



Digital Transformation

Software services agreement

Master Services Agreement

This Master Services Agreement is made on

202[2]

Between:

(1) [INSERT CUSTOMER LEGAL ENTITY] (registered number [INSERT REGISTERED COMPANY NUMBER]) whose registered office is at [INSERT ADDRESS] (“**Customer**”); and

(2) Davies Technology Solutions Limited (registered no. 06142958) whose registered office is at 5th Floor, 20 Gracechurch Street, London, EC3V 0BG (“**Davies**”),
each a “**Party**” and together the “**Parties**”.

RECITALS:

- (A) Davies and the Customer desire to establish and agree upon a set of terms and conditions governing the provision of consulting, operations management, analytics and professional services by Davies to the Customer.
- (B) Davies is willing to provide and the Customer hereby accepts the provision of the Services (as defined below) upon the terms and conditions set out in this Agreement.

IT IS AGREED as follows:

1. DEFINITIONS AND INTERPRETATIONS

1.1. In this Agreement, a reference to:

Agreement: this Master Services Agreement together with its schedules and appendices and any SOW and any appendices to such SOW.

Applicable Law: any law, statute, bye-law, regulation, order, rule of court, delegated or subordinated legislation in force and applicable to the provision of the Services from time to time.

Background IPR: (i) Intellectual Property Rights owned by or licensed to a Party prior to the Effective date and/or (ii) Intellectual Property Rights created or acquired or licensed by a Party independently of this Agreement, which in each case are or will be used during the term of this Agreement for providing the Services, and which shall include the Third Party IPRs.

Business Day: a day other than a Saturday, Sunday or public holiday in England.

Charges: payments due in respect of the supply of Services as set out in each SOW.

Confidential Information: all information (whether marked as confidential or which may reasonably be supposed to be confidential by its nature) that is directly or indirectly disclosed or made available (whether in writing, orally, on disc, by inspection of documents or by any other means, including but not limited to via electronic communication, including internet based

provision of information) by a Party (the **Disclosing Party**) to the other Party (the **Receiving Party**) whether before or after the date of this Agreement including, without limitation the terms of this Agreement and information relating to the Disclosing Party's (or its Group's) business affairs, operations, processes, plans or intentions, product information, know-how, design rights, trade secrets, technology, computer software and hardware, information, documentation, data and opinions of whatever nature in whatever form (and copies of the same), market opportunities, customer details, and includes information, findings, data or analysis derived from any Confidential Information.

Control: in relation to a body corporate, the ability to secure that the affairs of a body corporate are conducted in a particular manner, whether (a) by means of the holding of shares, or the possession of voting power, in or in relation to that or any other body corporate; or (b) by virtue of any powers conferred by the constitutional or corporate documents, or any other document, regulating that or any other body corporate, and "controlled" shall be interpreted accordingly.

Customer Materials: all documents, information, items and materials in any form (whether owned by the Customer or a third party), which are provided by the Customer to Davies in connection with the Services.

Deliverables: any documents, products, materials and/or other outputs of the Services to be provided by Davies to the Customer as specified in a SOW.

Data Protection Laws: any applicable laws and regulations in any relevant jurisdiction relating to the use or processing of personal data including: (i) EU Regulation 2016/679 as it forms part of the law of England and Wales by virtue of section 3 of the European Union (Withdrawal) Act 2018 (the "**UK GDPR**"); (ii) the Data Protection Act 2018 ("**DPA**"); and (iii) the Privacy and Electronic Communications (EC Directive) Regulations 2003; in each case, as updated, amended or replaced from time to time; and the terms "**Data Subject**", "**Personal Data**", "**processing**", "**processor**" and "**controller**" shall have the meanings set out in the DPA.

Davies' Information Security Policies: the Davies security policies listed in Schedule [2], as may be updated or amended from time to time.

DP Regulator: any governmental or regulatory body or authority with responsibility for monitoring or enforcing compliance with the Data Protection Laws.

Effective Date: [INSERT DATE][the date of this Agreement].

End User: the Customer or any person whom the Customer permits to use Services.

Good Industry Practice: the exercise of that level of care, diligence and skill that would reasonably and ordinarily be expected of a competent provider of consulting, operations management, analytics and professional services engaged in the same or similar type of undertaking under the same or similar circumstances or conditions.

Group: in relation to either Party, that Party and any holding company and any parent company and any subsidiary and any subsidiary undertaking of such companies.

holding company: has the meaning set out in Section 1169, Companies Act 2006.

Intellectual Property Rights: (i) patents, utility models, supplementary protection certificates, petty patents, rights in copyright (including moral rights), database rights, design rights,

semiconductor topography rights, mask work rights, trade marks and service marks; (ii) all registrations or applications to register any of the items referred to in paragraph (i); and (iii) all rights in the nature of any of the items referred to in paragraphs (i) or (ii) including continuations, continuations in part and divisional applications, reputation, personality or image, trade names, business names, brand names, get-up, logos, domain names and URLs, rights in unfair competition and, without prejudice to anything set out elsewhere in this definition, rights to sue for passing off and all rights having equivalent or similar effect to, and the right to apply for any of, the rights referred to in this definition in any jurisdiction.

Minimum Service Period: the minimum service commitment period for the provision of Services which shall commence upon the Service Start Date and shall continue for the period specified in the applicable SOW.

Project IPR: Intellectual Property Rights in items (including the Deliverables) created by Davies (or a third party on behalf of Davies) specifically for the purposes of this Agreement or a SOW, but excluding Davies' Background IPRs.

Restricted Employee: any person who is or was at the date of this Agreement and/or during the term of this Agreement employed in a managerial, supervisory, technical or sales capacity by Davies or any member of its Group.

Services: the services and the Deliverables to be supplied to the Customer under the terms of this Master Services Agreement and the Schedules, as further described in a SOW;

Service Start Date: in respect of Services ordered under any particular SOW, the earlier of (i) the date on which the Customer first makes use of the Services, or (ii) the date specified in the relevant SOW.

Statement of Work (SOW): any agreement between the Parties with respect to the terms and conditions applicable to specific Services, substantially in the format set out at Schedule [3], and each of which forms an integral part of this Agreement once executed by the authorised representatives of both Parties pursuant to Clause 2.2.

subsidiary: has the meaning set out in Section 1159, Companies Act 2006.

subsidiary undertaking: has the meaning set out in Section 1162, Companies Act 2006.

Third Party IPRs: Intellectual Property Rights owned by a third party which are, will be or are proposed to be used by Davies for the purposes of providing the Services.

VAT: value added tax as provided for in the Value Added Tax Act 1994 and any other tax of a similar nature.

- 1.2. In this Agreement, unless the context otherwise requires:
 - 1.2.1. words in the singular include the plural and vice versa and words in one gender include any other gender;
 - 1.2.2. a reference to a provision of a statute includes reference to:
 - 1.2.2.1. any subordinate legislation (as defined in Section 21(1), Interpretation Act 1978) made under it;

- 1.2.2.2. any repealed statute or statutory provision which it re-enacts (with or without modification); and
- 1.2.2.3. any statute or statutory provision which modifies, consolidates, re-enacts or supersedes it whether such statute or statutory provision comes into force before or after the date of this Agreement, except to the extent that it comes into force after the date of this Agreement and would impose any new or extended obligation, liability or restriction on or otherwise adversely affect the rights of any Party.
- 1.2.3. a reference to:
 - 1.2.3.1. any Party includes its successors in title and permitted assigns:
 - 1.2.3.2. a 'person' includes any individual, firm, body corporate, association or partnership, government or state (whether or not having a separate legal personality);
 - 1.2.3.3. clauses and schedules is to clauses of and schedules to this Agreement.
- 1.2.4. headings are inserted for convenience only and shall not affect the interpretation of this Agreement;
- 1.2.5. general words shall not be given a restrictive meaning where they follow one or more specific terms indicating a particular category of act, matter or thing of where they are followed by examples. The words 'including' and 'in particular' (or similar) shall not limit the generality of the preceding words.
- 1.3. Unless otherwise agreed by the Parties to the contrary, in the event of any conflict between this Master Services Agreement, its Schedules, and any SOW, the conflict will be resolved in the following order of precedence: - the SOW; the Schedules; and this Master Services Agreement.

2. TERMS OF BUSINESS

- 2.1. This Agreement shall operate as a framework agreement between the Parties and specifies the general terms, conditions and criteria that shall apply in the event it is agreed that Davies will provide Services to the Customer. Any agreement between the Parties for the provision of Services shall be on the basis of the relevant SOW, and shall incorporate the terms of this Agreement and the provisions set out in that SOW.
- 2.2. Each SOW shall be agreed in the following manner:
 - 2.2.1. the Customer shall ask Davies to prepare a draft SOW for available services required by the Customer;
 - 2.2.2. within fourteen (14) Business Days of the Customer's request, Davies shall notify the Customer of any additional information it reasonably requires in order to prepare a SOW;
 - 2.2.3. within fourteen (14) Business Days of receipt of the required information from the Customer, Davies shall provide the Customer with the draft SOW requested;
 - 2.2.4. Davies and the Customer shall discuss and agree that draft SOW; and
 - 2.2.5. both Parties shall sign the draft SOW.
- 2.3. Once a SOW has been agreed and signed in accordance with clause 2.2.5, no amendment shall be made to it except in accordance with clause [21.3]. Each SOW shall be part of this Agreement and shall not form a separate contract to it.
- 2.4. The Customer acknowledges that the terms of this Agreement and the provision of Services under any SOW are subject to Applicable Law in the country in which the Services are provided.

3. TERM

- 3.1. This Master Services Agreement will come into force on the Effective Date and continue in force unless and until terminated in accordance with the provisions of this Agreement.

- 3.2. A SOW shall come into force on the date of execution by both Parties of the SOW and shall continue in force unless and until terminated in accordance with the provisions of this Agreement or the applicable SOW.
- 3.3. On the termination or expiry of a SOW, the remainder of this Agreement and all other SOWs awarded under it shall not automatically terminate and shall remain in full force and effect, save for where this Agreement or such other SOWs are expressly terminated in accordance with the terms of this Agreement or the applicable SOW.

4. DAVIES' RESPONSIBILITIES

- 4.1. Davies shall:
 - 4.1.1. in performing its obligations under this Agreement, comply with Good Industry Practice and all Applicable Laws;
 - 4.1.2. provide the Services and the Deliverables with reasonable care and skill, substantially in accordance with the SOW;
 - 4.1.3. ensure that the Deliverables shall be fit for any purpose expressly made known to Davies by the Customer and recorded in a SOW;
 - 4.1.4. ensure that the Deliverables, and all goods, materials, standards and techniques used in providing the Services are free from defects in workmanship, installation and design;
 - 4.1.5. co-operate with the Customer in all matters relating to the Services in a timely manner;
 - 4.1.6. before the relevant Services Start Date, obtain and maintain during the term of the relevant SOW, all necessary licences and consents in relation to the Services;
 - 4.1.7. hold all Customer Materials in safe custody at its own risk, maintain such Customer Materials in good condition until returned to the Customer, and not dispose of or use the Customer Materials other than in accordance with the Customer's written instructions or authorisations;
 - 4.1.8. not do or omit to do anything which may cause the Customer to lose any licence, authority, consent or permission on which it relies for the purposes of conducting its business; and
 - 4.1.9. comply with any additional obligations imposed on it as set out in a SOW.
- 4.2. In relation to Davies' personnel, Davies shall ensure that all personnel involved in the provision of the Services have suitable skills and experience to enable them to perform the tasks assigned to them, and that such personnel are in sufficient number to enable Davies to fulfil its obligations under this Agreement.

5. CUSTOMER'S OBLIGATIONS

- 5.1. The Customer shall:
 - 5.1.1. provide Davies with:
 - 5.1.1.1. all necessary cooperation in relation to this Agreement; and
 - 5.1.1.2. all necessary access to such information as may be required by Davies, in order to provide the Services, including but not limited to Customer Data or such other data as Davies may request from time to time and security access information;
 - 5.1.2. without affecting its other obligations under this Agreement, comply with all Applicable Law with respect to its activities under this Agreement;
 - 5.1.3. carry out all other customer responsibilities set out in this Agreement or a SOW in a timely and efficient manner;

6. DEFAULT BY THE CUSTOMER

- 6.1. A failure by the Customer to comply with the terms of this Agreement or a SOW shall relieve Davies from complying with its obligations under this Agreement or a SOW to the extent that such failure reasonably prevents Davies from complying with its obligations and any milestones or other dates for performance set out in a SOW shall be adjusted accordingly to reflect the period of delay caused by the Customer's non-compliance.

7. TERMINATION

- 7.1. Subject always to clause 7.3 and unless otherwise specified within the SOW, Customer may terminate a SOW in whole or part by giving at least thirty (30) days' prior written notice to Davies.
- 7.2. If at any time there are no SOWs in effect, a Party may terminate this Agreement upon thirty (30) days' prior written notice to the other Party.
- 7.3. Unless otherwise specified within the SOW, if the Customer terminates (other than pursuant to Clause 7.4) a particular SOW with a fixed scope or during the Minimum Service Period, the Customer shall be liable to pay Davies the full balance of all outstanding fees agreed in the terminated SOW.
- 7.4. A Party may terminate this Master Services Agreement, and/or the supply of any Services under any particular SOW, at any time on written notice to the other Party with immediate effect, in the event that:
 - 7.4.1. the other Party is in breach of any of its material obligations (except for any payment obligations to which clause 7.5 shall apply) under this Agreement which is not remediable or, if remediable, which it has failed to remedy within twenty (20) Business Days' written notice requiring it to do so;
 - 7.4.2. the other Party ceases to do business, becomes unable to pay its debts as they fall due, becomes or is deemed insolvent, has a receiver, manager, administrator, administrative receiver or similar officer appointed in respect of the whole or any part of its assets or business, makes any composition or arrangement with its creditors, takes or suffers any similar action in consequence of debt or an order or resolution is made for its dissolution or liquidation (other than for the purpose of bona fide solvent amalgamation or reconstruction), or any equivalent or similar action or proceeding is taken or suffered in any jurisdiction; or
 - 7.4.3. the other Party does not hold the necessary licences or authorisations required by law to provide or use the Services, as the case may be.
- 7.5. Davies may terminate this Master Services Agreement, and/or the supply of any Services under a SOW, at any time on written notice to the Customer with immediate effect in the event that the Customer fails to pay any undisputed Charges under any applicable SOW or any other payments under this Agreement and such failure remains unremedied within seven (7) days of written notice from Davies specifying the failure and requiring it to be remedied.
- 7.6. For avoidance of doubt, termination of this Master Services Agreement for material breach by a Party shall automatically terminate the supply of Services under any SOWs outstanding at the date of termination.
- 7.7. Davies, may, in its sole discretion, suspend with immediate effect all or any part of the provision of Services under any SOW in the event that:
 - 7.7.1. Customer is in material breach of this Agreement (which shall include a failure to pay any Charges by the due date for payment) until such time as the Customer remedies such breach.
 - 7.7.2. Davies needs to carry out any emergency maintenance or repairs to any networks or other infrastructure used to provide the Services (in which case Davies will use its reasonable endeavours to give as much notice of the suspension as is reasonably possible); or
 - 7.7.3. Davies is required to do so in compliance with any Applicable Law, regulation, order, licence, instruction or request of Government or any regulatory body, administrative authority, or emergency service.

8. CONSEQUENCES OF TERMINATION

- 8.1. On termination of this Agreement or a SOW for any reason:
 - 8.1.1. the Customer shall immediately pay any outstanding unpaid invoices and interest due to Davies. Davies may submit invoices for any Services that it has supplied but not invoiced. The Customer shall pay these invoices as soon as it receives them;
 - 8.1.2. the Customer shall cease all use of the Services and Confidential Information of Davies and its subcontractors. For the avoidance of doubt, nothing in this Agreement shall restrict Customer's use of the Deliverables or any other outputs of the Services;
 - 8.1.3. the Customer shall return all copies of any Confidential Information of Davies (including but not limited to any software and related documentation) in its possession as directed by Davies (or at Davies' option destroy all such copies and certify such destruction in writing);
 - 8.1.4. Davies shall return all copies of any Confidential Information of Customer in its possession (or at Customer's option destroy all such copies and certify such destruction in writing).
 - 8.1.5. Davies shall, within 10 Business Days, deliver to the Customer all Deliverables whether or not then complete, and return all Customer Materials;
 - 8.1.6. Davies shall, if so requested by the Customer and subject to agreement in relation to costs, provide all assistance reasonably required by the Customer to facilitate the smooth transition of the Services to the Customer or any replacement supplier appointed by it.
- 8.2. All rights and obligations of the Parties shall cease to have effect immediately on termination of this Agreement except that termination shall not affect:
 - 8.2.1. the accrued rights and obligations of the Parties at the date of termination;
 - 8.2.2. the right to claim damages for losses whenever they occur provided they arise out of an event occurring on or before termination of this Agreement; and
 - 8.2.3. the continued existence of those provisions of this Agreement which are either expressed to survive its expiry or termination, Which are necessary for the interpretation or enforcement of this Agreement, or which it is contemplated from their nature or context that they are to survive, such provisions to include **[INSERT]** of this Agreement.

9. BILLING AND PAYMENT

- 9.1. In consideration of the provision of the Services the Customer shall pay the Charges to Davies as further specified in the applicable SOW. Unless otherwise specified in a SOW, the day rates set out in Schedule 1 of this Agreement shall apply.
- 9.2. Davies shall, no more than once per calendar year, and by 30 days' written notice to the Customer, increase the day rates set out in Schedule 1 provided that, unless otherwise agreed by the Customer in writing, such increase is no more than the percentage increase in the [Consumer Prices Index] as published by the Office for National Statistics over the previous twelve (12) month period.
- 9.3. The Customer will pay or procure the payment of the Charges within thirty (30) days of receipt of an invoice. Receipts for payment will be issued only upon request. Payment of sums due under this Agreement will be made by such reasonable method as may be notified to the Customer.
- 9.4. The Charges shall be exclusive of VAT (if any). The Customer shall pay VAT in addition to the Charges (together with any penalty or interest chargeable on Davies to the extent attributable to any act or omission by the Customer). Davies shall provide the Customer with an appropriate VAT invoice.
- 9.5. All payments under this Agreement shall be paid free and clear of all deductions or withholdings whatsoever, save to the extent any such deductions or withholdings are required by law.

- 9.6. If the Customer is required by law to make any deduction or withholding in respect of tax from any amounts payable to Davies under this Agreement or any SOW, the Customer shall:
 - 9.6.1. pay to Davies an additional amount as will, after the deduction or withholding has been made, leave Davies with the same amount as it would have been entitled to receive in the absence of any such requirement to make a deduction or withholding;
 - 9.6.2. promptly pay to the relevant taxation authority within the period permitted by law the amount of such withholding or deduction; and
 - 9.6.3. provide Davies with written evidence that it has made the payment to the relevant tax authority.
- 9.7. Unless agreed otherwise by Customer in writing in advance, no costs, expenses or payments of any kind shall be payable by Customer under or in connection with this Agreement other than the Charges.
- 9.8. If the Customer defaults on a payment when due of any sum payable to Davies Group under this Agreement (whether payable by agreement, by an order of a court or otherwise), the liability of the Customer shall be increased to include interest on that sum from the date when such payment was due until the date of actual payment at a rate of [4%] per annum above the base rate from time to time of the Bank of England. Such interest shall accrue from day to day and shall be compounded annually.

10. INDEMNIFICATION

- 10.1. The Customer hereby indemnifies and holds Davies harmless from and against all claims, demands, losses, damages, liabilities and expenses (including reasonable legal expenses) which Davies may suffer or incur as a result of any breach of any term of this Agreement by the Customer as a result of the negligence, fraud, wilful default or breach of statutory duty of the Customer.
- 10.2. Davies:
 - 10.2.1. warrants that the receipt and use of the Services and Deliverables by the Customer shall not infringe the Intellectual Property Rights of any third party; and
 - 10.2.2. shall indemnify and keep indemnified the Customer against all costs, expenses, damages and losses, including any interest, fines, legal and reasonable professional fees and expenses awarded against or incurred or paid by the Customer as a result of or in connection with any claim brought against the Customer for actual or alleged infringement of a third party's Intellectual Property Rights arising out of, or in connection with, the receipt, use or possession of the Services and the Deliverables ("IPR Claim").
- 10.3. The Customer shall only have a right to an indemnity under Clause [10.2.2] if it:
 - 10.3.1. promptly gives written notice to Davies of any IPR Claim, specifying the nature of the claim in reasonable detail;
 - 10.3.2. gives Davies (and its professional advisers) access at reasonable times on reasonable prior notice to its premises and personnel, agents, subcontractors, representatives or advisers, and to any relevant assets, accounts, documents and records within the power or control of the Customer, to enable Davies (and its personal advisers) to examine them and to take copies for the purpose of assessing the IPR Claim;
 - 10.3.3. acts in accordance with Davies' instructions regarding the manner in which such IPR Claim is to be dealt with or regarding the conduct of any legal proceedings relating to such IPR Claim;
 - 10.3.4. allows Davies to conduct any negotiations for settlement and any legal proceedings that may arise and provide such information and assistance as Davies may reasonably require;

10.3.5. makes no adverse admission relating to the IPR Claim without the prior written consent of Davies.

10.4. Nothing in this clause [10] shall limit the Customer's general obligation at law to mitigate a loss it may suffer or incur as a result of an event that may give rise to an IPR Claim.

11. LIMITATION OF LIABILITY

11.1. Nothing in this Agreement will operate to exclude either Party's liability for:

11.1.1. death or personal injury caused by negligence;

11.1.2. its wilful misconduct or that of its personnel, agents or subcontractors;

11.1.3. breach of the obligations arising from Section 2 of the Supply of Goods and Services Act 1982 or any other liability which cannot be excluded or limited by Applicable Law;

11.1.4. fraud or fraudulent misrepresentation.

11.2. To the extent permitted by law and subject to clause [11.1], neither Party shall be liable in contract, tort (including, negligence), breach of statutory duty or otherwise arising out of or in relation to this Agreement, any SOW, the Services in respect of:

11.2.1. loss or corruption of data;

11.2.2. loss of profit, goodwill, business opportunity, anticipated savings or benefits; or

11.2.3. indirect or consequential loss.

11.3. Subject to clauses [11.1 and 11.2], the liability of either Party in contract, tort (including, without negligence), breach of statutory duty or otherwise arising out of or in relation to this Agreement or any SOW, is limited in aggregate to the lesser of the Charges received by Davies under the relevant SOW during the twelve (12) month period immediately preceding the claim and five million pounds sterling (£5,000,000).

11.4. Except as expressly stated in this Agreement, all terms, conditions, warranties and representations, whether express or implied by statute, common law, usage or otherwise (including satisfactory quality) are excluded to the maximum extent permitted by law.

12. FORCE MAJEURE

12.1. If a Party is prevented, hindered or delayed from or in performing any of its obligations under this Agreement (other than a payment obligation) by a Force Majeure Event, that Party's obligations under this Agreement are suspended while the Force Majeure Event continues to the extent that it is prevented, hindered or delayed, provided that such Party has taken reasonable steps to mitigate the effects of such Force Majeure Event. For the avoidance of doubt, the Customer shall not be liable for any Charges in respect of any period when Davies is prevented, hindered or delayed from performing any of its obligations by a Force Majeure Event.

12.2. If the Force Majeure Event continues for more than two (2) months either Party may terminate this Agreement by giving no less than fourteen (14) days' notice to the other Party.

12.3. In this Clause [12] "Force Majeure Event" means an event beyond the reasonable control of the affected Party including, without limitation, third party strike; lock-out; labour dispute; act of god; epidemic or pandemic; war; riot; civil commotion; malicious damage; licence or direction; accident; software failure; breakdown of plant or machinery (including, but not limited to, telecommunications systems and utility services); fire; flood and storm.

13. INTELLECTUAL PROPERTY

- 13.1. Each Party (or its licensors) owns all right, title and interest in its own Background IPR. Davies acknowledges that all right, title and Interest in any Intellectual Property Rights in the Customer Materials is vested in Customer and/or in Customer's licensors. Customer acknowledges that all right, title and interest in any Background IPR of Davies is vested in Davies and/or in Davies' licensors.
- 13.2. With effect from the date on which Davies receives payment in full of the Charges in relation to the relevant Project IPR, all such Project IPR shall vest in the Customer and Davies hereby assigns, or shall procure the assignment of, all Project IPR to the Customer. Davies shall ensure that all moral rights in the Project IPR are waived unconditionally and irrevocably and are not asserted.
- 13.3. Davies hereby grants to Customer a royalty-free, non-exclusive, non-sublicensable and non-transferable perpetual licence to use Davies' Background IPR solely to the extent required to use the Project IPR and to take the benefit of the Services.
- 13.4. Customer hereby grants to Davies a royalty-free, non-exclusive, non-sublicensable and non-transferable licence to use Customer's Intellectual Property Rights (including in the Customer Materials) during the term of this Agreement for any purpose necessary to comply with this Agreement or a SOW.
- 13.5. Each Party shall execute such documents and take such steps as the other Party may reasonably require to fulfil the provisions of and to give to each Party the full benefit of this clause 13.

14. CONFIDENTIAL INFORMATION AND NON-SOLICITATION

14.1. The Receiving Party will:

- 14.1.1. not use Confidential Information of the Disclosing Party for any purpose other than the performance of its obligations under this Agreement; and
- 14.1.2. not disclose Confidential Information of the Disclosing Party to a person except with the prior written consent of the Disclosing Party or in accordance with Clauses [14.3] and [14.5.3].
- 14.2. The Receiving Party shall establish and maintain adequate security measures (including any reasonable security measures proposed by the Disclosing Party from time to time) to safeguard the Confidential Information from unauthorised access or use.
- 14.3. The Receiving Party may disclose Confidential Information to any of its Affiliates, directors, other officers, employees, professional advisors and contractors (a "**Recipient**") solely to the extent that disclosure is strictly necessary for the purposes of this Agreement.
- 14.4. The Receiving Party will ensure that each Recipient is made aware of and complies with the Receiving Party's obligations of confidentiality under this Agreement as if the Recipient was a party to this Agreement and shall indemnify the Disclosing Party for all loss and damage incurred as a result of the Recipient's breach of confidentiality.
- 14.5. Clauses [14.1 - 14.4] do not apply to Confidential Information:
 - 14.5.1. which is at the date of this Agreement, or at any time after that date becomes general public knowledge other than by the Receiving Party's or a Recipient's breach of this Agreement;
 - 14.5.2. which can be shown by the Receiving Party to the Disclosing Party's reasonable satisfaction to have been known by the Receiving Party on a non-confidential basis before disclosure by the Disclosing Party to the Receiving Party; or
 - 14.5.3. the disclosure of which is required by law or regulation, order of court or the rules of any stock exchange provided that the Disclosing Party has taken all reasonable steps to minimise such disclosure and (a) to the extent permissible and practical in the circumstances, gives the Disclosing Party written notice of any application for any such order or such order as soon as practicable; (b) provides the Disclosing Party with a reasonable opportunity to make

representations to the relevant court, authority or exchange to oppose the disclosure; and (c) co-operates with the Disclosing Party in order to oppose such disclosure or (where disclosure cannot be prevented) in order to secure the maximum possible continuing protection for the Confidential Information so disclosed, provided that nothing in this Clause 14 shall require the Receiving Party to take, omit to take or refrain for taking any action as a result of which the Receiving Party would be in breach of any Applicable Law, regulation, order of court or the rules of any stock exchange.

- 14.6. Davies shall not make use of the Confidential Information for the purposes of dealing or encouraging another person to deal in the Securities and agrees that no behaviour amounting to market abuse under MAR should be based on any Confidential Information.
- 14.7. Obligations of confidentiality under this Clause [14] shall continue and survive for a period of [2] years, notwithstanding termination of this Agreement.
- 14.8. The Customer shall not, and shall procure that no member of the Customer's Group shall, during the term of this Agreement and for a period of 12 months after termination of expiry of this Agreement, without Davies' prior written consent, directly or indirectly:
 - 14.8.1. initiate, accept or engage in any discussions or contacts of any kind with an employee or officer of Davies or its Group, except in relation to the Services or otherwise in the ordinary course of business between the parties; or
 - 14.8.2. subject to clause 14.9, employ or otherwise engage any Restricted Employee or solicit, entice away and encourage any Restricted Employee to leave the employment of Davies or any member of Davies' Group, whether or not such termination would be a breach of his contract of employment.
- 14.9. The placing of any general advertisement which is not specifically directed at any Restricted Employee, or the recruitment of any person through an employment agency where such agency has not been specifically instructed to solicit any Restricted Employee, shall not constitute a breach of clause 14.8.
- 14.10. The Customer agrees that, having regard to the facts and matters set out above and having taken professional advice, the restrictions contained in clauses 14.8 and 14.9 are reasonable and necessary for the protection of the legitimate business interests of Davies.

15. DATA PROTECTION

- 15.1. The parties shall comply with the provisions and obligations imposed on them by the Data Protection laws at all times when processing Personal Data in connection with this Agreement, which processing shall be in respect of the types of Personal data, categories of Data Subjects, nature and purposes, and duration, set out in the relevant SOW.
- 15.2. Each party shall maintain records of all processing operations under its responsibility that contain at least the minimum information required by the Data Protection laws, and shall make such information available to any DP Regulator on request.
- 15.3. The Parties agree and acknowledge that, to the extent Davies receives from, or processes any Personal Data on behalf of the Customer for the purpose of enabling Davies to perform its obligations under this Agreement, Davies shall:
 - 15.3.1. process the Personal Data only to the extent, for the duration of and in such a manner, as is necessary for the purposes specified in the SOW and in accordance with the Customer's written instructions from time to time (unless it is otherwise required by Applicable Law) and shall not process the Personal Data for any other purpose;

- 15.3.2. return or irretrievably delete all Personal Data on termination or expiry of the relevant SOW, and not make any further use of such Personal Data (except to the extent Applicable Law requires the continued storage of the Personal Data by Davies, in which case the provisions of this Clause [15] shall continue to apply to such Personal Data);
- 15.3.3. provide to the Customer and any DP Regulator all information and assistance reasonably necessary to demonstrate or ensure compliance with the obligations of this Clause [15] and/or the Data Protection Laws;
- 15.3.4. take such steps as are reasonably required to assist the Customer in ensuring compliance with its obligations under Articles 30 to 36 (inclusive) of UK GDPR, taking into account the nature of Davies' processing and the information available to Davies;
- 15.3.5. provide, at the Customer's request, a copy of all Personal Data held by it in the format and on the media reasonably specified by the Customer;
- 15.3.6. not transfer, access or process the Personal Data outside of the United Kingdom or the European Economic Area without the prior written consent of the Customer (and if the Customer so consents, take such steps as are required to ensure that the relevant transfer, access or processing complies with the Data Protection Laws); and
- 15.3.7. If either Party receives any complaint, notice or communication which relates directly or indirectly to the processing of the Personal Data by the other party or to either party's compliance with the Data Protection Laws and the data protection principles set out in this Agreement, it shall immediately notify the other Party and it shall provide the other Party with reasonable co-operation and assistance in relation to any such complaint, notice or communication.
- 15.4. Davies shall ensure:
 - 15.4.1. that it takes reasonable steps to ensure the reliability of any of Davies' employees who have access to the Personal Data;
 - 15.4.2. that access to the Personal Data is limited strictly to:
 - 15.4.2.1. those employees who need access to the Personal Data to meet Davies' obligations under this agreement; and
 - 15.4.2.2. in the case of any access by any employee, such part or parts of the Personal Data as is strictly necessary for performance of that employee's duties.
 - 15.4.3. that all of its employees involved with the Services:
 - 15.4.3.1. are informed of the confidential nature of the Personal Data;
 - 15.4.3.2. have undertaken training in the laws relating to handling personal data; and
 - 15.4.3.3. are aware both of Davies' duties and their personal duties and obligations under such laws and this Agreement.
- 15.5. If Davies receives a request from a Data Subject to exercise its rights under the Data Protection Laws in relation to that person's Personal Data, Davies shall:
 - 15.5.1. notify the Customer within 2 Business Days of receiving such a request;
 - 15.5.2. provide the Customer with full co-operation and assistance in relation to any request made by a Data Subject to have access to that person's Personal Data; and
 - 15.5.3. not disclose the Personal Data to any Data Subject or to a third party other than at the written request of the Customer or as expressly provided for in this Agreement.
- 15.6. The Customer is entitled, on giving at least 7 Business Days' notice to Davies, to inspect or appoint representatives to inspect all facilities, equipment, documents and electronic data relating to the processing of Personal Data by Davies. This requirement to give notice will not

apply if the Customer believes that Davies is in breach of any of its obligations under this Clause [15].

15.7. Davies warrants that:

15.7.1. it will take appropriate technical and organisational measures to ensure an appropriate level of security for the Personal Data to protect such Personal Data against the risks of accidental, unlawful or unauthorised destruction, loss, alteration, disclosure, dissemination or access, including but not limited to those measures set out in Davies' Information Security Policies.

15.7.2. it shall notify the Customer without undue delay if it becomes aware that any Personal Data (while within Davies' or its subcontractors' possession or control) is subject to a personal data breach (as defined in Article 4 of UK GDPR) or is lost or destroyed or becomes damaged, corrupted or unusable; and it shall provide the Customer with reasonable co-operation and assistance as requested by Customer in relation to the same;

15.8. Davies shall indemnify and keep indemnified and defend at its own expense the Customer against all costs, claims, damages or expenses incurred by the Customer or for which the Customer may become liable due to any failure by Davies or its employees or agents to comply with any of its obligations under this clause 15.

15.9. In relation to third parties or sub-contracting the processing of Personal Data:

15.9.1. Davies may only authorise a third party (sub-contractor) to process the Personal Data:

15.9.1.1. subject to the Customer's prior written consent where Davies has supplied the Customer with full details of such sub-contractor;

15.9.2. provided that provisions relating to data processing and data protection in the sub-contractor's contract is on terms which are substantially the same as those set out in this Clause 15; and

15.9.3. provided that the sub-contractor's contract terminates automatically on termination of this Agreement for any reason.

16. ANTI-BRIBERY

16.1. Each Party shall:

16.1.1. comply with all applicable laws, statutes, regulations and codes relating to anti-bribery and anti-corruption including the Bribery Act 2010;

16.1.2. 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 on in the UK;

16.1.3. have and shall maintain in place throughout the term of this Agreement its own policies and procedures, including adequate procedures under the Bribery Act 2010, to ensure compliance with this clause [16] and will enforce them where appropriate; and

16.1.4. promptly report to the other Party any request or demand for any undue financial or other advantage of any kind received by it in connection with the performance of this Agreement.

16.2. Breach of this clause [16] shall be deemed a material breach of this Agreement.

16.3. For the purpose of this clause [16], the meaning of 'adequate procedures' shall be determined in accordance with section 7(2) of the Bribery Act 2010 (and any guidance issued under section 9 of that Act).

17. MODERN SLAVERY

17.1. Davies shall, and shall procure that each of its subcontractors shall, take reasonable steps to ensure that slavery and human trafficking (as such phrase is defined in section 54(12) of the

Modern Slavery Act 2015) is not taking place in any of its supply chains or in any part of its own business. Davies shall, at the Customer's request, provide the Customer with a statement of any such steps it has taken, and such other information as the Customer may reasonably require in order to enable it to prepare a slavery and human trafficking statement in accordance with section 54 of the Modern Slavery Act 2015. Davies shall notify the Customer without undue delay if it becomes aware of any actual or suspected slavery or human trafficking in a supply chain which has a connection with this Agreement.

18. INSURANCE

- 18.1. Davies shall maintain in effect during the continuance of this Agreement and for a period of 5 years after expiry or termination of this Agreement: (i) adequate public liability insurance cover with a reputable insurance company to a minimum indemnity limit of £2,000,000; (ii) adequate professional indemnity Insurance cover with a reputable Insurance company to a minimum indemnity limit of no less than £2,000,000 (with an excess of no more than £ 75,000; and (iii) adequate employers' liability indemnity insurance cover with a reputable insurance company to a minimum indemnity limit of no less than £5,000,000. Davies hereby agrees that it will not do or omit to do anything to substantially vitiate the above insurance cover.

19. EMPLOYMENT ISSUES

- 19.1. The Parties do not consider or intend that the Transfer of Undertakings (Protection of Employment) Regulations 2006 (the "**Transfer Regulations**") or any provisions replacing or amending these provisions shall operate to transfer the employment of (i) any employees of or (ii) any person engaged by Davies to the Customer, whether as a consequence of or by reason of this Agreement or any SOW, its termination or otherwise.
- 19.2. If notwithstanding [Clause 19.1] above any person who has been employed or engaged by Davies transfers or claims to have transferred to the employment of the Customer as a result of the application of the Transfer Regulations, the Customer shall notify Davies within five (5) Business Days of such a claim being made in order to give Davies the option to make an offer of employment to such person.
- 19.3. Where it is determined that the person has transferred to the employment of the Customer as a result of the Transfer Regulations and an offer of employment as referred to in Clause [19.2] is not made by Davies or is not accepted by the person within three (3) months of notification being made to Davies in accordance with Clause [19.2], the Customer shall be entitled to dismiss any such person, and Davies shall indemnify and keep indemnified the Customer, as appropriate, from and against any and all costs, proceedings, actions, claims or demands, liabilities and obligations which they may incur (including reasonable legal costs and expenses) arising out of the application of the following:
- 19.3.1. a claim brought by an employee of Davies as a result of matters which have occurred before any transfer under the Transfer Regulations;
- 19.3.2. a claim arising out of any decision that the Customer may take to dismiss or refuse to employ Davies' employees who are found to have transferred under the Transfer Regulations;
- 19.3.3. a claim relating to a failure to comply with regulations 11, 13 or 14 of the Transfer Regulations;
- 19.3.4. a claim arising out of any failure by Davies to comply with any obligations relating to the provision of information and/or consultation in relation to such person whether pursuant to the Transfer Regulations or any statutory requirement (including, but not limited to, any requirement pursuant to the Trade Union and Labour Relations (Consolidation) Act 1992) or any collective agreement or otherwise.

20. AUDIT

- 20.1. During the term of this Agreement, Davies shall allow the Customer (or its professional advisers, provided such advisers are subject to written confidentiality obligations in respect of any information obtained) to access Davies' premises, personnel, systems and relevant records to verify that the Charges and any other sums charged to the Customer under this Agreement or any SOW are accurate.
- 20.2. Subject to the Customer's obligations of confidentiality at Clause [16], Davies shall provide the Customer (and its professional advisers) with all reasonable co-operation, access and assistance in relation to each audit.
- 20.3. The Customer shall provide at least seven (7) Business Days' notice of its intention to conduct an audit and any audit shall be conducted during business hours.
- 20.4. The Customer and its professional advisers shall have the right to take copies of any records which they reasonably require and remove such copies and Davies shall provide the necessary facilities to assist in copying free of charge.

21. MISCELLANEOUS

21.1. Governing Law

- 21.1.1. This Agreement and any dispute, claim or obligation (whether contractual or non-contractual) arising out of or in connection with it, its subject matter or formation shall be governed by, and will be construed in accordance with, English law.

21.2. Dispute Resolution

- 21.2.1. Save as otherwise provided in this Agreement, any dispute arising out of or in connection with this Agreement ("**Dispute**"), shall be referred by either Party first to the nominated representatives of each of the Parties for resolution. If the Dispute cannot be resolved by the nominated representatives of the Parties within 10 days after the Dispute has been referred to them, either Party may give notice to the other Party in writing ("**Notice**") of escalation of the Dispute. Upon receipt of the Notice, the Dispute shall be referred to a senior management representative of each of Davies and the Customer for resolution within twenty one (21) days.
- 21.2.2. If the Parties fail to resolve a Dispute in accordance with the procedure set out above, the Dispute shall be referred to a mediator for resolution. The Parties will attempt to settle it by mediation in accordance with the Centre for Dispute Resolution (CEDR) Model Mediation Procedure. To initiate mediation a Party must give notice in writing to the other Party requesting mediation in accordance with this Clause. Neither Party may commence any court proceedings (other than for interim relief) in relation to any dispute arising out of this Agreement until the mediation has terminated.
- 21.2.3. The Parties irrevocably agree that the English courts shall have exclusive jurisdiction to settle any dispute or claim (whether contractual or non-contractual) arising out of or in connection with this Agreement, its subject matter or formation.
- 21.2.4. Nothing in this Clause [21] shall prevent any Party from having recourse to a court of competent jurisdiction for the sole purpose of seeking a preliminary injunction or such other provisional judicial relief as it considers necessary to avoid irreparable damage.

21.3. Variation

No variation of this Agreement shall be valid unless it is in writing (which shall exclude email) and signed by or on behalf of each of the Parties by its respective authorised representatives. The expression 'variation' includes any variation, supplement, deletion or replacement, however effected.

21.4. Releases and Waivers

No failure to exercise and no delay in exercising any right, remedy, or power hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any right, remedy, or power hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, or power provided herein or by law or in equity.

21.5. Assignment and Subcontracting

21.5.1. Except as set out in Clauses [21.5.2 and 21.5.3], neither Party may assign, transfer, charge or otherwise encumber, declare a trust over to deal in any other manner with this Agreement or any right, benefit or interest under it, or sub-contract any of its obligations under it, without the prior written consent of the other Party (such consent not to be unreasonably withheld or delayed).

21.5.2. Davies may assign the benefit of this Agreement to any member of its Group for so long as the assignee remains a member of its Group.

21.5.3. Davies may sub-contract its obligations under this Agreement to any approved sub-contractor set out in Schedule [5]. The appointment of any sub-contractor shall not relieve Davies of any obligation under this Agreement, and the acts or omissions of any such sub-contractor shall, for the purposes of this Agreement, be deemed to be the acts or omissions of Davies.

21.6. Severability

To the extent that any provision (or any part of any provision) of this Agreement is found by any court or competent authority to be invalid, unlawful or unenforceable in any jurisdiction, that provision shall be deemed not to be a part of this Agreement, it shall not affect the enforceability of the remainder of this Agreement nor shall it affect the validity, lawfulness or enforceability of that provision in any other jurisdiction.

21.7. Notices

Any notice required to be given by either Party to the other shall be in writing, signed by or on behalf of the Party giving it and will be deemed validly given if sent by hand, or by prepaid registered letter sent through the post (by airmail if sent overseas), to the other Party at its address set out on the SOW or such other address as may be notified from time to time for this purpose. Any notice sent by hand will be deemed to have been served on delivery. Any notice sent by prepaid registered letter will be deemed to have been served 48 hours after the time at which it was posted (or seven days if sent by airmail).

21.8. Entire Agreement

This Agreement constitutes the entire agreement and understanding between the Parties with respect to its subject matter and supersedes any prior agreement, understanding or arrangement between the Parties whether oral or in writing (including, but not limited to, any terms and conditions set out in any purchase order or other documentation issued by the Customer). Each Party acknowledges that it has entered into this Agreement in reliance only on the representations, warranties, promises and terms contained in this Agreement and, save as expressly set out in this Agreement, neither Party shall have any liability in respect of any other representation, warranty or promise made prior to the date of this Agreement, unless it was made fraudulently.

21.9. **Rights of Third Parties** A person who is not a Party to this Agreement shall have no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Agreement.

21.10. Acceptance

Each Party represents and warrants that it and the person(s) signing on its behalf have full authority and right to enter into this Agreement and into the SOW(s) governed by this Agreement.

22. NON-SOLICITATION

- 22.1. Each Party undertakes during the term of this Agreement and for twelve (12) months after its termination not to induce or entice away (whether directly or indirectly) any person who during the previous twelve (12) months has been employed or engaged by the other Party, other than by means of a general advertising campaign open to all-comers and not specifically targeted at such persons.
- 22.2. In the event that a Party breaches Clause [22.1], it will pay the other Party by way of liquidated damages one hundred (100) percent of the first year's salary of such person within thirty (30) days of that person's commencement with the breaching Party.

23. COUNTERPARTS

This Agreement may be executed in any number of counterparts and by the Parties on separate counterparts, but shall not be effective until each Party has executed at least one counterpart. Each counterpart, when executed, shall constitute a duplicate original, but all the counterparts shall together constitute the one agreement.

This Agreement has been signed on the date appearing at the head of page 1.

Signed for and on behalf of Davies Technology
Solutions Limited

Signature:

Name:

Position:

Signed for and on behalf of [INSERT CUSTOMER
LEGAL ENTITY]

Signature:

Name:

Position:

Schedule 1 – Rate Card

Schedule 2 – Davies’ Information Security Policies

Schedule 3 – Template Statement of Work

Schedule 4 – Data Processing Information

The Personal Data processing activities carried out by [the Supplier] under this Agreement may be described as follows:

Subject matter of processing

[Provide a brief description of the subject matter of the processing, i.e. the subject matter of the Agreement as it involves personal data]

Nature and purpose of processing

[Describe the type of processing and its purpose(s)]

Categories of Personal Data

[Insert the categories of personal data which are subject to the processing]

Categories of data subjects

[Insert the categories of data subjects (i.e. individuals) whose data is subject to the processing]

Duration

[Insert duration of the processing, either by reference to the term of the Agreement or a defined point in the Agreement, or (if known) a fixed duration]

Schedule 5 – Approved Sub-contractors



>110

Global office locations

>1m

Claims handled pa

>7,500

Global staff

>\$10bn

Claims spend managed pa

Davies Group Limited

Registered Company No. 06479822. Registered in England and Wales
Registered Office: 5th Floor, 20 Gracechurch Street, London EC3V 0BG

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