



Terms and Conditions

IT Support & Cyber Services terms and conditions



Please read these Terms and Conditions carefully. All contracts that the Provider may enter into from time to time for the provision of the Provider's services shall be governed by these Terms and Conditions, and the Provider will ask the Customer for the Customer's express written acceptance of these Terms and Conditions before providing any such services to the Customer.

TERMS AND CONDITIONS

1. Definitions

1.1 In these Terms and Conditions, except to the extent expressly provided otherwise:

"**Affiliate**" means an entity that Controls, is Controlled by, or is under common Control with the relevant entity;

"**Business Day**" means any weekday other than a bank or public holiday in England;

"**Business Hours**" means the hours of 09:00 to 17:00 GMT on a Business Day;

"**Charges**" means:

- (a) the amounts specified in Section 8 of the Statement of Work and elsewhere in these Terms and Conditions;
- (b) such other amounts as may be agreed in writing by the parties from time to time; and
- (c) amounts calculated by multiplying the standard time-based charging rates of the Provider (as notified by the Provider to the Customer before the date of the Contract) by the time spent by the personnel of the Provider performing the Services (rounded down by the Provider to the nearest quarter hour);

"**Confidential Information**" means the Provider Confidential Information and the Customer Confidential Information;

"**Contract**" means a particular contract made under these Terms and Conditions between the Provider and the Customer.

- "**Control**" means the legal power to control (directly or indirectly) the management of an entity (and "**Controlled**" should be construed accordingly);

"**Customer**" means the person or entity identified as such in Section 1 of the Statement of Work;

"**Customer Confidential Information**" means:

- (a) any information disclosed by or on behalf of the Customer to the Provider during the Term (whether disclosed in writing, orally or otherwise) that at the time of disclosure was marked or described as "confidential" or should have been understood by the Provider (acting reasonably) to be confidential; and
- (b) the financial terms of the Contract;

"**Customer Indemnity Event**" has the meaning given to it in Clause 21.3;

"**Customer Personal Data**" means any Personal Data that is processed by the Provider on behalf of the Customer in relation to the Contract, but excluding personal data with respect to which the Provider is a data controller;

"**Customer Premises**" means any premises owned or controlled by the Customer at which the parties expressly or impliedly agree the personnel of the Provider shall provide Services;



"Customer Representatives" means the person or persons identified as such in Section 9 of the Statement of Work, and any additional or replacement persons that may be appointed by the Customer giving to the Provider written notice of the appointment;

"Customer Systems" means the computer and networking hardware and software systems of the Customer that will or may interact with the Supported Hardware and/or the Supported Software;

"Data Protection Laws" means the EU GDPR and the UK GDPR and all other applicable laws relating to the processing of Personal Data;

"Effective Date" means the date of execution of the Contract;

"EU GDPR" means the General Data Protection Regulation (Regulation (EU) 2016/679) and all other EU laws regulating the processing of Personal Data, as such laws may be updated, amended and superseded from time to time;

"Expenses" means the travel, accommodation and subsistence expenses that are reasonably necessary for, and incurred by the Provider exclusively in connection with, the performance of the Provider's obligations under the Contract;

"Force Majeure Event" means an event, or a series of related events, that is outside the reasonable control of the party affected (including failures of the internet or any public telecommunications network, hacker attacks, denial of service attacks, virus or other malicious software attacks or infections, power failures, industrial disputes affecting any third party, changes to the law, disasters, epidemics, pandemics, explosions, fires, floods, riots, terrorist attacks and wars);

"Intellectual Property Rights" means all intellectual property rights wherever in the world, whether registrable or unregistrable, registered or unregistered, including any application or right of application for such rights (and these "intellectual property rights" include copyright and related rights, database rights, confidential information, trade secrets, know-how, business names, trade names, trade marks, service marks, passing off rights, unfair competition rights, patents, petty patents, utility models, semi-conductor topography rights and rights in designs);

"Personal Data" means personal data under any of the Data Protection Laws;

"Products" means those products identified in Section 5 of the Statement of Work;

"Provider" means Zero plus Ltd, a company incorporated in England and Wales (registration number 13073843) having its registered office at 4th Floor, Silverstream house, 45 Fitzroy Street, London, W1T 6EB;

"Provider Confidential Information" means:

- (a) any information disclosed by or on behalf of the Provider to the Customer during the Term (whether disclosed in writing, orally or otherwise) that at the time of disclosure was marked or described as "confidential" or should have been understood by the Customer (acting reasonably) to be confidential; and
- (b) the financial terms of the Contract;

"Provider Indemnity Event" has the meaning given to it in Clause 21.1;

"Provider Representatives" means the person or persons identified as such in Section 9 of the Statement of Work, and any additional or replacement persons that may be appointed by the Provider giving to the Customer written notice of the appointment;

"Services" means any services that the Provider provides to the Customer, or has an obligation to provide to the Customer, under these Terms and Conditions;

"Statement of Work" means a written statement of work agreed by or on behalf of each of the parties;



"Support Services" means the support services specified in Section 2 of the Statement of Work;

"Supported Hardware" means the hardware identified in Section 3 of the Statement of Work;

"Supported Software" means the software identified in Section 3 of the Statement of Work;

"Term" means the term of the Contract, commencing in accordance with Clause 2.1 and ending in accordance with Clause 2.2;

"Terms and Conditions" means all the documentation containing the provisions of the Contract, namely the main body of these Terms and Conditions, the Schedules and the Statement of Work, including any amendments to that documentation from time to time;

"Third Party Software" means that software the rights in which are owned by one or more third parties that the Provider agrees to supply to the Customer under the Statement of Work;

"Third Party Software Licence" means the Third Party Software Vendor's standard licensing terms for the Third Party Software from time to time;

"Third Party Software Vendor" means a third party that has granted to the Provider the right to distribute the Third Party Software and resell licenses for the Third Party Software; and

"UK GDPR" means the EU GDPR as transposed into UK law (including by the Data Protection Act 2018 and the Data Protection, Privacy and Electronic Communications (Amendments etc) (EU Exit) Regulations 2019) and all other UK laws regulating the processing of Personal Data, as such laws may be updated, amended and superseded from time to time.

2. Term

2.1 The Contract shall come into force upon the Effective Date.

2.2 The Contract shall continue in force indefinitely subject to termination in accordance with Clause 24 or any other provision of these Terms and Conditions.

3. Support Services

3.1 The Provider shall provide the Support Services to the Customer during the Term.

3.2 The Provider shall provide the Support Services with reasonable skill and care and in accordance with the standards of skill and care reasonably expected from a leading service provider in the Provider's industry.

3.3 The Provider shall provide the Support Services in accordance with Schedule 1 (Support SLA).

3.4 The Provider may suspend the provision of the Support Services if any amount due to be paid by the Customer to the Provider under the Contract is overdue, and the Provider has given to the Customer at least 30 days' written notice, following the amount becoming overdue, of its intention to suspend the Support Services on this basis.

4. Product Supply

Not Required

5. Third Party Software supply

Not Required

6. Licence audit



- 6.1 The Provider or the Provider's appointed representative may examine the computer systems, electronic files and paper files of the Customer at the premises of the Customer for the purpose of ascertaining whether the Customer is complying with the licenses granted under or in relation to the Contract. Such an examination shall be limited to those computer systems, electronic files and paper files the examination of which is reasonably necessary to achieve that purpose.
- 6.2 The Provider must give to the Customer at least 10 Business Days' written notice of an examination under this Clause 6.
- 6.3 The Customer shall provide to the Provider all such co-operation as the Provider may reasonably request in relation to an examination under this Clause 6.
- 6.4 Any examination under this Clause 6 shall be at the cost of the Provider unless the examination demonstrates that the Customer has breached the terms of any licence under these Terms and Conditions, in which case the Customer shall pay to the Provider the reasonable costs of the examination.
- 6.5 Not more than 1 examination under this Clause 6 may be conducted in any 12 month period.

7. Customer obligations

- 7.1 Save to the extent that the parties have agreed otherwise in writing, the Customer must provide to the Provider, or procure for the Provider, such:

- (a) co-operation, support and advice;
- (b) information and documentation; and
- (c) governmental, legal and regulatory licenses, consents and permits,

as are reasonably necessary to enable the Provider to perform its obligations under the Contract.

- 7.2 The Customer must provide to the Provider, or procure for the Provider, such access to the Customer's computer hardware, software, networks and systems as may be reasonably required by the Provider to enable the Provider to perform its obligations under the Contract.

8. Customer Premises

- 8.1 The Customer shall:

- (a) promptly provide to the Provider such access to the Customer Premises as is reasonably required by the Provider for the provision of the Services;
- (b) maintain the Customer Premises in good order for the supply of the Services and in accordance with all applicable laws;
- (c) be responsible for ensuring the health and safety of the Provider's personnel whilst they are at the Customer Premises;
- (d) inform the Provider of all health, safety and security rules, regulations and requirements that apply at the Customer Premises; and
- (e) maintain reasonable insurance cover for the Provider's personnel whilst they are working at the Customer Premises (including reasonable public liability insurance).



8.2 In the performance of the Services at the Customer Premises, the Provider shall comply with all reasonable health, safety and security rules, regulations and requirements advised by the Customer to the Provider.

8.3 The Provider shall use all reasonable measures to secure any keys, and any other means of access, supplied by the Customer to the Provider for the purpose of enabling the Provider's personnel to enter and work at the Customer Premises.

9. Customer Systems

9.1 The Customer shall ensure that the Customer Systems comply, and continue to comply during the Term, with the requirements of Section 7 of the Statement of Work in all material respects, subject to any changes agreed in writing by the Provider.

10. No assignment of Intellectual Property Rights

10.1 Nothing in these Terms and Conditions shall operate to assign or transfer any Intellectual Property Rights from the Provider to the Customer, or from the Customer to the Provider.

11. Representatives

11.1 The Provider shall ensure that all instructions given by the Provider in relation to the matters contemplated in the Contract will be given by a Provider Representative to a Customer Representative, and the Customer:

- (a) may treat all such instructions as the fully authorised instructions of the Provider; and
- (b) must not comply with any other instructions in relation to that subject matter.

11.2 The Customer shall ensure that all instructions given by the Customer in relation to the matters contemplated in the Contract will be given by a Customer Representative to a Provider Representative, and the Provider:

- (a) may treat all such instructions as the fully authorised instructions of the Customer; and
- (b) must not comply with any other instructions in relation to that subject matter.

12. Management

12.1 The parties shall hold management meetings at each party's offices, by telephone conference or using internet-based conferencing facilities:

- (a) once per calendar month during the Term; and
- (b) at the reasonable request of either party.

12.2 A party requesting a management meeting shall give to the other party at least 10 Business Days' written notice of the meeting.

12.3 Wherever necessary to enable the efficient conduct of business, the Provider shall be represented at management meetings by at least 1 Provider Representative and the Customer shall be represented at management meetings by at least 1 Customer Representative.

13. Charges

13.1 The Customer shall pay the Charges to the Provider in accordance with these Terms and Conditions.



13.2 If the Charges are based in whole or part upon the time spent by the Provider performing the Services, the Provider must obtain the Customer's written consent before performing Services that result in any estimate of time-based Charges given to the Customer being exceeded or any budget for time-based Charges agreed by the parties being exceeded; and unless the Customer agrees otherwise in writing, the Customer shall not be liable to pay to the Provider any Charges in respect of Services performed in breach of this Clause 13.2.

13.3 All amounts stated in or in relation to these Terms and Conditions are, unless the context requires otherwise, stated exclusive of any applicable value added taxes, which will be added to those amounts and payable by the Customer to the Provider.

13.4 The Provider may elect to vary any element of the Charges by giving to the Customer not less than 30 days' written notice of the variation expiring on any anniversary of the date of execution of the Contract, providing that no such variation shall constitute a percentage increase in the relevant element of the Charges that exceeds 2% over the percentage increase, since the date of the most recent variation of the relevant element of the Charges under this Clause 13.4 (or, if no such variation has occurred, since the date of execution of the Contract), in the Retail Prices Index (all items) published by the UK Office for National Statistics.

14. Expenses

14.1 The Customer shall reimburse the Provider in respect of any Expenses, providing that the Provider must obtain the prior written authorisation of the Customer before incurring any Expenses exceeding such limitations as may be agreed in writing by the parties from time to time.

14.2 The Provider must collect and collate evidence of all Expenses, and must retain such evidence during the Term and for a period of 90 days following the end of the Term.

14.3 Within 10 Business Days following receipt of a written request from the Customer to do so, the Provider must supply to the Customer such copies of the evidence for the Expenses in the possession or control of the Provider as the Customer may specify in that written request.

15. Timesheets

15.1 The Provider must, where set out in Schedule 1 (Support SLA):

- (a) ensure that the personnel providing Services, the Charges for which will be based in whole or part upon the time spent in the performance of those Services, complete reasonably detailed records of their time spent providing those Services; and
- (b) retain such records during the Term, and for a period of at least 12 months following the end of the Term.

15.2 Within 10 Business Days following receipt of a written request, the Provider shall supply to the Customer copies of such of the timesheets referred to in Clause 15.1 and in the Provider's possession or control as the Customer may specify in that written request.

16. Payments

16.1 The Provider shall issue invoices for the Charges to the Customer on or after the invoicing dates set out in Section 8 of the Statement of Work and detailed in the Milestone schedule..

16.2 The Customer must pay the Charges to the Provider within the period of 30 days following the issue of an invoice in accordance with this Clause 16.



- 16.3 The Customer must pay the Charges by bank transfer (using such payment details as are notified by the Provider to the Customer).
- 16.4 If the Customer does not pay any amount properly due to the Provider under these Terms and Conditions, the Provider may:
- (a) charge the Customer interest on the overdue amount at the rate of 8% per annum above the Bank of England base rate from time to time (which interest will accrue daily until the date of actual payment and be compounded at the end of each calendar month); or
 - (b) claim interest and statutory compensation from the Customer pursuant to the Late Payment of Commercial Debts (Interest) Act 1998.
- 17. Confidentiality obligations**
- 17.1 The Provider must:
- (a) keep the Customer Confidential Information strictly confidential;
 - (b) not disclose the Customer Confidential Information to any person without the Customer's prior written consent, and then only under conditions of confidentiality approved in writing by the Customer.
 - (c) use the same degree of care to protect the confidentiality of the Customer Confidential Information as the Provider uses to protect the Provider's own confidential information of a similar nature, being at least a reasonable degree of care;
 - (d) act in good faith at all times in relation to the Customer Confidential Information; and
 - (e) not use any of the Customer Confidential Information for any purpose.
- 17.2 The Customer must:
- (a) keep the Provider Confidential Information strictly confidential;
 - (b) not disclose the Provider Confidential Information to any person without the Provider's prior written consent, and then only under conditions of confidentiality approved in writing by the Provider.
 - (c) use the same degree of care to protect the confidentiality of the Provider Confidential Information as the Customer uses to protect the Customer's own confidential information of a similar nature, being at least a reasonable degree of care;
 - (d) act in good faith at all times in relation to the Provider Confidential Information; and
 - (e) not use any of the Provider Confidential Information for any purpose.
- 17.3 Notwithstanding Clauses 17.1 and 17.2, a party's Confidential Information may be disclosed by the other party to that other party's officers, employees, professional advisers, insurers, agents and subcontractors who have a need to access the Confidential Information that is disclosed for the performance of their work with respect to the Contract and who are bound by a written agreement or professional obligation to protect the confidentiality of the Confidential Information that is disclosed.
- 17.4 No obligations are imposed by this Clause 17 with respect to a party's Confidential Information if that Confidential Information:

- (a) is known to the other party before disclosure under these Terms and Conditions and is not subject to any other obligation of confidentiality;
- (b) is or becomes publicly known through no act or default of the other party; or
- (c) is obtained by the other party from a third party in circumstances where the other party has no reason to believe that there has been a breach of an obligation of confidentiality.

17.5 The restrictions in this Clause 17 do not apply to the extent that any Confidential Information is required to be disclosed by any law or regulation, by any judicial or governmental order or request, or pursuant to disclosure requirements relating to the listing of the stock of either party on any recognised stock exchange.

17.6 Upon the termination of the Contract, each party must immediately cease to use the other party's Confidential Information.

17.7 Within 5 Business Days following the date of effective termination of the Contract, the relevant party must:

- (a) irreversibly delete from its media and computer systems all copies of the other party's Confidential Information (and ensure that the other party's Confidential Information is irreversibly deleted from the media and computer systems of all persons to whom the relevant party has directly or indirectly disclosed that Confidential Information);
- (b) ensure that no other copies of the other party's Confidential Information remain in the relevant party's possession or control (or the possession or control of any person to whom the relevant party has directly or indirectly disclosed the other party's Confidential Information);
- (c) certify in writing to the other party that it has complied with the requirements of this Clause 17.7,

subject in each case to any obligations that the relevant party has under the Contract to supply or make available to the other party any data or information, and providing that the relevant party shall have no obligation under this Clause 17.7 to delete or to cease to possess or control any of the other party's Confidential Information to the extent that the relevant party is required by applicable law to retain that Confidential Information.

17.8 The provisions of this Clause 17 shall continue in force for a period of 5 years following the termination of the Contract, at the end of which period they will cease to have effect.

18. Publicity

18.1 Neither party may make any public disclosures relating to the Contract or the subject matter of the Contract (including disclosures in press releases, public announcements and marketing materials) without the prior written consent of the other party, such consent not to be unreasonably withheld or delayed, and providing that the following public disclosures may be made without consent: None.

18.1 The Customer must not make any public disclosures relating to the Contract or the subject matter of the Contract (including disclosures in press releases, public announcements and marketing materials) without the prior written consent of the Provider, such consent not to be unreasonably withheld or delayed, and providing that the Customer may make the following public disclosures without the consent of the Provider: As agreed in writing.

18.2 Nothing in this Clause 18 shall be construed as limiting the obligations of the parties under Clause 17.

19. Data protection



- 19.1 The Provider shall comply with the Data Protection Laws with respect to the processing of the Customer Personal Data.
- 19.2 The Customer warrants to the Provider that it has the legal right to disclose all Personal Data that it does in fact disclose to the Provider under or in connection with the Contract.
- 19.3 The Customer shall only supply to the Provider, and the Provider shall only process, in each case under or in relation to the Contract:
- (a) the Personal Data of data subjects falling within the categories specified in Paragraph 1 of Schedule 2 (Data processing information) (or such other categories as may be agreed by the parties in writing); and
 - (b) Personal Data of the types specified in Paragraph 2 of Schedule 2 (Data processing information) (or such other types as may be agreed by the parties in writing).
- 19.4 The Provider shall only process the Customer Personal Data for the purposes specified in Paragraph 3 of Schedule 2 (Data processing information).
- 19.5 The Provider shall only process the Customer Personal Data during the Term and for not more than 30 days following the end of the Term, subject to the other provisions of this Clause 19.
- 19.6 The Provider shall only process the Customer Personal Data on the documented instructions of the Customer (including with regard to transfers of the Customer Personal Data to a third country under the Data Protection Laws), as set out in these Terms and Conditions or any other document agreed by the parties in writing.
- 19.7 The Customer hereby authorises the Provider to make the following transfers of Customer Personal Data:
- (a) the Provider may transfer the Customer Personal Data internally to its own employees, offices and facilities providing that such transfers must be protected by appropriate safeguards.
 - (b) the Provider may transfer the Customer Personal Data to its third party processors in the jurisdictions identified in Paragraph 5 of Schedule 2 (Data processing information) and may permit its third party processors to make such transfers, providing that such transfers must be protected by any appropriate safeguards identified therein; and
 - (c) the Provider may transfer the Customer Personal Data to a country, a territory or sector to the extent that the competent data protection authorities have decided that the country, territory or sector ensures an adequate level of protection for Personal Data.
- 19.8 The Provider shall promptly inform the Customer if, in the opinion of the Provider, an instruction of the Customer relating to the processing of the Customer Personal Data infringes the Data Protection Laws.
- 19.9 Notwithstanding any other provision of the Contract, the Provider may process the Customer Personal Data if and to the extent that the Provider is required to do so by applicable law. In such a case, the Provider shall inform the Customer of the legal requirement before processing, unless that law prohibits such information on important grounds of public interest.
- 19.10 The Provider shall ensure that persons authorised to process the Customer Personal Data have committed themselves to confidentiality or are under an appropriate statutory obligation of confidentiality.
- 19.11 The Provider and the Customer shall each implement appropriate technical and organisational measures to ensure an appropriate level of security for the Customer Personal Data, including those measures specified in Paragraph 4 of Schedule 2 (Data processing information).
- 19.12 The Provider must not engage any third party to process the Customer Personal Data without the prior specific or general written authorisation of the Customer. In the case of a general written authorisation, the Provider shall inform



the Customer at least 14 days in advance of any intended changes concerning the addition or replacement of any third party processor, and if the Customer objects to any such changes before their implementation, then the Provider must not implement the changes.

- 19.13 As at the Effective Date, the Provider is hereby authorised by the Customer to engage, as sub-processors with respect to Customer Personal Data, the third parties, and third parties within the categories, identified in Paragraph 5 of Schedule 2 (Data processing information).
- 19.14 The Provider shall, insofar as possible and taking into account the nature of the processing, take appropriate technical and organisational measures to assist the Customer with the fulfilment of the Customer's obligation to respond to requests exercising a data subject's rights under the Data Protection Laws.
- 19.15 The Provider shall assist the Customer in ensuring compliance with the obligations relating to the security of processing of personal data, the notification of personal data breaches to the supervisory authority, the communication of personal data breaches to the data subject, data protection impact assessments and prior consultation in relation to high-risk processing under the Data Protection Laws. The Provider may charge the Customer at its standard time-based charging rates for any work performed by the Provider at the request of the Customer pursuant to this Clause 19.15.
- 19.16 The Provider must notify the Customer of any Personal Data breach affecting the Customer Personal Data without undue delay and, in any case, not later than 24 hours after the Provider becomes aware of the breach.
- 19.17 The Provider shall make available to the Customer all information necessary to demonstrate the compliance of the Provider with its obligations under this Clause 19 and the Data Protection Laws. The Provider may charge the Customer at its standard time-based charging rates for any work performed by the Provider at the request of the Customer pursuant to this Clause 19.17, providing that no such charges shall be levied with respect to the completion by the Provider (at the reasonable request of the Customer, not more than once per calendar year) of the standard information security questionnaire of the Customer.
- 19.18 The Provider shall, at the choice of the Customer, delete or return all of the Customer Personal Data to the Customer after the provision of services relating to the processing, and shall delete existing copies save to the extent that applicable law requires storage of the relevant Personal Data.
- 19.19 The Provider shall allow for and contribute to audits, including inspections, conducted by the Customer or another auditor mandated by the Customer in respect of the compliance of the Provider's processing of Customer Personal Data with the Data Protection Laws and this Clause 19. The Provider may charge the Customer at its standard time-based charging rates for any work performed by the Provider at the request of the Customer pursuant to this Clause 19.19, providing that no such charges shall be levied where the request to perform the work arises out of any breach by the Provider of the Contract or any security breach affecting the systems of the Provider.
- 19.20 If any changes or prospective changes to the Data Protection Laws result or will result in one or both parties not complying with the Data Protection Laws in relation to processing of Personal Data carried out under the Contract, then the parties shall use their best endeavors promptly to agree such variations to the Contract as may be necessary to remedy such non-compliance.

20. Warranties

20.1 The Provider warrants to the Customer that:

- (a) the Provider has the legal right and authority to enter into the Contract and to perform its obligations under these Terms and Conditions;
- (b) the Provider will comply with all applicable legal and regulatory requirements applying to the exercise of the Provider's rights and the fulfilment of the Provider's obligations under these Terms and Conditions; and



- (c) the Provider has or has access to all necessary know-how, expertise and experience to perform its obligations under these Terms and Conditions.

20.2 The Customer warrants to the Provider that it has the legal right and authority to enter into the Contract and to perform its obligations under these Terms and Conditions.

20.3 All of the parties' warranties and representations in respect of the subject matter of the Contract are expressly set out in these Terms and Conditions. To the maximum extent permitted by applicable law, no other warranties or representations concerning the subject matter of the Contract will be implied into the Contract or any related contract.

21. Indemnities

21.1 The Provider shall indemnify and shall keep indemnified the Customer against any and all liabilities, damages, losses, costs and expenses (including legal expenses and amounts reasonably paid in settlement of legal claims) suffered or incurred by the Customer and arising directly or indirectly as a result of any breach by the Provider of these Terms and Conditions (a "**Provider Indemnity Event**").

21.2 The Customer must:

- (a) upon becoming aware of an actual or potential Provider Indemnity Event, notify the Provider;
- (b) provide to the Provider all such assistance as may be reasonably requested by the Provider in relation to the Provider Indemnity Event;
- (c) allow the Provider the exclusive conduct of all disputes, proceedings, negotiations and settlements with third parties relating to the Provider Indemnity Event; and
- (d) not admit liability to any third party in connection with the Provider Indemnity Event or settle any disputes or proceedings involving a third party and relating to the Provider Indemnity Event without the prior written consent of the Provider,

without prejudice to the Provider's obligations under Clause 21.1.

21.3 The Customer shall indemnify and shall keep indemnified the Provider against any and all liabilities, damages, losses, costs and expenses (including legal expenses and amounts reasonably paid in settlement of legal claims) suffered or incurred by the Provider and arising directly or indirectly as a result of any breach by the Customer of these Terms and Conditions (a "**Customer Indemnity Event**").

21.4 The Provider must:

- (a) upon becoming aware of an actual or potential Customer Indemnity Event, notify the Customer;
- (b) provide to the Customer all such assistance as may be reasonably requested by the Customer in relation to the Customer Indemnity Event;
- (c) allow the Customer the exclusive conduct of all disputes, proceedings, negotiations and settlements with third parties relating to the Customer Indemnity Event; and
- (d) not admit liability to any third party in connection with the Customer Indemnity Event or settle any disputes or proceedings involving a third party and relating to the Customer Indemnity Event without the prior written consent of the Customer,



without prejudice to the Customer's obligations under Clause 21.3.

21.5 The indemnity protection set out in this Clause 21 shall be subject to the limitations and exclusions of liability set out in the Contract.

22. Limitations and exclusions of liability

22.1 Nothing in these Terms and Conditions will:

- (a) limit or exclude any liability for death or personal injury resulting from negligence;
- (b) limit or exclude any liability for fraud or fraudulent misrepresentation;
- (c) limit any liabilities in any way that is not permitted under applicable law; or
- (d) exclude any liabilities that may not be excluded under applicable law.

22.2 The limitations and exclusions of liability set out in this Clause 22 and elsewhere in these Terms and Conditions:

- (a) are subject to Clause 22.1; and
- (b) govern all liabilities arising under these Terms and Conditions or relating to the subject matter of these Terms and Conditions, including liabilities arising in contract, in tort (including negligence) and for breach of statutory duty, except to the extent expressly provided otherwise in these Terms and Conditions.

22.3 The Provider shall not be liable to the Customer in respect of any losses arising out of a Force Majeure Event.

22.4 The Provider shall not be liable to the Customer in respect of any loss of profits or anticipated savings.

22.5 The Provider shall not be liable to the Customer in respect of any loss of revenue or income.

22.6 The Provider shall not be liable to the Customer in respect of any loss of use or production.

22.7 The Provider shall not be liable to the Customer in respect of any loss of business, contracts or opportunities.

22.8 The Provider shall not be liable to the Customer in respect of any loss or corruption of any data, database or software.

22.9 Neither party shall be liable to the other party in respect of any special, indirect or consequential loss or damage.

22.10 The liability of the Provider to the Customer under the Contract in respect of any event or series of related events shall not exceed the greater of:

- (a) *[amount]*; and
- (b) the total amount paid and payable by the Customer to the Provider under the Contract in the 12 month period preceding the commencement of the event or events.

22.11 The aggregate liability of the Provider to the Customer under the Contract shall not exceed the greater of:

- (a) *[amount]*; and
- (b) the total amount paid and payable by the Customer to the Provider under the Contract.

23. Force Majeure Event

- 23.1 If a Force Majeure Event gives rise to a failure or delay in either party performing any obligation under the Contract (other than any obligation to make a payment), that obligation will be suspended for the duration of the Force Majeure Event.
- 23.2 A party that becomes aware of a Force Majeure Event which gives rise to, or which is likely to give rise to, any failure or delay in that party performing any obligation under the Contract, must:
- (a) promptly notify the other; and
 - (b) inform the other of the period for which it is estimated that such failure or delay will continue.
- 23.3 A party whose performance of its obligations under the Contract is affected by a Force Majeure Event must take reasonable steps to mitigate the effects of the Force Majeure Event.

24. Termination

- 24.1 Either party may terminate the Contract by giving to the other party at least 30 days' written notice of termination.
- 24.2 Either party may terminate the Contract immediately by giving written notice of termination to the other party if the other party commits a material breach of these Terms and Conditions.
- 24.3 Subject to applicable law, either party may terminate the Contract immediately by giving written notice of termination to the other party if:
- (a) the other party:
 - (i) is dissolved;
 - (ii) ceases to conduct all (or substantially all) of its business;
 - (iii) is or becomes unable to pay its debts as they fall due;
 - (iv) is or becomes insolvent or is declared insolvent; or
 - (v) convenes a meeting or makes or proposes to make any arrangement or composition with its creditors;
 - (b) an administrator, administrative receiver, liquidator, receiver, trustee, manager or similar is appointed over any of the assets of the other party;
 - (c) an order is made for the winding up of the other party, or the other party passes a resolution for its winding up (other than for the purpose of a solvent company reorganisation where the resulting entity will assume all the obligations of the other party under the Contract); or
 - (d) if that other party is an individual:
 - (i) that other party dies;
 - (ii) as a result of illness or incapacity, that other party becomes incapable of managing his or her own affairs; or
 - (iii) that other party is the subject of a bankruptcy petition or order.

25. Effects of termination



25.1 Upon the termination of the Contract, all of the provisions of these Terms and Conditions shall cease to have effect, save that the following provisions of these Terms and Conditions shall survive and continue to have effect (in accordance with their express terms or otherwise indefinitely): Clauses 1, 4.2, 4.3, 4.4, 4.5, 4.6, 4.7, 4.9, 5.4, 5.5, 5.6, 5.7, 6, 14.2, 14.3, 15, 16.2, 16.4, 17, 18, 19, 21, 22, 25, 26, 29, 30, 31, 32, 33, 34, 35 and 36.

25.2 Except to the extent expressly provided otherwise in these Terms and Conditions, the termination of the Contract shall not affect the accrued rights of either party.

25.3 Within 30 days following the termination of the Contract for any reason:

- (a) the Customer must pay to the Provider any Charges in respect of Services provided to the Customer before the termination of the Contract; and
- (b) the Provider must refund to the Customer any Charges paid by the Customer to the Provider in respect of Services that were to be provided to the Customer after the termination of the Contract,

without prejudice to the parties' other legal rights.

26. Non-solicitation of personnel

26.1 The Customer must not, without the prior written consent of the Provider, either during the Term or within the period of 9 months following the end of the Term, engage, employ or solicit for engagement or employment any employee or subcontractor of the Provider who has been involved in any way in the negotiation or performance of the Contract.

26.2 The Provider must not, without the prior written consent of the Customer, either during the Term or within the period of 9 months following the end of the Term, engage, employ or solicit for engagement or employment any employee or subcontractor of the Customer who has been involved in any way in the negotiation or performance of the Contract.

27. Notices

27.1 Any notice given under these Terms and Conditions must be in writing, whether or not described as "written notice" in these Terms and Conditions.

27.2 Any notice given by one party to the other party under these Terms and Conditions must be:

- (a) delivered personally;
- (b) sent by courier;
- (c) sent by recorded signed-for post;
- (d) sent by fax;
- (e) sent by email; or
- (f) submitted using recipient party's online contractual notification facility,

using the relevant contact details set out in Section 10 of the Statement of Work.

27.3 The addressee and contact details set out in Section 10 of the Statement of Work may be updated from time to time by a party giving written notice of the update to the other party in accordance with this Clause 27.



- 27.4 A party receiving from the other party a notice by email must acknowledge receipt by email promptly, and in any event within 2 Business Days following receipt of the notice.
- 27.5 A notice will be deemed to have been received at the relevant time set out below or, where such time is not within Business Hours, when Business Hours next begin after the relevant time set out below:
- (a) in the case of notices delivered personally, upon delivery;
 - (b) in the case of notices sent by courier, upon delivery;
 - (c) in the case of notices sent by post, 48 hours after posting;
 - (d) in the case of notices sent by fax, at the time of the transmission of the fax (providing the sending party retains written evidence of the transmission);
 - (e) in the case of notices sent by email, at the time of the sending of the email (providing that the sending party retains written evidence that the email has been sent); and
 - (f) in the case of notices submitted using an online contractual notification facility, upon the submission of the notice form.

28. Subcontracting

- 28.1 Subject to any express restrictions elsewhere in these Terms and Conditions, the Provider may subcontract any of its obligations under the Contract, providing that the Provider must give to the Customer, promptly following the appointment of a subcontractor, a written notice specifying the subcontracted obligations and identifying the subcontractor in question.
- 28.2 The Provider shall remain responsible to the Customer for the performance of any subcontracted obligations.

29. Assignment

- 29.1 Save to the extent expressly permitted by applicable law, the Provider must not assign, transfer or otherwise deal with the Provider's contractual rights and/or obligations under these Terms and Conditions without the prior written consent of the Customer, such consent not to be unreasonably withheld or delayed, providing that the Provider may assign the entirety of its rights and obligations under these Terms and Conditions to any Affiliate of the Provider or to any successor to all or a substantial part of the business of the Provider from time to time.
- 29.2 Save to the extent expressly permitted by applicable law, the Customer must not assign, transfer or otherwise deal with the Customer's contractual rights and/or obligations under these Terms and Conditions without the prior written consent of the Provider, such consent not to be unreasonably withheld or delayed, providing that the Customer may assign the entirety of its rights and obligations under these Terms and Conditions to any Affiliate of the Customer or to any successor to all or a substantial part of the business of the Customer from time to time.

30. No waivers

- 30.1 No breach of any provision of the Contract will be waived except with the express written consent of the party not in breach.
- 30.2 No waiver of any breach of any provision of the Contract shall be construed as a further or continuing waiver of any other breach of that provision or any breach of any other provision of the Contract.

31. Severability



- 31.1 If a provision of these Terms and Conditions is determined by any court or other competent authority to be unlawful and/or unenforceable, the other provisions will continue in effect.
- 31.2 If any unlawful and/or unenforceable provision of these Terms and Conditions would be lawful or enforceable if part of it were deleted, that part will be deemed to be deleted, and the rest of the provision will continue in effect.
- 32. Third party rights**
- 32.1 The Contract is for the benefit of the parties, and is not intended to benefit or be enforceable by any third party.
- 32.2 The exercise of the parties' rights under the Contract is not subject to the consent of any third party.
- 33. Variation**
- 33.1 The Contract may not be varied except by means of a written document signed by or on behalf of each party.
- 34. Entire agreement**
- 34.1 The main body of these Terms and Conditions, the Schedules and the Statement of Work shall constitute the entire agreement between the parties in relation to the subject matter of the Contract, and shall supersede all previous agreements, arrangements and understandings between the parties in respect of that subject matter.
- 34.2 Neither party will have any remedy in respect of any misrepresentation (whether written or oral) made to it upon which it relied in entering into the Contract.
- 34.3 The provisions of this Clause 34 are subject to Clause 22.1.
- 35. Law and jurisdiction**
- 35.1 These Terms and Conditions shall be governed by and construed in accordance with English law.
- 35.2 Any disputes relating to the Contract shall be subject to the jurisdiction of the courts of England.
- 36. Interpretation**
- 36.1 In these Terms and Conditions, a reference to a statute or statutory provision includes a reference to:
- (a) that statute or statutory provision as modified, consolidated and/or re-enacted from time to time; and
 - (b) any subordinate legislation made under that statute or statutory provision.
- 36.2 The Clause headings do not affect the interpretation of these Terms and Conditions.
- 36.3 References in these Terms and Conditions to "calendar months" are to the 12 named periods (January, February and so on) into which a year is divided.
- 36.4 In these Terms and Conditions, general words shall not be given a restrictive interpretation by reason of being preceded or followed by words indicating a particular class of acts, matters or things.



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