses 7 or 8 or any failure by the Supplier to comply with the terms of the client's Information Security Minimum Standards for Third Party Suppliers shall, for the purposes of clause 13.3.1, be deemed to be a material breach which is not capable of remedy.

13.7 Termination or expiry of this Agreement shall be without prejudice to the rights of either party. For the avoidance of doubt, any provision of this Agreement which expressly or by implication is to continue beyond termination of this Agreement shall not be affected by termination and shall survive termination of this Agreement.

#### **14. OBLIGATIONS ON TERMINATION**

14.1 On the Termination Date the Supplier shall, and shall procure that each Consultant shall:

14.1.1 immediately deliver to the client all the client Property and original Confidential Information which is in its or his possession or under its or his control;

14.1.2 irretrievably delete any information relating to the Business of the client or any Group Company which is in its or his possession or under its or his control outside the premises of the client. For the avoidance of doubt, the contact details of business contacts made in the course of providing the Services are regarded as Confidential Information, and as such, must be deleted from personal social or professional networking accounts;

14.1.3 provide a signed statement that it or he has complied fully with its or his obligations under this clause 14, together with such evidence of compliance as the client may reasonably request; and

14.1.4 co-operate with the client in good faith in order to comply with the Exit Plan for an orderly wind-down of the parties' obligations under this Agreement including the continuing provision of the Services for an appropriate period following the termination of this

Agreement or the termination or expiry of the relevant Statement of Work. Notwithstanding the existence of an Exit Plan, the Supplier will in any case provide the client and any new supplier (where applicable) with exit support as requested by the client (acting reasonably) from time to time.

14.2 The obligations of the Supplier under clause 14.1 above shall apply to and be binding upon any Insolvency Practitioner appointed following the occurrence of an Insolvency Event and in such circumstances, the client shall indemnify the Insolvency Practitioner and/or the Supplier in respect of any reasonable costs and expenses incurred by the Insolvency Practitioner and/or the Supplier in complying with such obligations.

## 15. STATUS

15.1 The relationship of the Supplier (and each Consultant) to the client will be that of independent contractor and nothing in this Agreement shall render it (nor any Consultant) an employee, worker, agent or partner of the client and the Supplier shall not hold itself out as such and shall procure that no Consultant shall hold himself out as such.

15.2 This Agreement constitutes a contract for the provision of services and not a contract of employment and accordingly the Supplier shall be fully responsible for and shall indemnify the client for and in respect of:

15.2.1 any income tax, National Insurance and social security contributions and any other liability, deduction, contribution, assessment or claim arising from or made in connection with either the performance of the Services or any payment or benefit received by any Consultant in respect of the Services, where such recovery is not prohibited by law. The Supplier shall further indemnify the client against all reasonable costs, expenses and any penalty, fine or interest incurred or payable by the client in connection with or in consequence of any such liability, deduction, contribution, assessment or claim;

15.2.2 any liability arising from any employment-related claim or any claim based on worker status (including reasonable costs and expenses) brought by any Consultant against the client arising out of or in connection with the provision of the Services.

15.3 the client may at its option satisfy such indemnity (in whole or in part) by way of deduction from payments due to the Supplier.

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

## 16. RECOVERY AND RESOLUTION

### Event

16.1 If the client was, immediately prior to the Event Date, entitled to receive Services pursuant to this Agreement and/or receive any other benefit of this Agreement (as applicable) (the "Supply") and is subject to an Event, then the Supplier shall:

16.1.1 provide all assistance and services required by the client (or the Resolution Authority) to give effect to and assist in the continuation of the supply of all or part of the relevant Services and any other benefit of this Agreement which the client was receiving prior to the Event on the same terms and conditions (including the Fees) as applicable immediately prior to the Event Date. the client shall pay the Supplier for its reasonable costs in providing such assistance and services to the extent they are outside of the scope of the Services;

16.1.2 not terminate any Supply provided pursuant to this Agreement:

(a) unless the Resolution Authority consents to the termination; or

21

(b) unless the Supplier has the permission of a court of competent jurisdiction; or

(c) unless such termination is in accordance with clause 16.1.4;

16.1.3 not during the period of ninety (90) days commencing from the Event Date make it a condition of any Supply provided pursuant to this Agreement, or do anything which has the effect of

making it a condition of any Supply provided pursuant to this Agreement, that any Fees for the provision of the relevant Supply before the Event Date, are paid;

16.1.4 not exercise any contractual right to terminate this Agreement during the period of ninety (90) days commencing on the Event Date regardless of whether such right to terminate:

(a) has arisen but has not been exercised prior to the Event Date; or

(b) arises during the period of 60 days commencing from the Event Date.

Any failure to pay Fees for any relevant Supply provided during the period of ninety (90) days commencing from the Event Date shall count towards the Supplier's rights under clause 13.5 of this Agreement which shall, if the right to terminate has arisen, be exercisable on or after the expiry of the period of ninety (90) days commencing from the Event Date; and

16.1.5 ensure continuity of the supply of all or part of the relevant Services which the client was receiving prior to the Event for no less than twenty-four (24) months commencing on the Event Date except where a contractual right to terminate this Agreement under clause 13 of this Agreement has arisen for the Supplier during this period and if so, provided such right is only exercised in accordance with clause 16.1.4. This clause 16.1.5 shall not give the Supplier a contractual right to cease supply of the Services following the expiry of such twenty-four (24) month period if such right does not already exist under this Agreement.

16.2 The Resolution Authority shall be entitled to enforce this Agreement or part of it (as applicable) on behalf of the client, and the Supplier and each Affiliate of the Supplier shall act upon directions and instructions, including those instructions to enable the Resolution Authority to exercise its powers under Articles 68 and 71 of the BRRD, given by the Resolution Authority, as if the Resolution Authority were the client and those directions or instructions were given to the Supplier or the relevant Affiliate of the Supplier by the client.

### **Event Disposal**

16.3 If the client is subject to an Event and where directed by the client (pursuant to the direction of any Resolution Authority) or any Resolution Authority, the client shall be entitled to, without the consent of the Supplier, novate or transfer its rights and obligations under this Agreement to any new controlling party or transferee (as applicable) of the client, unless such controlling party or transferee does not have sufficient scope of permissions required under Part 4A of the Financial Services and Markets Act 2000 to operate the client or the the client Business area. For the avoidance of doubt the new controlling party or transferee may be a "bridge bank" to which the Resolution Authority has directed this Agreement be novated or transferred or a third party purchaser. This Agreement shall be treated as having been originally entered into between the Supplier and any new controlling party or transferee (as applicable) of the client. The Supplier will enter into and execute any documentation required by the client or any Resolution Authority and any such transferee for the purpose of novating or transferring this Agreement and otherwise for giving effect to such novation or transfer. The Supplier acknowledges that following the completion of such novation or transfer the transferee shall be entitled to exercise any of its rights set out in this clause 16 and clause 17.

16.4 If managing an Event involves a transfer of a the client Business to an Event Recipient, the terms of clause 17 shall apply.

## **17. DIVESTMENT**

17.1 If the client sells, transfers or otherwise disposes, including as a result of an Event, any member of the Tesco Group or any business unit or division that is directly receiving the benefit of the Services (the "**Divested Business**") at the date of the sale or disposal ("**Disposal Date**") to an entity which is not and is not intended to become a member of Tesco Group ("**Disposal Recipient**"), the following provisions shall apply:

17.1.1 the Supplier shall promptly on notification by the client (or the Resolution Authority), provide all assistance and services (including signing all documents) required by Tesco Bank (or the Resolution Authority) to give effect to and assist in the supply of all or part of the relevant Services and any other benefit of this Agreement which the Divested Business was receiving

prior to the Disposal Date on the same terms and conditions (including the Fees) as applicable immediately prior to the Disposal Date. the client shall pay the Supplier for its reasonable costs in providing such assistance and services to the extent they are outside of the scope of the Services;

17.1.2 the Disposal Recipient shall be entitled to continue to receive the Services and the benefit of this Agreement on the same terms and conditions (including the Fees) as applicable immediately prior to the Disposal Date including the provisions of this Agreement intended for the benefit of any member of the Tesco Group;

17.1.3 the Supplier shall:

- (a) provide such services to the Disposal Recipient for a minimum of twenty-four (24) months following the Disposal Date under this clause 17; or
- (b) enter a separate agreement with the Disposal Recipient for a minimum of twenty four (24) months following the date of disposal on the same terms (including as to the Fees to the extent relevant to the services to be provided to the Disposal Recipient) as the terms under which the Services were supplied to the Divested Business immediately prior to divestment.

17.2 Unless otherwise agreed, the client shall continue to be liable under clause 17.1.3(a) only: 17.2.1 to pay the Fees, including in respect of the Disposal Recipient; and

17.2.2 subject to any provisions in this Agreement excluding or limiting its liability, for any act or omission of any Disposal Recipient that would have given rise to liability on the part of the client under this Agreement had that act or omission been undertaken or omitted by the client,

in each case, in respect of the period from the date on which the transfer of the Divested Business to the Disposal Recipient completes for as long as the Disposal Recipient continues to receive such Services in respect of the Divested Business under this Agreement or until the Disposal Recipient enters into a separate agreement with the Supplier.

17.3 No member of the Tesco Group shall bear any liability in respect of the continuing provision of any services to a Disposal Recipient after the Divested Business has ceased to be a member of the Tesco Group, and such divestment and the resulting amendments to this Agreement will not affect the liability of the Supplier to the remaining members of the Tesco Group under this Agreement.

17.4 In the event that:

17.4.1 the Disposal Recipient does not require certain Services to be provided by the Supplier which were previously provided to the client under this Agreement, the Supplier shall cease providing the relevant Services or parts of them to the Disposal Recipient and in which case the Fees will be adjusted downwards to take account of the removal of Services;

23

17.4.2 the Disposal Recipient enters a separate agreement with the Supplier, the Supplier shall cease to provide the relevant Services or parts of them to the client in which case the Fees will be adjusted downwards to take account of the removal of Services,

and in each case the Parties will amend this Agreement as necessary to reflect the removal of the Services and/or the Divested Business from its scope.

17.5 In order to achieve the efficient and effective transition of the Divested Business to a Disposal Recipient or an alternative supplier, the Supplier shall provide all assistance and services reasonably requested by the client with respect to such transition, which shall include such assistance as the client (or the Resolution Authority) may consider to be appropriate in the circumstances.

17.6 In accordance with clause 7 of this Agreement, the parties may disclose to any Disposal Recipient any confidential information which relates to the performance of the Services by the Supplier, to the extent necessary for the Disposal Recipient to use or receive the services identical or similar to the Services.

## 18. NOTICES

18.1 Any notice given to a party under or in connection with this Agreement shall be in writing and shall be delivered by hand or by pre-paid first-class post or other next working day delivery service at its registered office.

18.2 Any notice shall be deemed to have been received:

18.2.1 if delivered by hand, on signature of a delivery receipt or at the time the notice is left at the proper address;

18.2.2 if sent by pre-paid first-class post or other next working day delivery service, at 9.00 am on the second Business Day after posting; or

18.2.3 if sent by recorded mail or courier at the time recorded by the delivery service.

18.3 This clause 18 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.

## **19. ENTIRE AGREEMENT**

19.1 This Agreement constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.

19.2 Each party acknowledges that in entering into this Agreement it does not rely on, and shall have no remedies in respect of, any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in this Agreement.

19.3 Each party agrees that it shall have no claim for innocent or negligent misrepresentation based on any statement in this Agreement.

19.4 Nothing in this clause shall limit or exclude any liability for fraud.

## **20. ASSIGNMENT AND SUB-CONTRACTING**

20.1 the client may but the Supplier may not (without the prior written consent of the client) assign, novate or otherwise transfer or sub-contract or otherwise deal in any of its rights and/or obligations under this Agreement, whether in whole or in part. The Supplier shall ensure that all subcontractors comply in full with this Agreement, including clause 8. The Supplier will be responsible for any acts, or failures to act, of its permitted sub-contractors as if they were the Supplier's acts or failures to act.

24

20.2 Subject to and if authorised in writing by the client in accordance with this clause 20, the Supplier is only permitted to appoint sub-contractors on terms that:

20.2.1 each sub-contractor shall be subject to a legally binding written contract containing obligations no less onerous than those imposed on the Supplier under this Agreement;

20.2.2 the sub-contractor shall not be permitted to assign any part of the sub-contract, or create further sub-contracts in respect of the Services;

20.2.3 the client shall be entitled to the same rights of access to and audit of any sub-contractor as provided in clause 12 of this Agreement;

20.2.4 the full and prompt performance by each sub-contractor of all its obligations shall be unconditionally and irrevocably guaranteed by the sub-contracting party as principal obligor and not merely as surety; and

20.2.5 without prejudice to this clause 20, the Supplier shall notify the client of and furnish to the client full particulars of any sub-contract arrangement at least thirty (30) days prior to entering into the same.

20.3 When appointing a sub-contractor, the Supplier:

- 20.3.1 undertakes to procure that that the sub-contractor shall comply with all of the obligations of the Supplier under this Agreement as though references to the Supplier were references to the sub-contractor;
- 20.3.2 warrants that it shall remain responsible for the acts or omissions of the sub-contractor as if they were acts or omissions of the Supplier;
- 20.3.3 undertakes to obtain the written consent of the client before changes are made to its sub-contractors;
- 20.3.4 agrees to provide copies of any agreements in place with any sub-contractor upon request of the client;
- 20.3.5 undertakes to procure that that sub-contractor is managed within a robust management framework (on request from the client, the Supplier shall provide the client with such details of that management framework as the client may reasonably request); and
- 20.3.6 undertakes to procure that that sub-contractor provides details of any data belonging to the client stored in the cloud.

20.4 The Supplier shall not subcontract any Processing of Personal Data or Confidential Information to a subcontractor unless the subcontractor's Processing is carried out under a written contract imposing on the subcontractor equivalent obligations as are imposed on the Supplier under this Agreement in respect of the Processing and protection of Personal Data and Confidential Information.

20.5 Breach of this clause 20 by the Supplier shall be deemed to be a material breach of this Agreement. **21.**

#### **VARIATION**

No variation of this Agreement shall be effective unless it is in writing and signed by the parties (or their authorised representatives).

#### **22. COUNTERPARTS**

This Agreement may be executed in any number of counterparts, each of which, when executed, shall constitute a duplicate original, but all the counterparts shall together constitute the one agreement.

#### **23. THIRD PARTY RIGHTS**

23.1 Except as expressly provided elsewhere in this Agreement, a person who is not a party to this Agreement shall not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Agreement.

23.2 The rights of the parties to terminate, rescind or agree any variation, waiver or settlement under this Agreement are not subject to the consent of any other person.

#### **24. GOVERNING LAW**

This 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 governed by and construed in accordance with the law of England and Wales.

#### **25. JURISDICTION**

Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this Agreement or its subject matter or formation (including non-contractual disputes or claims).

**IN WITNESS WHEREOF** this Agreement has been signed as follows:

Signed by Gareth McGuinness

.....

Director of Infrastructure

for and on behalf of Tesco Personal Finance PLC

Signed by Kevin Ryan

.....

Director

for and on behalf of the **Supplier**

### Statement of Work Template

This Statement of Work has been agreed in accordance with and incorporates the provisions of the Consultancy Agreement between Tesco Personal Finance PLC and [Insert Supplier Name] dated [Insert Date] (the "Agreement").

**Statement of Work: [Insert Title]**

<b>Start Date</b>	
<b>Completion Date</b>	
<b>Consultants</b>	
<b>Number of Consultant Days</b>	
<b>Fees</b>	
<b>Service Description</b>	(eg. what does the service do? What are the unique features? What is the activity? Who does it? When is it done? How is it done?)
<b>Timescales and Key Milestones</b>	(eg. when do you want the services to commence/complete? What happens if timescale missed? Service credits, material breach, termination?)
<b>Service Levels &amp; Key Performance Indicators</b>	(Inc. deliverables & quality & severity levels. Defines in quantitative and qualitative terms the service. Any metrics included should be capable of being measured on a regular basis. Should include service hours, service availability, customer support levels, throughputs and responsiveness, restrictions and functionality)
<b>Service Credits</b>	
<b>Deliverables</b>	(eg. what is the Supplier producing for you? IP Deliverables to be included. Any acceptance testing? . If not applicable then state this)
<b>Data transfers (inc. Customer Personal Data)</b>	(eg. any data to be shared with Supplier? Has the proposed transfer gone through governance? Has the transfer been added to the departmental data transfer register? What is the data retention period?) If not applicable then state this.
<b>MI Requirements</b>	(detail here any reports and management information, timescales and content)
<b>Exit Plan</b>	(if required then include an exit plan here)

**IN WITNESS WHEREOF** this Statement of Work has been signed as follows:

Signed by [insert full name of director/authorised signatory]

.....

[Director OR Authorised signatory]

for and on behalf of Tesco Personal Finance PLC

Signed by [insert full name of director/authorised signatory]

.....

[Director OR Authorised signatory]

for and on behalf of the **Supplier**

## Schedule 2 Fees

The Fees for the Services shall be calculated in accordance with this Schedule 2 (Fees) and shall be set out in each individual Statement of Work.

### 1. Pre-Paid Provision

the client shall pre-pay the Supplier for [insert number] days of Consultant time (the “**Consultant Days**”) following the Commencement Date on the following basis:

Item	Number of Days	Standard Day Rate	Standard Total	Discounted Day Rate (exc. VAT)	Discounted Total (exc. VAT)
Consultant Days (pre-paid)					

the client shall draw down usage of Consultant Days, such usage to be captured via individual Statements of Work, setting out the Services to be delivered and the number of pre-paid Consultant Days to be consumed. The parties shall track and monitor, on a monthly basis, usage consumed against the pre-paid provision.

A minimum of 90% of Consultant Days are to be used within each 12 month period (commencing on the Commencement Date or any anniversary of the Commencement Date), with any remainder to be carried forward to the next 12 month period.

### 2. Consultant Day Rates (ongoing)

For Consultant Days required in excess of the pre-paid provision in Section 1 of this Schedule 2, the following discounted Day Rates shall apply (where the initial pre-payment counts toward the volume triggering the next discount level):

Item	Volume Band	Standard Day Rate (exc. VAT)	Discounted Day Rate (exc. VAT)
Consultant Days	200 to 250		
Consultant Days	251 to 300		
Consultant Days	301 to 350		
Consultant Days	351 to 400		
Consultant Days	400 and above		

The rate in the Discounted Day Rate column above shall apply to any Consultant Days requested by Tesco Bank in excess of the pre-paid provision and shall be set out in the applicable Statement of Work. The volume of Consultant Days consumed by the client shall be cumulative, so that the volumes incurred under each individual Statement of Work shall be added together to count towards the applicable volume band, with the appropriate Discounted Day Rate being applied as the client moves up through the volumes.

The Parties shall monitor the cumulative Consultant Days incurred on a monthly basis so that the correct

Discounted Day Rate gets applied for each new Statement of Work.

The Fees shall be fixed for the term of this Agreement.

Expenses are not included in the Day Rates set out above and shall be incurred in accordance with the terms of this Agreement.

**Data Processing Particulars**

<b>The subject matter and duration of the Processing</b>	
<b>The nature and purpose of the Processing</b>	
<b>The type of Personal Data being Processed</b>	
<b>The categories of Data Subjects</b>	
<b>Sub-processor details (if applicable)</b>	

**Data Transfer Risk Assessment**

The following form is to be completed by the Supplier and returned to the client where it plans to make a Data Transfer in accordance with Clause 8.2.1(j):

<b>Description of the Personal Data which will be transferred/ accessed:</b>	
--	--

<p><b>Restricted Country or Countries that the Personal Data will be transferred to or accessed from:</b></p>	
<p><b>Description of the means by which the Supplier will ensure the Personal Data is appropriately protected (e.g. EU Model Clauses):</b></p>	
<p><b>Evidence to show that the Supplier has considered the Data Protection Legislation in connection with the transfer of the Personal Data to the Restricted Countries noted:</b></p>	

**Data Breach Details**

<p>The nature of the personal data breach</p>	
<p>The categories and approximate number of individuals concerned</p>	
<p>The categories and approximate number of personal data records concerned</p>	
<p>The name and contact details of the data protection officer (if your organisation has one) or other contact point where more information can be obtained</p>	
<p>A description of the likely consequences of the personal data breach</p>	
<p>A description of the measures taken, or proposed to be taken, to deal with the personal data breach and, where appropriate, of the measures taken to mitigate any possible adverse effects</p>	

## Certificate Of Completion

Envelope Id: 302F0E8B39B94BF2BE09DFBC3CFC1F68 Status: Completed Subject: Please DocuSign: Consultancy Agreement Openbox v2.docx  
Source Envelope:  
Document Pages: 36 Signatures: 2 Envelope Originator: Certificate Pages: 5 Initials: 0 Lorna McAndie  
AutoNav: Enabled  
Envelope Stamping: Enabled  
Time Zone: (UTC) Dublin, Edinburgh, Lisbon, London **Record Tracking**

Maldon Building, Shire Park  
Kestrel Way  
Welwyn Garden City, Hertfordshire AL7 1GA lorna.mcandie@tescobank.com  
IP Address: 90.200.167.168

Status: Original  
5/14/2021 8:40:31 AM  
Holder: Lorna McAndie  
lorna.mcandie@tescobank.com  
Location: DocuSign

## Signer Events Signature Timestamp

Gareth McGuinness  
Gareth.McGuinness@tescobank.com  
Head of Infra  
Security Level: Email, Account Authentication  
(None) Signature Adoption: Pre-selected Style Using IP Address: 176.251.129.36

**Electronic Record and Signature Disclosure:**  
Accepted: 5/14/2021 11:48:16 AM  
ID: d8e59ae5-a6ea-4337-949d-56fb48bbdd03

Kevin Ryan  
kevin@opnxb.co.uk  
Security Level: Email, Account Authentication  
(None)  
Signature Adoption: Drawn on Device  
Using IP Address: 212.36.59.218

**Electronic Record and Signature Disclosure:**  
Accepted: 5/14/2021 11:54:06 AM  
ID: aa93da47-6c9f-4ea1-829f-5036d0b73356  
Sent: 5/14/2021 8:42:37 AM Viewed: 5/14/2021 11:48:16 AM Signed: 5/14/2021 11:48:48 AM

Sent: 5/14/2021 11:48:49 AM Viewed: 5/14/2021 11:54:06 AM Signed: 5/14/2021 11:55:40 AM

**In Person Signer Events Signature Timestamp Editor Delivery Events Status Timestamp Agent  
Delivery Events Status Timestamp Intermediary Delivery Events Status Timestamp Certified  
Delivery Events Status Timestamp Carbon Copy Events Status Timestamp Witness Events  
Signature Timestamp Notary Events Signature Timestamp**

**Envelope Summary Events Status Timestamps** Envelope Sent Hashed/Encrypted 5/14/2021 8:42:37 AM

**Envelope Summary Events Status Timestamps** Certified Delivered Security Checked 5/14/2021 11:54:06 AM

## **Payment Events Status Timestamps Electronic Record and Signature Disclosure**

Electronic Record and Signature Disclosure created on: 5/1/2016 11:54:28 AM

Parties agreed to: Gareth McGuinness, Kevin Ryan

### **ELECTRONIC RECORD AND SIGNATURE DISCLOSURE**

From time to time, Tesco Stores Ltd (we, us or Company) may be required by law to provide to you certain written notices or disclosures. Described below are the terms and conditions for providing to you such notices and disclosures electronically through your DocuSign, Inc. (DocuSign) Express user account. Please read the information below carefully and thoroughly, and if you can access this information electronically to your satisfaction and agree to these terms and conditions, please confirm your agreement by clicking the 'I agree' button at the bottom of this document.

#### **Getting paper copies**

At any time, you may request from us a paper copy of any record provided or made available electronically to you by us. For such copies, as long as you are an authorized user of the DocuSign system you will have the ability to download and print any documents we send to you through your DocuSign user account for a limited period of time (usually 30 days) after such documents are first sent to you. After such time, if you wish for us to send you paper copies of any such documents from our office to you, you will be charged a \$0.00 per-page fee. You may request delivery of such paper copies from us by following the procedure described below.

#### **Withdrawing your consent**

If you decide to receive notices and disclosures from us electronically, you may at any time change your mind and tell us that thereafter you want to receive required notices and disclosures only in paper format. How you must inform us of your decision to receive future notices and disclosure in paper format and withdraw your consent to receive notices and disclosures electronically is described below.

#### **Consequences of changing your mind**

If you elect to receive required notices and disclosures only in paper format, it will slow the speed at which we can complete certain steps in transactions with you and delivering services to you because we will need first to send the required notices or disclosures to you in paper format, and then wait until we receive back from you your acknowledgment of your receipt of such paper notices or disclosures. To indicate to us that you are changing your mind, you must withdraw your consent using the DocuSign 'Withdraw Consent' form on the signing page of your DocuSign account. This will indicate to us that you have withdrawn your consent to receive required notices and disclosures electronically from us and you will no longer be able to use your DocuSign Express user account to receive required notices and consents electronically from us or to sign electronically documents from us.

#### **All notices and disclosures will be sent to you electronically**

Unless you tell us otherwise in accordance with the procedures described herein, we will provide electronically to you through your DocuSign user account all required notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to you during the course of our relationship with you. To reduce the chance of you inadvertently not receiving any notice or disclosure, we prefer to provide all of the required notices and disclosures to you by the same method and to the same address that you have given us. Thus, you can receive all the disclosures and notices electronically or in paper format through the paper mail delivery system. If you do not agree with this process, please let us know as described below. Please also see the paragraph immediately above that describes the consequences of your electing not to receive delivery of the notices and disclosures electronically from us.

#### **How to contact Tesco Stores Ltd:**

You may contact us to let us know of your changes as to how we may contact you electronically, to request paper copies of certain information from us, and to withdraw your prior consent to receive notices and disclosures electronically as follows:

To contact us by email send messages to: [zubair.tamuri@uk.tesco.com](mailto:zubair.tamuri@uk.tesco.com)

**To advise Tesco Stores Ltd of your new e-mail address**

To let us know of a change in your e-mail address where we should send notices and disclosures electronically to you, you must send an email message to us at [zubair.tamuri@uk.tesco.com](mailto:zubair.tamuri@uk.tesco.com) and in the body of such request you must state: your previous e-mail address, your new e-mail address. We do not require any other information from you to change your email address.. In addition, you must notify DocuSign, Inc to arrange for your new email address to be reflected in your DocuSign account by following the process for changing e-mail in DocuSign. **To request paper copies from Tesco Stores Ltd**

To request delivery from us of paper copies of the notices and disclosures previously provided by us to you electronically, you must send us an e-mail to [zubair.tamuri@uk.tesco.com](mailto:zubair.tamuri@uk.tesco.com) and in the body of such request you must state your e-mail address, full name, US Postal address, and telephone number. We will bill you for any fees at that time, if any.

**To withdraw your consent with Tesco Stores Ltd**

To inform us that you no longer want to receive future notices and disclosures in electronic format you may:

- i. decline to sign a document from within your DocuSign account, and on the subsequent page, select the check-box indicating you wish to withdraw your consent, or you may;
- ii. send us an e-mail to [zubair.tamuri@uk.tesco.com](mailto:zubair.tamuri@uk.tesco.com) and in the body of such request you must state your e-mail, full name, IS Postal Address, telephone number, and account number. We do not need any other information from you to withdraw consent.. The consequences of your withdrawing consent for online documents will be that transactions may take a longer time to process..

**Required hardware and software**

Operating Systems:	Windows2000? or WindowsXP?
Browsers (for SENDERS):	Internet Explorer 6.0? or above
Browsers (for SIGNERS):	Internet Explorer 6.0?, Mozilla FireFox 1.0, NetScape 7.2 (or above)
Email:	Access to a valid email account
Screen Resolution:	800 x 600 minimum
Enabled Security Settings:	<ul style="list-style-type: none"> <li>•Allow per session cookies</li> <li>•Users accessing the internet behind a Pro Server must enable HTTP 1.1 settings via proxy connection</li> </ul>

\*\* These minimum requirements are subject to change. If these requirements change, we will provide you with an email message at the email address we have on file for you at that time providing you with the revised hardware and software requirements, at which time you will have the right to withdraw your consent.

**Acknowledging your access and consent to receive materials electronically** To confirm to us that you can access this information electronically, which will be similar to other electronic notices and disclosures that we will provide to you, please verify that you were able to read this electronic disclosure and that you also were able to print on paper or electronically save this page for your future reference and access or that you were able to e-mail this disclosure and consent to an address where you will be able to print on paper or save it for your future reference and access. Further, if you consent to receiving notices and disclosures exclusively in electronic format on the terms and conditions described above, please let us know by clicking the 'I agree' button below. By checking the 'I Agree' box, I confirm that:

- I can access and read this Electronic CONSENT TO ELECTRONIC RECEIPT OF ELECTRONIC RECORD AND SIGNATURE DISCLOSURES document; and
- I can print on paper the disclosure or save or send the disclosure to a place where I can print it, for future reference and access; and
- Until or unless I notify Tesco Stores Ltd as described above, I consent to receive from exclusively through electronic means all notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to me by Tesco Stores Ltd during the course of my relationship with you.