



G-Cloud 14 Framework Agreement
Deloitte LLP Standard Terms of Business
("Terms of Business")

May 2024



1. Definitions and Interpretation

- 1.1. The whole of the contract between the G-Cloud Buyer and Deloitte LLP (the "**Supplier**") is set out in the G-Cloud Call-Off Contract including the Order Form, and these Terms of Business (together the "**Agreement**"). For the purposes of the Agreement, services means any G-Cloud Services and/or Deliverables including any Additional Services (if any) set out in the Order Form (the "**Services**").
- 1.2. This Agreement does not make either of the Buyer or the Supplier an agent or legal representative of the other, nor does it create a partnership or joint venture.
- 1.3. If the Supplier has already started providing the Services then the Buyer agrees that the Agreement applies retrospectively from the start date of the Services.
- 1.4. Unless expressly varied herein or in writing between the Parties, the definitions set out in these Terms of Business shall be interpreted in accordance with the defined terms in the G-Cloud Call-Off Contract and have the same meaning throughout these Terms of Business. If there is a conflict between these Terms of Business and the Call-Off Contract, the terms set out in the Call-Off Contract shall prevail.
- 1.5. For the purpose of the Agreement, "**Supplier Parties**" mean means Deloitte, any member of the Deloitte Touche Tohmatsu Limited network of firms and their subsidiaries, affiliates, and Subcontractors, and in each case their respective partners, principals, directors and personnel. In relation to Deloitte UK, Deloitte LLP uses the word "partner" in respect of its members and certain of its senior employees in its dealings with you to describe, respectively, a member and senior employee of Deloitte LLP in their capacity as such. Deloitte LLP gives a number of its employees the title of "director", which denotes that they are senior employees and not that they hold the office of director for the purposes of the Companies Act 2006. A list of members of Deloitte LLP is available at the Companies House website.

Contracting Parties and Assignment

- 1.6. The Agreement is between the Buyer and the Supplier. The Buyer agrees that the Buyer's relationship is solely with the Supplier as the entity contracting with the Buyer to provide the Services.

Save for those other persons (if any) who Supplier and Buyer have both agreed may have the benefit of and rely on the Services as identified in the Order Form ("**Beneficiaries**"), the Supplier neither owes nor accepts any duty or liability to any person other than the Buyer.

- 1.7. Notwithstanding the fact that certain Services under the Agreement may be carried out by personnel provided to the Supplier from other Supplier Parties through service or other agreements, the Buyer agrees that the Buyer will not bring any claim or proceedings of any nature (whether in contract, tort, including, but not limited to, a claim for negligence, breach of statutory duty or otherwise) in any way in respect of or in connection with the Agreement against any of the Supplier Parties (except the Supplier) or against any subcontractors that the Supplier may use to provide the Services. The foregoing exclusion does not apply to any liability, claim or proceeding founded on an allegation of fraud by any Supplier Party or any subcontractor or other liability that cannot be excluded under English law.
- 1.8. Neither the Supplier nor the Buyer may assign or otherwise transfer the benefit of the Agreement without the prior written consent of the other. Further, neither Party, will directly or indirectly agree to assign or transfer any claim against the other arising out of the Agreement to any other person.
- 1.9. For the purposes of these Terms of Business, "**Deloitte Parties**" means the Supplier, any member of the Deloitte Touche Tohmatsu Limited network of firms and their subsidiaries, affiliates, and Subcontractors, and in each case their respective partners, principals, directors and personnel. The Supplier uses the word "partner" in respect of its members and certain of its senior employees in its dealings with you to describe, respectively, a member and senior employee of the Supplier in their capacity as such. The Supplier gives a number of its employees the title of "director", which denotes that they are senior employees and not that they hold the office of director for the purposes of the Companies Act 2006. A list of members of the Supplier is available at the Companies House website.

2. Scope of Services

- 2.1. The Supplier shall perform the Services with reasonable skill and care.

- 2.2. The Supplier will prepare Deliverables based on (i) the information provided to it during its work, (ii) the circumstances existing at the time of their preparation, and (iii) Supplier's understanding of relevant legislation, case law and practice. The Supplier shall not be responsible for updating any Deliverable for events occurring after acceptance of that Deliverable nor monitoring its continuing relevance or suitability for the Buyer's purposes.
- 2.3. Unless otherwise specified in the Order Form, all performance dates contained in this Agreement are estimates. Supplier shall use reasonable efforts to meet such dates.
- 2.4. Except as agreed in the Order Form, Call-Off Schedule 3 (Collaboration Agreement), Call-Off Schedule 5 (Guarantee) and Call-Off Schedule 8 (Corporate Resolution Planning) of the Call-Off Contract will be assumed not to be applicable to the Order Form.
- 2.5. The Services may, as may be relevant, include: (i) Design & Scoping Services (as defined in clause 3.1); and/or (ii) Implementation Services (as defined in clause 4.1); (iii) Managed Services (as defined in clause 6.1); (iv) Software Services (as defined in clause 8.2); and/or (v) Product Resale (as defined in clause 3.1).
- 2.6. The Services may, as may be relevant, include the provision of certain software and/or system(s) (the "**Technical Deliverables**") and/or documentation (the "**Document Deliverables**") and each as further described in the Order Form (together the **Deliverables**).

Use of Deliverables

- 2.7. The Supplier may discuss ideas with the Buyer orally or show the Buyer draft Deliverables, which will be provided for information purposes only and for which the Supplier has no liability. The Buyer shall only rely on Deliverables that the Supplier has confirmed in writing are in final form.
- 2.8. The Deliverables are for the Buyer's exclusive use and should be used solely for the purpose described in the Order Form. They must not be used for any other purpose, recited or referred to in any document, copied or made available (in whole or in part) to any other person without the Supplier's prior written express consent. The Buyer agrees to reimburse the Supplier for any losses or liabilities (including legal costs) that any Deloitte Party incurs in connection with any claim

by any third party in relation to the Services and/or Deliverables.

- 2.9. Notwithstanding clause 2.8, the Buyer may disclose the Deliverable(s) to its Affiliates and to its legal advisers on a need to know basis in connection with the project or transaction to which the Agreement relates, provided it ensures that such parties accept that: (i) except where required by law, court order or regulatory authority, the Deliverables must not be disclosed to any other party without the Supplier's prior written consent, (ii) the Deliverables are provided for their information (but without creating any duty or liability to them on our part), and in the case of disclosure to legal advisers solely for the purpose of advising the Buyer in connection with the project or transactions to which our engagement relates and must not be used for any other purpose, and (iii) if they place reliance on the Deliverables they do so at their own risk and have no recourse to any Deloitte Parties.

3. Product Resale

- 3.1. In relation to any element of resale of software products by the Supplier "**Product Resale Services**" in a Call-Off Contract, only Clauses 1, 2, 3 and Appendix 3 of these Terms of Business shall be applicable.

4. Design & Scoping Services

- 4.1. Where specified in the Order Form, the Supplier will provide any of the following activities (as further specified in the Order Form): (i) scoping visits to inspect the Buyer's systems; (ii) meetings with the Buyer to identify requirements; (iii) reporting to the Buyer in respect of options for meeting the Buyer's requirements; and/or (iv) designing an appropriate system for the Buyer (the "**Design & Scoping Services**").
- 4.2. Any Document Deliverables produced pursuant to any Design & Scoping Services will be subject to acceptance in accordance with clause 6.7.

5. Implementation Services

- 5.1. The Supplier may provide certain development and/or implementation services (the "**Implementation Services**") for the supply of certain Deliverables and/or third party software and related documentation, which are specified in

the Order Form. The Implementation Services shall be performed using one or a combination of both of the processes identified at clause 5.2 below (as further described in the Order Form).

Waterfall Development Processes

- 5.2. All Implementation Services to be performed under the Agreement using the waterfall method (as selected in the Order Form) shall be subject to the following:
 - 5.2.1. the Supplier will use reasonable efforts to perform the Implementation Services and provide to the Buyer the Deliverable(s) in order to achieve any milestones that are identified in the Order Form as being "key" milestones ("**Key Milestones**");
 - 5.2.2. if the Buyer fails to provide any required information, materials, access and/or assistance to the Supplier in a complete and timely manner, the Supplier will, during the period of any resulting delays, be entitled to a proportionate extension of any milestone dates and to recover any reasonable additional costs incurred by the Supplier as a direct result of the delay or failure by the Buyer, and the Supplier will not be liable for the delay;
 - 5.2.3. the Buyer will conduct all acceptance tests to the Deliverables specified in the Order Form as being subject to acceptance testing in accordance with clause 5 and at the times and as set out in the Order Form; and
 - 5.2.4. any Document Deliverables produced will be subject to acceptance in accordance with clause 6.7.

Agile Development Processes

- 5.3. All Implementation Services to be performed under the Agreement using an Agile development method (as specified in the Order Form) shall be subject to the following:
 - 5.3.1. the Supplier will perform the Implementation Services in order to develop the Deliverables in an iterative manner in accordance with an agreed Agile methodology and approach, as described in more detail in the Order Form;
 - 5.3.2. the Supplier will use reasonable efforts to supply the Deliverables to meet any Key Milestones referred to in the release plan agreed with the Buyer after the

discovery phase in accordance with the process described in the Order Form;

- 5.3.3. if the Buyer fails to cooperate with the Supplier as required by the Agile methodology or provide any required information, materials, access and/or assistance to the Supplier in a full and timely manner, the Supplier will, during the period of any resulting delays, be entitled to a proportionate extension to the project plan and to recover any reasonable additional costs incurred by the Supplier as a direct result of the delay or failure by the Buyer, and the Supplier will not be liable for the delay;
- 5.3.4. where it is specified in the Order Form that a certain set of Technical Deliverables to be delivered following a series of "sprints" is subject to acceptance testing, the Buyer will conduct the acceptance tests of the relevant Technical Deliverables in accordance with clause 5 and as set out in the Order Form;
- 5.3.5. except as set out in clause 4.3.4 above, the Buyer's acceptance of the Technical Deliverables following the completion of a "sprint" shall be a full and final acceptance and shall not be subject to the acceptance of the Technical Deliverables in any subsequent "sprint" process; and
- 5.3.6. any Document Deliverables produced will be subject to acceptance in accordance with clause 6.7.

Models

- 5.4. Whilst providing the Services, the Supplier may refer to spreadsheets and or computer models provided by the Buyer or that the Buyer asks the Supplier to rely upon ("**Buyer Models**") or that the Supplier has used or developed solely for its internal use (including inter alia data analytics) ("**Supplier Models**"). Unless otherwise agreed in the Order Form, the Supplier will not be responsible for reviewing or testing the logical integrity of, or detecting any errors in, any of the Buyer Models. Whilst the Supplier is not obliged to provide the Buyer with any of the Supplier Models, if it does so for expediency, it will solely be on the basis that the Supplier accepts no liability or responsibility to the Buyer or any other party for the Buyer's (and/or such party's) use of them, or for their accuracy, suitability or adequacy for the Buyer's or any other party's purposes.

Governance

- 5.5. During the course of provision of the Implementation Services, the Parties' respective representative as identified the Order Form shall meet at least once per week, or such other frequency as may be agreed between the Parties, to discuss the progress of the Implementation Services and any issues arising.

6. Testing & Acceptance

- 6.1. The Buyer shall carry out acceptance testing on the Deliverables, where relevant and in accordance with the processes described in the Order Form, in order to test the compliance of the relevant Deliverable(s) with the acceptance criteria for each Deliverable (the "**Acceptance Criteria**").
- 6.2. The Parties will agree the Acceptance Criteria for each acceptance test prior to the relevant date specified in the Order Form.
- 6.3. The Buyer shall provide to the Supplier an acceptance certificate substantially in the form set out in Appendix 1 (the "**Acceptance Certificate**") as soon as any Technical Deliverable has successfully completed an acceptance test by achieving the Acceptance Criteria. Such Acceptance Certificate or other written indication of acceptance shall be provided by the Buyer to the Supplier within 5 Working Days of the successful conclusion of any acceptance test. If the Supplier has not received notice from the Buyer of the unsuccessful conclusion of the relevant acceptance test within 5 Working Days of the end of the relevant test, or if the Buyer makes live operational use of the relevant Technical Deliverable(s), such Technical Deliverable(s) will be deemed accepted by the Buyer (and the relevant Implementation Services completed).
- 6.4. Subject to clause 5.6, if any acceptance test demonstrates that any Technical Deliverable(s) materially fails to satisfy the relevant Acceptance Criteria, the Buyer may require the Supplier to correct the Technical Deliverable(s) and to make them available to the Buyer within a reasonable time for the Buyer to re-perform the acceptance tests on the corrected Technical Deliverable(s). For the avoidance of doubt, the re-performed tests shall be to meet the same Acceptance Criteria as the original tests. The Supplier shall carry out such correction activities at no additional charge to the Buyer.
- 6.5. If a re-performed acceptance test carried out in accordance with clause 5.4 does not satisfy the Acceptance Criteria, the Buyer's exclusive remedy and the Supplier's sole liability shall be, at the Buyer's option and acting reasonably, to:
- 6.5.1. require the Supplier, within such reasonable period as is agreed between the Supplier and the Buyer at no additional charge to the Buyer, to correct the Technical Deliverable(s) and to make them available for the Buyer to perform a further repetition of the acceptance tests on the corrected Technical Deliverable(s); or
- 6.5.2. reject any of the Technical Deliverables that materially fail to achieve the Acceptance Criteria, to accept the remaining Deliverables and to pay the Charges that relate to the Services performed.
- 6.6. If any failure of a Technical Deliverable to achieve an Acceptance Criteria is as a result of an act and/or omission attributed to the Buyer and/or a third party, the Supplier shall at its reasonable discretion use reasonable endeavours to provide assistance to the Buyer subject always to the Buyer reimbursing the Supplier at its time and materials fee rates.
- 6.7. In respect of any Document Deliverables, the Buyer shall promptly communicate acceptance on delivery of the Document Deliverable in its final form. In any event, approval of a Deliverable shall be deemed given if Buyer has not provided the Supplier with approval or given written notice to the Supplier that a Deliverable materially fails to meet the specification set out in the Order Form within fourteen (14) days of delivery.
- 6.8. If the Buyer notifies the Supplier within 14 days that the Document Deliverable materially fails to meet the specification set out in the Order Form under clause 6.7, the Buyer may, acting reasonably:
- 6.8.1. require the Supplier, within such reasonable period of time as is agreed between the Parties and at no additional charge to the Buyer, to correct or revise the Document Deliverable(s) and to deliver them to the Buyer again; or
- 6.8.2. reject any of the Document Deliverables that materially fail to meet the specification set out in the Order Form, to accept the remaining Document

Deliverables and to pay the Charges that relate to the Services performed.

7. Managed Services

7.1. Where specified in the Order Form the Supplier will: (i) host the software implemented pursuant to the Implementation Services on its hosting environment or through a third party hosting or cloud services provider as specified in the Order Form (the "**Hosting Services**"); and (ii) provide support and maintenance services for the hosted software (as further described in the Order Form) (the "**Support and Maintenance Services**"). The Hosting Services and Support and Maintenance Services shall together be referred to as the managed services (the "**Managed Services**"). If the provision by the Supplier of the Managed Services is specified in the Order Form, this clause 6 shall apply to the provision of such Managed Services. Otherwise, this clause 6 shall be of no effect between the Parties.

Hosting Services

7.2. From the relevant date specified in the Order Form or from such date as is agreed between the Parties in writing and for the remainder of the term of the Agreement, the Supplier will provide the Hosting Services and give access to those of the Buyer's employees, agents and independent contractors who are authorised to use the hosted software for the internal business use and/or as may be specified in the Order Form (the "**Authorised Users**") who are entitled to access and use the Deliverables through the Hosting Services, provided always that such access and use shall be subject to the restrictions on use of the Deliverables set out in clauses 8.12 to 8.14, and subject to any additional terms and conditions relating to a third party hosting or cloud services provider included in the relevant Order Form ("**Cloud Hosting Terms and Conditions**").

7.3. Where access is limited to certain named Authorised Users in accordance with the Call-Off Contract, the Buyer will provide to the Supplier details of the identity of the relevant Authorised Users prior to the commencement of the provision of Hosting Services and throughout the Hosting Services provision period.

7.4. The Supplier may audit the use of the Hosting Services by the Authorised Users following reasonable notice from the Supplier. Such audit may be conducted no more than once every

quarter, at the Supplier's expense, in a manner so as to not substantially interfere with the Buyer's normal conduct of business. If any such audit reveals that individuals who are not the Authorised Users are accessing the Hosting Services, and without prejudice to the Supplier's other rights, the Buyer will at the Supplier's request promptly disable access by such individuals and shall promptly pay the relevant Charges for such individual's use of the Hosting Services.

7.5. In relation to the provision of the Hosting Services:

7.5.1. the Supplier hereby grants the Buyer on and subject to the terms and conditions of the Agreement a non-exclusive, non-transferable license to allow Authorised Users to access and use the Deliverables through the Hosting Services solely for the Buyer's business purposes;

7.5.2. the Buyer will not store, distribute or transmit any virus, or any material through the Hosting Services that is unlawful, harmful, threatening, defamatory, obscene, infringing, harassing, offensive, discriminatory or facilitates illegal activity;

7.5.3. the rights provided under this clause 6.5 are granted to the Buyer only and, unless otherwise specified in the Order Form, shall not be considered granted to any of the Buyer's subsidiaries or the Buyer's holding company;

7.5.4. the Buyer and its Authorised Users will comply with the Cloud Hosting Terms and Conditions; and

7.5.5. the Buyer will use reasonable endeavours to prevent any unauthorised access to, or use of, the Deliverables through the Hosting Services and notify the Supplier promptly of any such unauthorised access or use.

Support and Maintenance Services

7.6. From the relevant date specified in the Order Form or from such date as is agreed between the Parties in writing and for the remainder of the term of the Agreement the Supplier will provide the Buyer with the Support and Maintenance Services.

7.7. Where specified under the Order Form and as further described therein, the Supplier will provide technical support services in respect of the hosted software.

7.8. The Buyer's personnel named as support representatives in the Order Form (or as notified to the Supplier in writing from time to time) shall be authorised to contact the Supplier for technical support services.

7.9. When the Supplier wishes to carry out any maintenance to the Hosting Services (other than emergency maintenance), the Supplier will ensure that: (a) the timing of the planned maintenance is in accordance with the requirements of an agreed maintenance schedule (the "**Maintenance Schedule**") or is as otherwise jointly agreed in writing with the Buyer's authorised representative at least 10 Working Days in advance; (b) the planned maintenance (the "**Permitted Maintenance**") is forthwith entered onto the agreed Maintenance Schedule; and (c) the Permitted Maintenance is subsequently carried out in accordance with the Maintenance Schedule.

7.10. Service downtime arising due to Permitted Maintenance that is carried out by the Supplier will be subtracted from the total number of hours in the relevant calendar month (or such other period as may be described in the Order Form) in which the Service is being provided (the "**Service Period**") when calculating "**Availability**" (as this term may be defined in the Order Form).

7.11. The Supplier will carry out any emergency maintenance where the Supplier reasonably suspects that the Hosting Services or any part thereof has or may have developed a fault. Any such emergency maintenance shall be carried out in such a manner and at such times so as to avoid (or where this is not possible so as to minimise) disruption to the Hosting Services.

Service Levels

7.12. The Supplier will use reasonable efforts to provide the Managed Services to meet or exceed any applicable service levels set out in the Order Form (the "**Service Levels**").

7.13. The Supplier will monitor its performance of the Managed Services by reference to the Service Level(s) and will send the Buyer a report detailing the level of service which was achieved in the preceding service period as defined in the Order Form (if any) ("**Service Period**").

7.14. If there is a material failure to deliver the Managed Services in accordance with the Service Levels ("**Service Failure**") or if the Supplier believes that there will be such a Service Failure, the

Supplier will notify the Buyer as soon as reasonably practicable and carry out emergency maintenance in accordance with clause 6.11.

Governance

7.15. During the course of provision of the Managed Services, the Parties' designated representatives shall meet as agreed between the Parties or such other frequency as may be set out in the Order Form, to discuss the delivery of the Managed Services and any issues arising.

8. Software Services

8.1. The following definitions shall apply within the context of this clause 8:

"**Licensed Software**" means the computer software or programs in object code form to be licensed to the Buyer as detailed in the Order Form and includes any changes, additions, derivatives or modifications and/or upgrades to it.

"**On Prem Licensed Software**" means a copy of the Licensed Software which the Supplier provides to the Buyer for installation on the Buyer's infrastructure.

"**Specification**" means the functional description of the Licensed Software as may be initially detailed in the Order Form, as the same may be modified by Deloitte from time to time as detailed in the EL.

"**Supplier Hosted Client Data**" means any and all Buyer Data uploaded to and/or processed by the Supplier Hosted Licensed Software.

"**Supplier Hosted Licensed Software**" means the Licensed Software hosted by the Supplier (or on its behalf) and made available to the Buyer on a software-as-a-service basis ("**SaaS**") accessed by the Buyer on a subscription basis.

"**Supplier Materials**" means any materials and content owned or controlled by the Supplier, which we have displayed or made accessible via the Licensed Software (including their design, text, graphics, their selection and arrangement) and which is not Deliverable.

8.2. Where we have agreed in the Order Form to make the Licensed Software available to you on either a SaaS basis or for use on your own infrastructure ("**Software Services**"), your use of this Licensed Software shall be provided in accordance with the license scope and subject always to the user restrictions set out in this clause 8.

- 8.3. We confirm that where the Buyer is subscribing to the Licensed Software on a SaaS basis, the terms expressly referenced as relating only to On Prem Licensed Software, shall not apply. Where a Client is licensing the Licensed Software for use on its own infrastructure, the terms expressly referenced as relating only to Deloitte Hosted Licensed Software, shall not apply.
- 8.4. Subject to the Buyer's payment of the license/subscription fees, the Supplier grants the Buyer and its Authorised Users on the terms and conditions in the Call-Off Contract (including without limitation any volume based use restrictions), a limited, non-exclusive, non-sublicensable and non-transferable license to access/and or use the Licensed Software (including any Deloitte Materials) pursuant to the Services specified in the Order Form. In relation only to any On Prem Licensed Software, this includes the right to install a copy on the Buyer's hardware or system configuration which is capable of running the Licensed Software as agreed between the Buyer and Supplier.
- 8.5. The Buyer must ensure that all the Authorised Users comply with the provisions of the Call-Off Contract in connection with the use of the Licensed Software and the Buyer shall be liable for any acts or omissions of such persons as if they were its own acts or omissions. The Supplier shall not be responsible for any error in, or failure of the Licensed Software insofar as such error or failure occurs in or is caused by any failure by the Buyer or its Authorised Users to comply with the Call-Off Contract.
- 8.6. Except as otherwise agreed in the Order Form, the Supplier shall have no obligation to provide updates, modifications or enhancements to the Licensed Software, or to provide maintenance, support or other services with respect to the Licensed Software.
- 8.7. The Buyer is responsible for ensuring that Authorised Users maintain the confidentiality of their username and password for access purposes and that only one individual may access the account assigned with such username and password. Where the Supplier administers access by your Authorised Users, the Buyer will supply the Supplier with the Authorised Users' identities and any other information required by us to enable us to provide access to these Authorised Users and in addition notify the Supplier promptly of any user who ceases to be an Authorised User so that the Supplier may disable their access. Where the Buyer administers access and access is not via single sign on, then the Buyer will ensure that user passwords are changed regularly and/or on the frequency basis set out in the Order Form.
- 8.8. The Buyer shall use all reasonable endeavours to prevent any unauthorised access to, or use of the Licensed Software and the Buyer must notify the Supplier promptly of any potential or actual misuse of (a) any user accounts or authentication credentials; and (b) any other security incident related to, or that may affect, the Licensed Software.
- 8.9. The Buyer shall ensure that its computer equipment and facilities used to access any Deloitte Hosted Licensed Software meet the Technical Requirements and that the Buyer will procure any licenses or consents to use any third party software or hardware which is necessary for it to utilise the functionality of the Licensed Software in accordance with this Call-Off Contract.
- 8.10. The Buyer is responsible for procuring and maintaining its network connections and telecommunications links from its computer equipment and facilities to access the Deloitte Hosted Licensed Software.
- 8.11. Save as expressly agreed otherwise the Buyer is responsible for providing all data or information for use by the Licensed Software. The Buyer will be responsible for retaining a copy of all Buyer Data and outputs.
- 8.12. The following user restrictions apply to Supplier Licensed Software. The Buyer shall not and shall procure that the Authorised Users shall not:
- a) de-compile, reverse engineer or disassemble the Licensed Software or apply any other process or procedure to derive the source code thereof, or allow any third party to do so (the applicability of article 6, §1 of the EU directive of 14 May 1991 and any similar article in national laws implementing this directive is expressly excluded if we can either perform the work or provide the information necessary to achieve the interoperability of the Licensed Software with other programs);
 - b) sell, re-license, rent, lease, provide service bureau or timeshare access to the Licensed Software;

- c) use the Licensed Software for incorporation in any device, article, commodity, product or goods for use by or sale or lease to third parties;
- d) use the Licensed Software for the provision of services to third parties;
- e) except as expressly provided in the Contract, modify, publish, transmit, reproduce, create derivative works from, distribute, perform, display or in any way exploit the Licensed Software in whole or in part;
- f) access or use the Licensed Software to build or train a product or service which competes with the Licensed Software or to copy any of its features, functions or graphics;
- g) use the Licensed Software, the Output or the Deloitte Materials in any way that (1) is fraudulent or misleading, or violates applicable law, rule or regulation, including the export, re-export, access or use of the Licensed Software, either directly or indirectly, in violation of applicable export controls laws and regulations, (2) is not authorized by this Call-Off Contract, or (3) is in violation of any terms of use for any Buyer Data that apply to Buyer by its licensors.
- h) in relation only to any On Prem Licensed Software, copy the Licensed Software or any part of it, except for (1) a copy that is necessary in order to install, load, display, test, run, transfer, store and use the Licensed Software on a computer system which is in the Buyer's immediate possession as permitted by the Call-Off Contract or (2) a copy that is required for ordinary and customary backup and archival purposes; or
- i) in relation only to any Deloitte Hosted Licensed Software, use or permit third parties to use the Licensed Software in any way that (1) interferes with or disrupts other network users, network services or network equipment, including spamming; (2) results in the introduction of computer worms or viruses; (3) involves the use of false identities; (4) attempts to gain unauthorized entry to any servers or databases through which such Licensed Software is provided; (5) transmits, stores, displays, distributes or otherwise makes available content or data that is illegal, harmful, fraudulent, infringing or offensive; or

(6) is in violation of any applicable acceptable use policy.

8.13. The Licensed Software (including any Supplier Materials and Specification) may embody valuable copyright, patent, trademark, trade secret and other intellectual property rights owned or licensed by the Supplier. The Supplier or its licensors will own and retain ownership of all Intellectual Property Rights of any kind in the Licensed Software and you will be granted no rights other than the specific license granted in this clause 8.

8.14. The Buyer will obtain all consents and authorisations required for any Supplier Hosted Buyer Data to be lawfully hosted, used and otherwise processed by the Supplier Hosted Licensed Software. The Buyer will indemnify the Supplier for our reasonable costs and damages arising out of any claim that the Supplier's use or possession of any Buyer Data infringes any copyright, database right or trademark of a third party.

8.15. Buyer agrees that during and after the provision of the Services, Supplier may extract data for aggregation on an anonymised basis with data from other clients/entities and that such aggregated and anonymised data may be used to gain insights, develop new services, and to review and improve Supplier's services made available to Buyer and other clients from time to time. Supplier will protect the confidentiality of each client's identity when performing such tasks. Buyer also agrees that data searching and data extraction may be undertaken by electronic means and not by the engagement team.

On Prem Licensed Software Warranty:

8.16. The Supplier warrants that in relation only to any On-Prem Licensed Software, such On-Prem Licensed Software shall substantially conform to the Specification for the time period set forth in the Order Form or, where no such time period is specified in the Order Form, thirty (30) days following delivery to the Buyer of the On-Prem Licensed Software or, if an acceptance test has been agreed, thirty (30) days after acceptance (the "**Warranty Period**"). If the Buyer gives the Supplier written notice within the Warranty Period of any failure of the On-Prem Licensed Software to substantially conform to the Specification ("**Defect**"), including a reasonable description of the nature of such Defect, the Supplier will use its reasonable commercial endeavours to correct any such Defect promptly, or provide the Buyer with

alternative means and to accomplish the desired performance. Such correction or substitution constitutes the Buyer's sole and exclusive remedy for any breach of this warranty. This warranty shall not apply to the extent any Defect is caused by (i) the use of the Licensed Software contrary to that permitted by this Call-Off Contract, (ii) the Buyer's breach of this Contract, (iii) additions or amendments made by or on behalf of the Buyer, unless explicitly authorised in writing by the Supplier, (iv) any use of the On-Prem Licensed Software by the Buyer in conjunction with hardware or software not provided and/or not authorized by the Supplier, or (v) a cause which is not the responsibility of the Supplier.

8.17. The Supplier shall use commercially reasonable endeavours to make the Supplier Hosted Licensed Software available and, where applicable, in accordance with any availability levels set out in the Order Form, except during any periods of maintenance. The Supplier shall where reasonably practicable give the Buyer notice in advance of any proposed maintenance and/or perform maintenance during an agreed maintenance window, provided that the Supplier reserves the right to perform such maintenance at any time to the extent the Supplier reasonably considers necessary.

8.18. Notwithstanding the foregoing, the Supplier does not warrant that (i) the Buyers or the Authorised User's use of the Licensed Software will be uninterrupted or error-free; and/or (ii) the Licensed Software or Output will meet the Buyer's requirements. The Supplier shall have no responsibility for any failure in service provision triggered by causes not within our control, including network outages.

8.19. On termination, in relation only to Supplier Hosted Licensed Software, the Supplier reserves the right to delete the Supplier Hosted Client Data from its systems after the expiry of a 30 day period or following our provision of a copy of the Supplier Hosted Client Data, where expressly agree with the Buyer, whichever is sooner. The Buyer shall ensure that all Authorised Users shall immediately cease access and use of the Licensed Software. In relation only to any On Prem Licensed Software, the Buyer shall remove the Licensed Software from its systems.

8.20. In relation only to any On Prem Licensed Software and subject to the Supplier's obligations of confidentiality, the Buyer shall permit the Supplier to inspect and have access to its premises at or on

which the Licensed Software is being kept or used, and have access to any records kept in connection with this Call-Off Contract for the purposes of ensuring that the Buyer is complying with the terms of this Call-Off Contract, provided that the Supplier provides reasonable advance notice to the Buyer of such inspections, which shall take place at reasonable times. The Supplier shall use its reasonable endeavours to ensure that the conduct of each inspection does not unreasonably disrupt the Buyer's business operations. The parties shall bear their own costs and expenses incurred in respect of compliance with their obligations under this clause, unless the inspection identifies a material default by the Buyer, in which case the Buyer shall reimburse the Supplier for all its reasonable costs incurred in the course of the inspection.

8.21. In relation only to any Supplier Hosted Licensed Software, the Buyer acknowledges the Supplier reserves the right to review the Buyer's use of the Licensed Software to confirm compliance with the terms of this Call-Off Contract and any applicable acceptable use policy as referenced in the Order Form, and to suspend an individual Authorised User's access to the Licensed Software if there has been a violation of such restrictions. In the event that the Buyer's use of any Licensed Software exceeds any restrictions in this Call-Off Contract, without prejudice to Deloitte's rights or remedies, the Buyer agrees to pay the Supplier an amount equal to the charges which the Supplier would have levied (in accordance with its then current standard commercial terms) had the Buyer licensed any such excess use on the date when such use commenced. The Buyer shall pay such additional invoices in accordance with the provisions of the Call-Off Contract.

9. The Buyer's Responsibilities

9.1. The Buyer is responsible for determining that the specification of the Deliverables and the scope of the Services is appropriate for the Buyer's needs, evaluating the adequacy and results of the Services, deciding whether the Services or Deliverables make sense in the context of your business and whether the Buyer wishes to rely on, implement or act on them.

9.2. The Supplier's performance of the Services, supply of the Deliverables, the timetable, the level of Supplier's Charges and any other fee estimates each depend on the accuracy and completeness of any assumptions set out in the Order Form,

applicable Buyer Obligations and Project Assumptions as set-out in Schedule 1 and the Buyer performing its obligations under the Terms of Business.

- 9.3. The Buyer will give the Supplier all the information that is necessary for the performance of the Services.
- 9.4. Where needed to assist the Supplier in performing the Services, the Buyer will (i) take decisions and obtain management approvals promptly; (ii) give the Supplier full and prompt access to the Buyer's resources, premises and (subject to clause 15) data and systems and those of the Buyer's affiliates and to the Buyer's other advisers associated with the engagement, together with all necessary administrative support, and will be responsible for the accuracy and completeness and any migration of the Buyer Data; (iii) obtain any approvals, licenses and security clearances promptly (including any relating to third parties or the Supplier Staff). The Buyer also agrees to keep the Supplier promptly informed of any proposals or developments in its business relevant to the Services.
- 9.5. The Buyer agrees that the Buyer remains solely responsible for managing all aspects of the Buyer's business, for taking all decisions and operating all accounting, internal control or management information systems.
- 9.6. The Buyer is responsible for management of any third parties it uses to provide information, materials or other assistance in support of the Services.
- 9.7. The Buyer will ensure that the system on which the Deliverables are hosted (where the Supplier do not provide Hosting Services) has sufficient volume and is of an appropriate specification to enable the Deliverables to operate at acceptable performance levels. The Buyer acknowledges that, unless specifically stated in the Order Form, the Supplier does not provide advice or guidance on the appropriate size and/or characteristics of system on which the Deliverables are hosted.
- 9.8. The Buyer will be responsible for the quality of the data that it inputs or instructs the Supplier to input into the systems on which the Deliverables will operate. The Supplier will not have any obligation to review or ensure the quality of such data or its fitness for purpose for the operation of the Deliverables, unless such services are specifically

included within the scope of the Implementation Services described in the Order Form.

- 9.9. The Buyer will be responsible for paying the Charges in accordance with the Agreement.

10. Confidentiality and Freedom of Information

- 10.1. Nothing in the Agreement will prevent either Party from being entitled to disclose Confidential Information to comply with any legal, professional or regulatory requirement.
- 10.2. Nothing in this Agreement will prevent or restrict any Deloitte Party from using or sharing for any purpose any knowledge, experience and skills used in, gained or arising from performing the Services, subject to the obligations of confidentiality set out herein.
- 10.3. To the extent that, in connection with the Agreement, the Supplier provides the Buyer with information (CV's, contact details etc.), its pricing, contains details of its cost base or insurance arrangements, relates to its proprietary information as well as its approach and/or its methodologies to be commercially sensitive/confidential) which the Supplier has indicated is exempt from disclosure under the Freedom of Information Act 2000 ("**Exempt Information**") the Buyer agrees to notify the Supplier, as soon as reasonably possible, of any request received by it. Before making any disclosure of the Supplier's Exempt Information, the Buyer shall take into account of any representations made within a reasonable time by the Supplier about the applicability of the FoIA exemptions to such Exempt Information.
- 10.4. In addition, the Supplier notes that the Government's Transparency Agenda may require the publication of all tender documents and Government contracts. In accordance with guidance issued by the Crown Commercial Service in this regard and the Code of Practice for FoIA, the Buyer will need to consult with the Supplier about the redaction (as envisaged in the Crown Commercial Service guidance and Code of Practice) of certain parts of the Agreement, including those areas identified above, for the Services and the associated Order Form.

11. Intellectual Property

- 11.1. Save as granted under this Call-Off Contract, neither party shall acquire any right, title or interest in the other party's (including any affiliates and/or subsidiaries) Background IPR.
- 11.2. All title rights in any improvement, enhancement, developments and/or derivative works on Background IPRs during the term of the Agreement, shall remain vested in the party that had title in the IPR prior to the improvement, enhancement, developments and/or derivative works.
- 11.3. Neither Party shall acquire any right, title or interest in any third party IPR.

Licenses granted by the Supplier

- 11.4. The Parties agree that the Order Form will explicitly state whether the Services contain Project Specific IPR and whether the same is suitable for publication as open source. In circumstances where these have not been stated in the Order Form, then it will be assumed there is no Project Specific IPR and/or the Project Specific IPR is not suitable for publication as open source.

Licenses granted by the Buyer

- 11.5. Any license granted by the Buyer under the Agreement includes the right to grant sub-licenses to any other Supplier Parties.

Third party and open source licenses

- 11.6. Unless expressly agreed in the Order Form, the Buyer shall be responsible for obtaining all necessary third party and open source licenses ("**Third Party Software**") in connection with any software, documentation or data provided by the Buyer to the Supplier for the purposes of performing the Services. The access to/ use of the Third Party Software may be subject to additional licence terms and conditions as set out in the Order Form.
- 11.7. Where the Supplier agrees in the Order Form to provide a sub-licence of Third Party Software to you, the Supplier shall grant a licence to the Buyer based on the relevant licence terms that the third party has granted to the Supplier. Any such sub-licence granted by the Supplier to the Buyer shall be provided solely as set out in the third party licence terms and, to the extent permitted by law, without any further express or implied warranties of any kind. The Supplier provides no warranty,

indemnity or support of or in relation to Third Party Software. The Supplier is not responsible for the quality, performance or fitness for purpose of Third Party Software obtained by the Buyer, even if recommended, configured or implemented by the Supplier.

12. Liability Provisions

- 12.1. For the avoidance of doubt, where a Loss has been suffered under multiple Order Forms for the same breach, there shall be no double recovery for the same loss.

13. Charges and Payment

- 13.1. Unless otherwise specified in the Order Form, the Supplier will invoice the Charges: (i) monthly in arrears in respect of the Implementation Services, and the Supplier will issue a final invoice to the Buyer on completion of the Implementation Services; (ii) quarterly in advance in respect of any Managed Services. These invoices are due for settlement within 14 days of receipt ("**Due Date**"). If the Buyer disputes any portion of an invoice, the Buyer shall notify the Supplier within 7 days of receipt of the disputed invoice and pay the undisputed portion of that invoice by the Due Date.
- 13.2. Charges quoted in the Order Form relate to the provision of Services at the location or locations stated in the Order Form. Any changes in location may result in a change to the applicable charges.
- 13.3. The Supplier will be entitled to receive all Charges incurred up to the date of termination of the Agreement for any reason.

14. Termination

- 14.1. Each Party may terminate the Agreement with effect by written notice to the other on or at any time after the occurrence of any of the following events: (i) a material breach by the other Party of an obligation under the Agreement and, if the breach is capable of remedy, the other Party failing to remedy the breach within 30 days of receipt of notice of such breach; (ii) the other Party passing a resolution for its winding-up or a court of competent jurisdiction making an order for the other Party's winding-up or dissolution; (iii) the making of an administration order in relation

to the other Party, or the appointment of a receiver over, or an encumbrance taking possession of or selling, an asset of the other Party; (iv) the other Party making an arrangement or composition with its creditors generally or making an application to a court of competent jurisdiction for protection from its creditors generally; or (v) any event analogous to those set out in paragraphs (ii) to (iv) inclusive.

14.2. The Supplier may terminate the Agreement by written notice with immediate effect: (i) In the event that: (a) a government, regulatory or professional entity has introduced a new, or modified an existing, law, rule, regulation, interpretation or decision; or (b) circumstances change and as a result, the performance of any part of a Party's obligations under the Agreement may be illegal, unlawful or in conflict with auditor independence or professional rules applicable to the Supplier or any of the Supplier Parties (acting reasonably); or (ii) If, in the professional and reasonable judgment of the partner(s) responsible for the oversight of audit or independence for the Supplier, termination is necessary to avoid impairing or appearing to impair the independence of the Supplier or any of the Supplier Parties with respect to the provision of audit services to any client or potential client of the Supplier.

14.3. Subject to clause 14.8, either Party shall be entitled to terminate the Agreement at any time for convenience by giving 30 days' written notice to the other Party.

Consequences of Expiry or Termination

14.4. Any provisions of the Agreement which either expressly, or by their nature, extend beyond the expiry or termination of the Agreement shall survive such expiration or termination.

14.5. Following the service of a termination notice for any reason, the Parties shall continue to be under an obligation to comply with the provisions of the Agreement.

14.6. In the event of termination or expiry: (i) the Supplier shall, where the Agreement is terminated by the Buyer pursuant to clause 14.1, repay to the Buyer any Charges that the Buyer may have paid to the Supplier in advance (less any cost already incurred by the Supplier in anticipation of providing the Services) in respect of Services not provided by the Supplier as at the date of expiry or termination; and (ii) both Parties shall on the earlier of the receipt of the written instructions of

the data owner, or 12 months after the date of expiry or termination, return all copies of the each other's data that either Party has in its possession provided that such Party shall be permitted to retain copies for its records.

Payments made on Termination

14.7. Where the Supplier terminate the Agreement:

14.7.1. for convenience pursuant to clause 14.3, the Supplier will reimburse to the Buyer any unused portion of the Charges for the Managed Services that have been paid by the Buyer in advance; or

14.7.2. as a result of a default and/or material breach by the Buyer or where the Buyer terminates the Agreement for convenience pursuant to clause 14.3, the Buyer shall pay to the Supplier: (i) any undisputed Charges that have been invoiced up to the date of termination; and/or (ii) Breakage Costs; and/or (iii) Unrecovered Costs.

14.8. The costs of termination incurred by the Parties shall lie where they fall if either Party terminates or partially terminates the Agreement in circumstances where there is a continuing Force Majeure Event.

14.9. All payments made under clause 14.8 are in addition to any payments made in relation to any direct losses suffered as a result of the termination provided there is no double recovery.

14.10. For the purposes of clauses 14, the following definitions shall apply: "**Breakage Costs**" shall mean any costs incurred by the Supplier directly as a result of the termination of the Agreement, which (i) would not have been incurred had the Agreement continued until its natural expiry; (ii) relate directly to the termination of the Services; (iii) are unavoidable, proven, reasonable, and not capable of recovery; and (iv) are incurred under arrangements or agreements that are consistent with terms that have been entered into in the ordinary course of business and on reasonable commercial terms; "**Unrecovered Costs**" shall mean the costs incurred by the Supplier in the performance of the Agreement, to the extent that those costs would have been recovered through the Charges had the Agreement not terminated before the expiry. Where the Buyer pays in advance or have prepaid for any Services prior to the Services being performed, the Unrecovered Costs shall be those costs that the Supplier have

spent and/or incurred in anticipation of performing those Services.

Exit Management

- 14.11. In the event of a termination, the Parties shall in good faith, within 10 Working Days after serving the notice of termination, agree an exit plan for transition of the Services to the Buyer or a replacement supplier (the "**Exit Plan**"), if applicable. The Supplier shall be permitted to charge on a time and materials basis at its then-current standard rates for any transition assistance to be provided under any such Exit Plan.
- 14.12. Each Party shall comply with the applicable exit management requirements set out in the Exit Plan.

15. Security Requirements

- 15.1. The Supplier will, in the provision of the Services, maintain security standards that: (i) are in accordance with good industry practice, applicable law and the provisions of the Agreement; and (ii) comply with the principles of ISO/IEC27001 and ISO/IEC27002.
- 15.2. Where it is stated in the Order Form that a Security Management Plan (SMP) is required, the following shall apply: (i) the Supplier shall develop, implement, operate, maintain a SMP, which will, be approved by the Buyer; (ii) both Parties shall comply with their respective obligations set out in the SMP; (iii) the SMP shall, aim to only protect all aspects and processes associated with the delivery of the Services; and (iv) the SMP will set out the security measures to be implemented and maintained by the Supplier in relation to all aspects of the Services and all processes associated with the delivery of the Services and shall at all times comply with and specify security measures and procedures which are sufficient to ensure that the Services comply with the agreed requirements as stated in the Order Form.

16. Insurance Requirements

- 16.1. The Supplier reserves the right to periodically review and change its insurance arrangements to meet its business requirements. A change of arrangements may not be notified to the Buyer in every instance.

- 16.2. Any disclosure of claims is subject to the Supplier's own commercial interests and confidentiality arrangements to the insurance provider and relevant third parties.

17. TUPE

- 17.1. The Parties agree that it is the intention that the Transfer of Undertakings (Protection of Employment) Regulations 2006 as amended or replaced (the "**TUPE Regulations**") will not apply to transfer any employees from the Buyer or any of the Buyer's affiliates or subcontractors to any of the Supplier Parties, as a result of the arrangements contemplated under the Agreement or otherwise, and the Buyer shall use reasonable endeavours to organise the Buyer's activities so that no individual is assigned to the Agreement, or the Services, for the purposes of the TUPE Regulations.
- 17.2. If notwithstanding clause 16.1, any person who is or has been employed or engaged by the Buyer or any of the Buyer's affiliates or subcontractors, transfers or claims to have transferred (or any trade union or employee representative so claims on their behalf) to any of the Supplier Parties or any of the Supplier's subcontractors, under the TUPE Regulations or otherwise as a result of the arrangements contemplated under the Agreement, the Buyer shall indemnify and keep indemnified the Supplier, all other Supplier Parties and any of the Supplier's subcontractors, from and against any and all losses, claims, liabilities, costs, expenses (including legal fees), demands, fines, penalties, interest and damages whatsoever arising (whether directly or indirectly) out of or in connection with the employment or termination of employment of such person.
- 17.3. The Parties agree that it is the intention that TUPE Regulations will not apply to transfer any employees from any of the Supplier Parties to the Buyer or any of the Buyer's affiliates or subcontractors as a result of the arrangements contemplated under the Agreement. The Supplier shall use reasonable endeavours to organise its activities so that no individual is assigned to the Agreement, or the Services, for the purposes of the TUPE Regulations.

18. General

Negotiation / Mediation

- 18.1. Each Party agrees that it will attempt in good faith to resolve any dispute or claim arising out of or in connection with the Agreement promptly through negotiations between the Buyer's senior executives and the Supplier's management. If the matter is not resolved, the Parties shall follow the procedures set out in clause 18 of the Call-Off Contract.

Conflicts of Interest

- 18.2. It is the Supplier's practice to check for conflicts of interest before taking on engagements. The Buyer must notify the Supplier promptly of any potential conflict affecting this engagement of which the Buyer is or becomes aware.

Electronic Communications

- 18.3. The Parties will each be responsible for protecting their own systems with appropriate anti-virus measures and neither of the Parties will be responsible to the other for any loss, damage or omission in any way arising from the use of e-mail or other forms of electronic communications, or from Supplier Staff access to the Buyer's networks, applications, data or other systems, unless such loss is caused by the deliberate misconduct of the other Party.

Non-Solicitation

- 18.4. Each Party agrees that it will not employ or engage any personnel of the other party who within 6 months of such action has been involved directly with the provision of the Services or has been otherwise directly connected with the Services. This provision shall not restrict the right of either party to hire personnel via a general recruitment campaign.

Respect and Inclusion

- 18.5. In relation to this Call-Off Contract, the Supplier and the Buyer each agree to foster a culture and working environment where people treat each other with respect, courtesy and fairness (the "**Respect & Inclusion Behaviours**"). The Parties are committed to encouraging and enabling conversations to address any behaviours that are not aligned with the Respect & Inclusion Behaviours. If an individual would like to raise a concern, they should discuss the matter within

their respective organisations in the first instance, following which a conversation between the Supplier Partner and the appropriate Buyer contact will be held to address the matter. The Parties will communicate the steps taken to resolve the matter and will notify each other of the agreed outcomes.

IR35

- 18.6. The Supplier is not an intermediary to which any of the conditions in s61N Income Tax (Earnings and Pensions) Act 2003 apply. The Supplier may use equity partners, who are self-employed for tax, in the Delivery of the Services.

Legal and Other Obligations

- 18.7. Nothing in the Agreement precludes the Supplier from taking such steps as are necessary in order to comply with any legal or regulatory requirement or any professional or ethical rules of any relevant professional body of which the Supplier or any of the Supplier Staff are, at the time, a member.

Personal Data

- 18.8. The Buyer authorises the Supplier to use any subcontractor, including any Deloitte Party, to process Personal Data as a sub-processor of the Supplier.
- 18.9. For the avoidance of doubt, the Supplier will retain Personal Data where required by law to do so, for the purposes of professional record-keeping or in accordance with Supplier's Data Retention Policy in force from time to time.

Notices

- 18.10. The Parties agree that notices shall be effective for the purposes of this Agreement as long as they are: (i) in writing; and (ii) delivered to the representatives of the Parties at the addresses / email addresses specified in the Order Form.

Supplier Group Entity Staff

- 18.11. The Supplier may staff any person from the Supplier Group for the purposes of delivering the Services. Any such person shall be considered to be Supplier Staff for the purposes of this Agreement.

Disclosure Notice for Commissions and Referral Fees

18.12. In connection with the Services, the Supplier may, at the request of the Buyer or otherwise, refer certain third party products or services to the Buyer, and the Supplier or a Supplier Party may receive a fee from such third party in connection with such referral.

Severance

18.13. If any provision of the Agreement is determined to be illegal, void or unenforceable in whole or in part, such provision or the affected part shall be deemed not to form part of the Agreement but all other provisions together with the remainder of the affected provision shall remain in full force and effect.

Schedule 1

Buyer Obligations

The Buyer shall, where relevant:

- a) provide the Supplier with:
 - i. access to appropriate members of the Buyer staff, as may be reasonably requested by the Supplier in order for the Supplier to discharge its obligations under the Agreement;
 - ii. sufficient and suitably qualified staff to fulfil the Buyer's roles and duties under the Agreement;
 - iii. such documentation, data and/or other information that the Supplier reasonably requests as is necessary to perform its obligations under the terms of the Agreement;
 - iv. suitable access to Buyer's premises and facilities, including but not limited to any relevant ICT systems, as reasonably required for the Supplier to comply with its obligations under the Agreement; and
 - v. all necessary access to such information or premises as may be reasonably required by the Supplier, including but not limited to Buyer Data, security access information and configuration services.
- b) in order for the Supplier to be able to provide the Technical Deliverables and Services, the Buyer shall:
 - i. ensure that any Authorised Users of the Supplier's Services comply with any applicable Access Policy and all applicable Law and regulations with respect to its activities under the Agreement;
 - ii. ensure that where necessary the Supplier Staff do not contravene the provisions of the Computer Misuse Act 1990 and the Police and Justice Act 2006, the Supplier will require the "**Letter of Authorisation**" and the "**Letter of Consent**" to be completed and returned, prior to commencing the Services;
 - iii. ensure that it has the right specification of hardware, computer and telecoms devices (including but not limited to any Buyer

equipment set out in the Order Form) and that the networks have sufficient bandwidth to run the Services to be delivered by the Supplier;

- iv. use all reasonable endeavours to prevent any unauthorised access to, or use of, the Services and/or Deliverables (if any) and, in the event of any such unauthorised access or use, promptly notify the Supplier; and
- v. be solely responsible for: (i) procuring and maintaining its network connections and telecommunications links from its systems to the Supplier's or the Supplier's sub-contractor's data centres; and (ii) all problems, conditions, delays, delivery failures and all other loss or damage arising from or relating to the Buyer's network connections or telecommunications links or caused by the internet.

The Buyer shall not, in respect of Technical Deliverables:

- a) attempt to copy, modify, duplicate, create derivative works from, frame, mirror, republish, download, display, transmit, or distribute all or any portion of the Services in any form or media or by any means;
- b) access or use the Services in a way intended to avoid incurring fees or exceeding usage limits or quotas;
- c) attempt to reverse compile, decrypt, disassemble, reverse engineer or otherwise reduce to human-perceivable form all or any part of the Services;
- d) access all or any part of the Services in order to build a product or service which competes with the Services or the Deliverables;
- e) use the Services to provide services to third parties;
- f) license, sell, rent, lease, transfer, assign, distribute, display, disclose, or otherwise commercially exploit, or otherwise make the Services available to any third party except the Authorised Users;
- g) access, store, distribute or transmit any Viruses, or any content during the course of its use of the Services that is unlawful, harmful, threatening, defamatory, discriminatory, obscene, infringing, harassing or racially or ethnically offensive and the Supplier reserves the right, without liability to the Buyer, to disable the Buyer's access to any material that breaches the provisions of this paragraph; or

- h) remove, alter, or destroy from content provided by the Supplier to the Buyer any logo, copyright or proprietary notices, legends, symbols, labels, watermarks, signatures or any other like marks affixed to or embedded in such content.

Project Assumptions

The Services and any Deliverables are based upon the following assumptions ("**Project Assumptions**").

The Buyer agrees to the following terms with respect to any **security and penetration testing** of the Buyer's system:

- j) the following areas are specifically excluded from the Services (unless explicitly specified in the Call-Off Contract for each testing phase):
 - Denial of Service exploitation, physical security and social engineering;
 - Business as Usual processes, such as patch management, change management, and access control;
 - implementation of remediation actions suggested;
 - business partner systems;
 - transmission security within any service provider's network;
 - personnel security within Buyer and/or third parties; and/or
 - any other test not explicitly defined in the Services;
- k) when requested, Buyer will provide all documentation and access to resources required to carry out the defined Services;
- l) the Buyer will provide an appropriate working environment for the Supplier team when working on site if required to progress security testing;
- m) the Buyer will make available skilled personnel in the locations and at the times reasonably requested by Supplier;
- n) the Buyer will co-ordinate and manage the relationship with any other third party as engaged by Buyer who may be involved in the delivery of the Services;
- o) by entering into this Call-Off Contract, the Buyer confirms that Buyer is the owner of any systems to be tested;
- p) prior to commencement of the Services, the Buyer must obtain explicit approval from its hosting provider (where applicable) for the Supplier to perform a penetration test in the form of a Release Letter of the form found at Appendix 2;
- q) by entering into this Call-Off Contract, the Buyer authorises the Supplier to perform security testing services against systems, processes, and people 'owned by', 'under the control of', or 'employed by' the Buyer as agreed in the scenarios and campaigns to be provided in sufficient time for agreement to be reached before testing commences;
- r) by entering into this Call-Off Contract, the Buyer acknowledges and agrees that any external testing over the internet will be performed from a number of locations under the Supplier's control that may change and may not be obviously registered to the Supplier;
- s) the Buyer will review and approve the proposed targets of the testing and will ensure that Buyer has the authority to authorise the testing of such targets. The targets of the testing will be restricted to an agreed set of objectives and cyber attack campaigns that could include system attacks as confirmed by the Buyer;
- t) as a person entitled to control access to, and determine whether any modification should be made to the programs and data of Buyer's computer systems, for the purposes of the Computer Misuse Act 1990 and the Police and Justice Act 2006, Buyer authorises Supplier and its employees to attempt to gain access to systems, 'owned' by Buyer after mutual agreement of the security testing campaigns. Buyer confirms that in doing so, or attempting to do so, there will be no infringement of the Computer Misuse Act 1990, the Police and Justice Act 2006 or other applicable legislation in relation to any of Buyer's, or third parties' programs and data;
- u) the Buyer will make reasonable efforts to ensure that any proprietary tools, techniques, and procedures that may be used in this engagement are not provided to security service providers where this is outside of the Buyer's normal response processes;
- v) any report and outputs of the Services are produced solely for Buyer's use. These may contain sensitive and confidential information as well as Supplier's Intellectual Property Rights and as such should not be released to a third party without Supplier's prior written consent;
- w) the Buyer may have taken out insurance cover for events of the type in which the Buyer asks the

Supplier to become involved. Should there be any possibility that the Buyer may wish to make a claim under such a policy, it is the Buyer's responsibility to ensure that Buyer abides by its terms and conditions and that the Supplier's engagement by Buyer will not result in the Buyer's insurer refusing to meet the claim. The Supplier cannot accept any responsibility for invalidation of such a policy;

- x) Buyer acknowledges and agrees that our performance of the Services is dependent on the timely and effective completion of your own activities and responsibilities in connection with your Project, as well as timely decisions and approvals by you
- y) the Buyer's staff will be available upon request for the duration of the penetration test, to help co-ordinate and provide an escalation point where necessary across lines of business;
- z) the Services will be performed from Supplier offices unless otherwise agreed otherwise in writing;
- aa) prior to the start of testing the Buyer will provide the IP ranges to be included in the scope for any External IT Infrastructure penetration test;
- bb) the Supplier's Services will be limited by the time available, scope of work and information made available to the Supplier and the Supplier not guarantee that the Services will detect all vulnerabilities in the systems or applications within the agreed testing scope and consequently the Supplier's reports should not be relied upon as a comprehensive record of such vulnerabilities; and
- cc) unless otherwise agreed expressly between the parties in the Call-Off Contract, Supplier will be acting as a data controller for the purposes of the Data Protection Legislation. The Buyer agrees that the Supplier and the Buyer will be independent controllers of Personal Data under this Call-Off Contract for the purposes of the Data Protection Legislation.

The Buyer agrees to the following terms with respect to any cyber threat intelligence services ("CTI"):

- a) the Buyer will work with Supplier to agree the provisioning document and shall inform Supplier if such document is required to be updated, to include additional assets to ensure that the provisioning document is still current and accurate. Depending on the chosen modules, Supplier will include assets such as domains, public IP addresses, keywords, Official Mobile Applications, BIN Codes, etc. in this

document. Service performance and capabilities are limited by the speed of notification, along with the quality and clarity of this information;

- b) the Buyer is responsible for implementing any additional security measures to protect against any threats identified pursuant to the Services and use of the Services does not alleviate it from remaining fully responsible for the security of their corporate infrastructure and the protection of its reputation and brands;
- c) The Supplier cannot guarantee that all online threats affecting the Buyer's organisation (whether detailed in the provisioning document or otherwise) will be detected;
- d) the Supplier cannot guarantee that all internet sources relevant for the Buyer will be monitored;
- e) the Supplier cannot guarantee the reliability of the information collected in the CTI monitoring process;
- f) the work of the analysts assigned to the CTI Service has a false positive rate that may vary depending on the complexity of the monitored processes;
- g) the review of the collected information by an analyst does not guarantee that all the relevant cases affecting the Buyer will be detected;
- h) the CTI service does not perform any type of analysis or connection to the Buyer's corporate IT infrastructure, and detection activities are focused on the internet;
- i) the Supplier cannot guarantee that it will be able to take down any of fraudulent and abusive online content associated with threats targeting the Buyer;
- j) the Supplier cannot guarantee fraudulent and/or abusive content will not be uploaded on other sites after being taken down; and
- k) the Supplier reserves the right to refuse disclosure of discovered data to the Buyer, including, but not limited to, for legal and/or regulatory reasons.
- l) Unless otherwise agreed expressly between the parties in the Call-Off Contract, Supplier will be acting as a data controller for the purposes of the Data Protection Legislation. The Buyer agrees that the Supplier and the Buyer will be independent controllers of Personal Data under this Call-Off Contract for the purposes of the Data Protection Legislation.

The Buyer agrees to the following terms with respect to any threat monitoring services ("**TMS**"):

- a) the Buyer will meet the responsibilities defined in the Order Form;
- b) the Buyer will respond to the outputs, notifications and reports produced by the Supplier;
- c) the Buyer will attend all service review calls and meetings;
- d) the Buyer will provide the details and roles of all individuals that are authorised to interact with the TMS Supplier Staff and will inform the Supplier promptly when individuals are no longer authorised or their role changes; and
- e) The Buyer will provide administrator access to any Supplier infrastructure hosted within their environment.
- f) Unless otherwise agreed expressly between the parties in the Call-Off Contract, Supplier will be acting as a data controller for the purposes of the Data Protection Legislation. The Buyer agrees that the Supplier and the Buyer will be independent controllers of Personal Data under this Call-Off Contract for the purposes of the Data Protection Legislation.

The Buyer agrees to the following terms with respect to any data loss prevention services ("**DLP**"):

- a) The Buyer is accountable for the results of the Services, including the final assessment of any Deliverables resulting from the project. The Supplier is responsible for delivering the tasks described in the Order Form;
- b) status meetings, the frequency of which shall be agreed between the parties, to be conducted with representative participation from the Supplier and the Buyer to review progress, escalate issues, and maintain alignment with overall Buyer requirements during DLP transition phase;
- c) all materials will be available in English; additional languages (e.g. of contracts or of data within databases) will require additional resources and fees, which will be agreed in writing prior to being incurred;
- d) the outcome of the Services and any Deliverables specified in the Order is intended for the sole purpose of the Buyer and should not be relied upon by third parties; and

- e) delivery will be conducted remotely and the Buyer remains responsible for the provision of access to all required IT systems.

- f) Unless otherwise agreed expressly between the parties in the Call-Off Contract, Supplier will be acting as a data controller for the purposes of the Data Protection Legislation. The Buyer agrees that the Supplier and the Buyer will be independent controllers of Personal Data under this Call-Off Contract for the purposes of the Data Protection Legislation.

The Buyer agrees to the following terms with respect to any vulnerability management services ("**VMS**"):

- a) the operating model for Buyer IT and wider security responsibilities with the Buyer does not change during the Term;
- b) the agreed scanning solution compliance suite will be the single toolset used to provide the VMS Services;
- c) the Buyer will provide the Supplier with the necessary connectivity and access to the vulnerability management tools to enable the Supplier to fulfil its responsibilities as outlined in the Order Form;
- d) any costs associated with on-boarding or integrating new platforms to the scope of the VMS Services will be agreed upfront with the Buyer and charged on a time and material basis. In addition the impact of such new systems to the Charges will be assessed and any uplift to operational service charges agreed before new systems are on-boarded.
- e) Unless otherwise agreed expressly between the parties in the Call-Off Contract, Supplier will be acting as a data controller for the purposes of the Data Protection Legislation. The Buyer agrees that the Supplier and the Buyer will be independent controllers of Personal Data under this Call-Off Contract for the purposes of the Data Protection Legislation.

The Buyer agrees to the following terms with respect to any cyber incident response services ("**CIR**"):

- a) The scope of the Supplier's work will be limited to the matters set out in the Order Form. The Order Form will also set out the purpose of the CIR.
- b) When requested, through the service activation process detailed in paragraph (o) below, the

Supplier will provide support to the Buyer to provide advice and support, recommendations for remedial action, and crisis management services as required in support of a cyber-incident. The Supplier's CIR may include the following types of incident:

- Advanced targeted attacks;
 - Attacks involving malware, including ransomware;
 - Loss or compromise of data;
 - Unauthorised access to networks and/or data; and/or
 - Improper usage of systems or information.
- c) Any of the above incidents may require the Supplier's general CIR which include, but are not limited to:
- General incident management activities;
 - Log file analysis;
 - Malware analysis;
 - Registry analysis; and/or
 - Network analysis.
- d) Any of the above incidents may also require additional forensic services which include, but are not limited to:
- Computer forensics including mobile device and preservation;
 - Expert witness services;
 - Crisis management;
 - Communications support;
 - Network recovery services; and
 - Cyber threat and business intelligence.
- e) Unless expressly agreed in the Order Form the following areas are specifically excluded from the CIR:
- Implementation of any technologies to remain on the network;
 - Penetration testing of any supporting infrastructure, network component, software package or operating systems;
 - Web application penetration testing of any web interface internally and externally;
 - Personnel security or physical security within the Buyer's premises and/or those relating to any third parties; and
 - Testing of any business partner systems or transmission security within any service provider's network.
- f) Other than as may be specified in the Call-Off Contract, Supplier will not carry out a specific review

of Buyer systems and internal controls and accordingly will provide no comments on their effectiveness, nor the ability of the systems and internal controls to support the business now or in the future.

- g) Supplier's Services may be conducted alongside Buyer's legal advisers, acting separately for the Buyer. To the extent they relate to Supplier's performance of the Services, Supplier may need to review sections of draft agreements prepared by Buyer's legal advisers but Supplier is not qualified to provide legal advice. Any agreement is the product of negotiation between its parties and Buyer agrees that it is Buyer's responsibility to obtain appropriate legal advice and to decide whether in all the circumstances Buyer is prepared to accept any proposed agreement.
- h) The Supplier's work under the Order Form will be limited by the time available, scope of work and information made available to the Supplier. Whilst the Supplier will report its findings in accordance with the agreed scope of work having considered the information provided to it in the course of carrying out the CIR, additional information that the Buyer may regard as relevant may exist that is not provided to (and therefore not considered by) the Supplier. Accordingly, the CIR and any Deliverables should not be relied upon as being comprehensive in such respects. The Supplier accepts no responsibility for matters not covered by or omitted due to the limited nature of Supplier's work.
- i) Should the CIR involve data capture, analysis and related procedures, the Supplier's practice is to seek to minimise the impact on the original electronic material that it uses or examine such as computers, laptops, mobile telephones, removable media and backup tapes. However with any electronic equipment or data storage device there is always a possibility of a hardware failure when equipment is switched on or accessed. This is a function of the material under review and is outside the Supplier's control. The Supplier takes no responsibility for any such failure, should it occur, or any events arising from such failure.
- j) The Buyer confirms that the Buyer has considered any Data Protection Legislation or Human Rights Act 1998 (or equivalent overseas legislation) issues that might arise from its work and has put in place the necessary controls and procedures to ensure any data collected by the Supplier does not compromise these legal requirements. The Buyer confirms that its staff and policies allow the review of corporate systems used by its staff.

- k) As part of the Supplier's investigation strategy it may use network forensic software for the remote capture of electronic material. This requires a small program to be installed or run on specified PCs and/or servers. This software has been successfully tested on a variety of hardware and software platforms; however the Supplier is unable to guarantee its successful operation on systems outside its control. Further, the Supplier will not be liable for any malfunction, interruption to or demise of the Buyer's systems that running the forensic software might cause, or any events arising therefrom. The Supplier recommends therefore that the software is tested by the Buyer on a trial system, prior to its installation or operation on the Buyer's live system.
- l) During the forensic analysis of mobile communication equipment, the Supplier's practice is, wherever possible, to avoid switching on the handset with the original SIM card inserted, as doing so may cause the equipment to register with the network. Should there be any SMS messages waiting to be received, these would automatically be downloaded to the equipment, possibly overwriting deleted messages that could otherwise be recovered. Similarly, the handset may receive automated calls from voicemail that may cause entries in the call register to be overwritten. However, it is sometimes the case that information can only be retrieved from the handset if it recognises the original SIM card. Further, a reading from the handset clock is sometimes needed to provide a reference for this data. The Supplier therefore disclaims any liability arising from any such loss of data, should it be necessary for the Supplier to switch on the equipment with the original SIM card inserted.
- m) Following the completion of the CIR, the Supplier will either return to the Buyer or securely destroy any electronic data that the Supplier collected from the Buyer's systems as part of the CIR. The Supplier will undertake an inventory of such electronic data that it holds in secure storage and then provide the Buyer with the list of data collected, requesting the Buyer's instructions whether we should return or destroy that data. If the Buyer does not respond to the Supplier within one month from the date of that letter the Supplier shall be entitled to securely destroy the data. Return of data to the Buyer will be receipted (including, if relevant, via a courier) in order to maintain chain of custody documentation. The Supplier is however obliged to retain as part of its working papers copies of any output or analysis created through its processing of the Buyer's electronic data that may be necessary to support the opinions or conclusions of the Supplier provided that such retention is in accordance with the requirements of applicable law, including the Data Protection Legislation.
- n) The Supplier plans to use a secure data transfer facility ("**ShareFile**") to facilitate the transfer of electronic data to or from the Buyer. Data is encrypted in transit to and from the server which is located in a secure data centre and hosted by a third party contracted by the Supplier. The Supplier accepts no responsibility for any data content on such ShareFile site unless it was uploaded by the Supplier.
- o) In the event the Buyer wishes to activate the 24/7 CIR service, CIR Supplier Staff should be contacted as follows:
- E-mail: CIRT@deloitte.co.uk*
Phone - CIR Emergency Help: 020 7007 9660
- p) Details of the indicative levels of service are as follows:
- Level of Service: Subject Matter Expert (SME) call back
 Service Levels: 2 hours
 Remarks: Using CIR Emergency Help number, expected to be shorter than this in reality.
- Level of Service: SME in transit
 Service Levels: 24 hours
 Remarks: This time should be significantly reduced if requested during working hours.
- Level of Service: On-site specialist technical support
 Service Levels: 3 business days
 Remarks: Includes eDiscovery and Forensic specialists.
- q) The Buyer may have taken out insurance cover for events of the type in which the Buyer asks the Supplier to become involved. Should there be any possibility that the Buyer may wish to make a claim under such a policy, it is the Buyer's responsibility to ensure that the Buyer abides by the policy terms and conditions and that the Supplier's involvement by providing the CIR will not result in the Buyer's insurer refusing to meet any claim. The Supplier cannot accept any responsibility for invalidation of such a policy.
- r) In connection with the provision of CIR, the Supplier's Services are dependent upon the following:
- all decision making remains the ultimate responsibility of the Buyer throughout the Term of the Call-Off Contract;

- if the Buyer wishes the Supplier to undertake data gathering, the Buyer must make appropriately skilled personnel available at the times requested by the Buyer;
 - where on-site data gathering is required, the Buyer must provide the Supplier Staff with support when they visit the Buyer's premises and respond promptly to all the Supplier's queries;
 - Buyer will provide an appropriate working environment for Supplier personnel when working on site if required; and
 - Buyer confirms that Buyer is the owner of any applications and/or software to be used by Supplier during a project or in the event Buyer is the licensee of such product then Buyer warrants that it has obtained the relevant licenses to enable Supplier to use these to perform the Services.
- s) Unless otherwise agreed expressly between the parties in the Call-Off Contract, Supplier will be acting as a data controller for the purposes of the Data Protection Legislation. The Buyer agrees that the Supplier and the Buyer will be independent controllers of Personal Data under this Call-Off Contract for the purposes of the Data Protection Legislation.
- The Buyer agrees to the following terms a) to kk) with respect to any generative artificial intelligence based services ("**Gen AI Services**"):
- a) "**AI Technology Product Services**" means where either: i) the AI Licensed Software is hosted by Supplier (or on its behalf) and made available to Buyer on a software-as-a-service basis accessed by Buyer on a subscription basis through Software Services; or ii) where a copy of the AI Licensed Software is provided to Buyer for installation on Buyer's infrastructure.
 - b) "**AI System**" means any artificial intelligence system (AI system), as detailed in the Call-Off Contract, that is developed with one or more of the techniques and approaches including but not limited to machine learning, deep learning, logic and knowledge based approaches, statistical approaches and can, for a given set of human-defined objectives, generate outputs such as content, predictions, recommendations, or decisions influencing the environments they interact with and includes any functional improvements, other changes, additions, derivatives or modifications and/or upgrades to it.
 - c) "**AI Applicable Laws**" means all laws in England and Wales and any other, regulations, statutory instruments, case law, directives, by-laws, regulatory requirements, codes of practice and regulatory policies, codes or guidance (as published by a regulator of competent authority in England and Wales) as may be in force from time to time.
 - d) "**AI Outputs**" means any output, data, report, scores, results which are generated via any AI System in connection with the Services, excluding the Deliverables.
 - e) "**AI Training Data**" means any data to be used to train an AI System.
 - f) "**AI Licensed Software**" means the Gen AI related computer software or programs in object code form to be licensed to Buyer, as detailed in the Call-Off Contract and includes any Functional Improvements (if any) and other changes, additions, derivatives or modifications and/or upgrades to it.
 - g) "**AI Prompts**" means any text, audio, images, video, documents or other data and materials submitted by Buyer to the AI Licensed Software in order to generate an AI Output.
 - h) "**AI Deliverable**" means any software and/or system(s) provided to Buyer (as part of the Services) which is, or incorporates within it, an AI System.
 - i) The access to / use of the Gen AI Services may be subject to additional license terms and conditions as set forth in the Call-Off Contract.
 - j) For the purposes of Clause 11.8 of the Call-Off Contract, AI Prompts shall constitute data supplied by the Buyer which the Supplier isn't required to verify under the Call-Off Contract. Supplier shall not be liable for any IPR Claims (under Clause 11.6 or otherwise) in relation to AI Prompts and/or AI Outputs generated from AI Prompts.
 - k) Notwithstanding any clause/term of this Agreement, Supplier shall not own the Intellectual Property Rights in the AI Outputs.
- All advisory services to be performed under the Agreement involving an AI System shall be subject to the following terms l) to q):
- l) The Buyer acknowledges and accepts that the Deliverables or any other advice forming part of any Deliverable is based on Supplier's

understanding of AI Applicable Laws (where applicable) as at the time of its issue. Supplier may at any time amend the scope of the Deliverables and/or to adjust the relevant Charges to the extent it is required to do so in order to comply with any changes in AI Applicable Laws.

m) The Buyer shall be responsible for providing the AI System and for:

- selecting all aspects in connection with the use of the AI System, including but not limited to, managing data encryption, end-user consents (if necessary), access control, logical segregation of data and setting out the training requirements of the AI System;
- all purchase costs, maintenance costs, charges, fees associated with the AI System alongside the obtention and compliance with all licenses required to allow Supplier to use the AI System as part of the Services and Deliverables;
- assessing the suitability, security, privacy and the confidentiality of the AI System and for monitoring the same on an ongoing basis and providing any training or technical support in regards to use of the platform;
- ensuring the accuracy, quality, sufficiency and format of any input or AI Training Data that is used in the AI System or provided to Supplier, including any personal data, for use within the AI System and has obtained any relevant approvals, consents, licenses and security clearances for the same;
- ensuring controls designed to protect the AI System against viruses, malwares or malicious code that could cause the AI System or any input or AI Training Data to become impaired, disrupted, erased or incapable of use;
- ensuring that the facilities and functions of the AI System are appropriate to meet its requirements;
- conducting its own training, acceptance testing and/or ongoing monitoring of the AI System and maintain any necessary records in accordance with its own policies;
- deciding the manner in which AI Outputs are to be used in the context of its own business and whether the Buyer wishes to rely on, implement or act on them, including the actions necessary to realise any expected benefits;
- cooperating with Supplier to resolve any problems that occur in relation to its access to or use of the AI System including, without limitation, providing any information and

assistance which Supplier may reasonably require;

- ensuring that the AI System is always used responsibly and ethically and is not used in any way which may damage the reputation of Supplier; and
 - ensuring the AI System always complies with AI Applicable Laws.
- n) Supplier shall have no liability for any losses suffered by the Buyer and/or any third party as a result of any breach of this Agreement to the extent that such breach was caused, or contributed to, by:
- use of the AI System or the AI Output; and/or
 - the Buyer's failure to monitor its operation.
- o) The Buyer represents and warrants that:
- it has all necessary Intellectual Property Rights in the AI System and AI Training Data to allow Supplier to perform the Services;
 - it will be responsible for human oversight of the use of the AI System and any AI Outputs derived from it; and
 - personal data will not be processed as part of the AI System.
- p) Buyer agrees to indemnify and hold harmless the Supplier Parties against all Losses which they incur due to Buyer's breaches of terms l) to o)(inclusive).
- q) Supplier makes no other representations or undertakings regarding the operation and adequacy of the AI System, including whether the AI System meets the Buyer's individual requirements. Supplier disclaims any and all warranties and representations of any kind relating to the AI System, including any warranty of non-infringement, title, conditions, or terms as to fitness for purpose, or satisfactory quality.
- All Implementation Services to be performed under the Agreement involving an AI System shall be subject to the following terms r) to ff):
- r) Except where the scope of the Implementation Services expressly provides otherwise, Supplier will not have responsibility for an AI Deliverable's or any AI Output's compliance with AI Applicable Laws.
- s) If there is a material change in Supplier's understanding of AI Applicable Laws relevant to Supplier's provision of the Implementation Services between the Call-Off Contract being entered into and Supplier delivering any AI Deliverables to

Buyer in their final form, Supplier may propose adjustments to the implementation plan and/or relevant Charges to reflect any additional work required. If such changes are not promptly agreed Supplier may terminate this Agreement for convenience immediately by giving written notice.

- t) Subject to term r), Buyer will be responsible for any necessary human oversight and for ensuring that Buyer's use of the AI Deliverables, any use of AI Training Data and the creation and use of any AI Outputs complies with AI Applicable Laws.
- u) Buyer agrees that the AI Deliverables are to be created in accordance with Buyer's reasonable instructions. Unless agreed otherwise in writing, no person other than Buyer may rely on the AI Deliverables and Supplier accepts no responsibility nor liability to any other person.
- v) It shall be for Buyer to determine how, and the extent to which, Buyer uses and any reliance is placed on any AI Outputs. Supplier accept no responsibility or liability for Buyer or any third party's use or reliance on any AI Outputs.
- w) Buyer agrees to reimburse Supplier for any Losses that any Supplier Parties incurs in connection with any claim by any third party in relation to AI Deliverables or AI Outputs.
- x) Where the Call-Off Contract states that Supplier shall be responsible for procuring all Training Data: Supplier shall procure the Training Data expressly specified in the Call-Off Contract ("Supplier Training Data"). Supplier shall be responsible for obtaining any permissions and consents necessary to use the Supplier Training Data to train the relevant AI System in the manner described in the Call-Off Contract. Buyer will have no right to use or access the Supplier Training Data and Supplier or Supplier's licensors retain all rights in the Supplier Training Data.
- y) Where the Call-Off Contract states that Buyer shall be responsible for procuring all Training Data: Buyer will provide all necessary Training Data ("Buyer Training Data"). Buyer hereby grants to Supplier and the other Supplier Parties a royalty free, non-exclusive, non-transferable, perpetual license to use, copy, modify and adapt the Buyer Training Data solely to the extent reasonably required in order to perform the Implementation Services. To the extent Intellectual Property Rights exist in the Buyer Training Data those Intellectual Property Rights are Buyer Background IPR.
- z) Where the Call-Off Contract states that both Supplier and Buyer shall be responsible for procuring, or may procure Training Data: Supplier shall procure Training Data only if expressly specified in the Call-Off Contract ("Supplier Training Data"). In those circumstances, Supplier shall be responsible for obtaining any permissions and consents necessary to use the Supplier Training Data to train the relevant AI System in the manner described in the Call-Off Contract. Buyer will have no right to use or access the Supplier Training Data and Supplier or Supplier's licensors retain all rights in the Supplier Training Data. Buyer will provide all other necessary Training Data ("Buyer Training Data"). Buyer hereby grants Supplier and the other Supplier Parties a royalty free, non-exclusive, non-transferable, perpetual license to use, copy, modify and adapt the Buyer Training Data solely to the extent reasonably required in order to perform the Implementation Services. To the extent Intellectual Property Rights exist in the Buyer Training Data those Intellectual Property Rights are Buyer Background IPR.
- aa) Buyer will be responsible for the quality and accuracy of the Buyer Training Data. Supplier will not have any obligation to review or ensure the quality and/or accuracy of the Buyer Training Data or its fitness for purpose for the operation or development of the AI Deliverables or the AI Outputs, unless such services are specifically included within the scope of the Implementation Services described in the Call-Off Contract.
- bb) Buyer will indemnify Supplier for Supplier's reasonable costs and damages arising out of any claim that Supplier (or any Supplier Parties') use or possession of any Buyer Training Data in accordance with this Agreement infringes any copyright, database right or trade mark of a third party.
- cc) Where an AI Deliverable is dependent on utilising a Buyer owned AI System ("**Buyer AI System**") or third party AI System ("**Third Party AI System**"), as specified in the Call-Off Contract, Buyer shall be responsible for procuring that Buyer AI System or Third Party AI System and Supplier's access to the same by the date set out in the implementation plan and any such Buyer AI System shall be Buyer Background IPR and any such Third Party AI System shall be Buyer Background IPR. Buyer acknowledge that, unless specifically stated in the Call-Off Contract, Supplier shall not provide advice or guidance on the appropriateness of a particular Buyer AI System or Third Party AI System.

- dd) Subject to term cc) Supplier will indemnify Buyer for Buyer's reasonable costs and damages awarded by a court of competent jurisdiction under any final judgement or agreed by Supplier in writing in final settlement arising out of a claim brought against Buyer by any third party that Buyer's use or possession of the AI Deliverables in accordance with the terms of this Agreement infringes the copyright, database right or trade mark of any third party not connected to Buyer, provided that Buyer complies with Buyer's obligations in term ee).
- ee) Where Buyer becomes aware of any claim or likely claim of infringement, it shall (i) not prejudice the defence of any such claim, (ii) promptly notify Supplier in writing of the details of the claim, (iii) give Supplier all reasonable assistance with such claim (at Supplier's reasonable cost), and (iv) give Supplier the sole conduct and control of the claim and its settlement or resolution.
- ff) The indemnity in term dd) shall not apply to the extent that such infringement or alleged infringement arises from (i) modification of the AI Deliverable other than by Supplier or a Supplier Parties; (ii) Buyer's use of the AI Deliverable in a manner not contemplated by this Agreement; (iii) Buyer's failure to use in a timely manner any corrections or modifications made available to Buyer by Supplier, provided such corrections or modifications do not materially diminish the functionality of the AI Deliverable; (iv) information, materials, instructions, specifications, requirements, Training Data or designs provided by Buyer or on Buyer's behalf; (v) the use of the AI Deliverable in combination with any platform, product, network or data not provided by Supplier and not contemplated by this Agreement; (vi) Buyer Background IPR; (vii) any Third Party Software which is incorporated into or otherwise forms part of the AI Deliverable; or (viii) Buyer's use of any AI Outputs.

All AI Technology Product Services to be performed under the Agreement shall be subject to the following terms gg) to jj):

- gg) This term shall only apply where the AI Licensed Software contains Machine Learning Elements. For the purposes of this term the following terms have the following meanings:

"Machine Learning Decisions" means the Expected Value Outputs of any Machine Learning Element, including any Edge Case Decisions;

"Machine Learning Element" means the Machine Learning elements (if any) of the AI Licensed Software, including any trained machine learning elements of the AI Licensed Software after processing or otherwise ingesting any Buyer Data;

"Machine Learning" means computer tools containing machine learning algorithms that analyse and parse patterns, relationships and correlations between multiple data elements; computer vision processing algorithms enabling machine perception of data elements;

"Edge Case Decision" means any Machine Learning Decision at the margins of the Expected Value Output;

"Expected Value Output" means a statistical range of probable outputs, based on a Gaussian distribution probability curve derived from the algorithmic architecture of the Machine Learning Element as applied to the applicable use case; and

"Functional Improvements" means enhancements to the operational efficiency and performance of a Machine Learning Element by improving its ability to process unstructured and structured data, following which operational efficiencies may be in the form of underlying relational algorithmic improvements containing images; and/or natural language processing algorithms enabling machine perception of data elements containing natural language.

Buyer acknowledges that by submitting any Buyer Data to be processed and/or ingested that the Machine Learning Element (if any) may analyse and use the Buyer Data to achieve Functional Improvements. The Buyer Data utilised in making such Functional Improvements shall be anonymised and/or aggregated with other data (including Supplier data as applicable) and Supplier will seek to ensure that no Buyer Data shall be identifiable in any Functional Improvements. Buyer agrees that such Functional Improvements are part of the Machine Learning Element and shall belong to Supplier on creation. Such Functional Improvements may be used for the benefit of Supplier's other clients and third parties Supplier works with.

Supplier does not warrant that any Machine Learning Element will not make any Edge Case Decisions. In particular, Supplier does not provide any warranty in connection with any Machine Learning Decisions made by any Machine Learning Element (as applicable).

- hh) All AI Prompts submitted to the AI Licensed Software constitute Buyer Data under this Agreement and/or Buyer Data which has been processed by a Machine Learning Element for the purposes of term gg) .
- ii) AI Outputs are dependent on the relevant AI Prompts and Supplier has no responsibility or liability for the quality and/or accuracy of any Outputs. Buyer should not rely on any AI Outputs without verifying their accuracy. Buyer is solely responsible for the use and human oversight of the AI Licensed Software and AI Outputs, including ensuring that use of the AI Licensed Software and use or creation of AI Outputs by Buyer and Authorised Users is in accordance with AI Applicable Laws.
- jj) Supplier may choose to, but shall have no obligation to, immediately suspend access to the AI Licensed Software where Supplier believes continued use of the AI Licensed Software is reasonably likely to damage Supplier's reputation or may be in breach of AI Applicable Laws.

Where specified in an Order Form the Supplier will be providing regulated legal Services ("**Regulated Legal Services**" or "**RLS**") the following terms kk) to ss) shall apply to such provision of RLS only:

- kk) The Supplier is a licenced body under the Legal Services Act 2007 and is authorised and regulated by the Solicitors Regulation Authority ("SRA") under SRA Number 646135.
- ll) Any indication in these Terms of Business that Deloitte is not providing legal services shall not apply in relation to RLS.
- mm) The Supplier will investigate all concerns or complaints regarding the quality of the Services. If the Buyer would prefer to raise the matter with someone other than the lawyer responsible for supervising the Regulated Legal Services, please contact the Supplier's compliance officer for legal practice, currently Roger Wightman. If the Supplier does not provide the Buyer with a satisfactory resolution to their complaint, the Buyer may refer the matter to the Legal Ombudsman in accordance with the ombudsman scheme rules. The Buyer also has certain rights of appeal to the UK courts in relation to fees under the Solicitors Act 1974. Where the Buyer believes that the Supplier has not conducted itself in accordance with the Principles and relevant rules of the Solicitors Regulation Authority the Buyer may raise this with them. The

applicable professional rules can be accessed at <https://www.sra.org.uk/solicitors/standards-regulations/>.

- nn) If the Supplier provides to the Buyer legal advice or if the Supplier acts for the Buyer in contemplated or actual legal proceedings, communication produced in relation to these RLS may be privileged.
- oo) Without affecting in any way or on any basis the confidential nature of legal advice that may be provided and the legal privilege that applies or may apply to any such legal advice, the Buyer consents to lawyer members of the engagement team disclosing legal advice to non-lawyer members of the same engagement team on request or at the discretion of the lawyers, providing such disclosure is made on a strictly confidential basis. This consent to disclose is given to facilitate the provision of the Services, on condition that all engagement team members are informed by the Supplier that such consent does not amount to a waiver of legal privilege for any purpose or in any context.
- pp) In an effort to maintain confidentiality and avoid loss of legal professional privilege that may apply to the Deliverables and legal advice, we will deliver the Deliverables and legal advice only to the Buyer team described in the Order Form and not to any other Beneficiaries. Should the Buyer distribute the Deliverables and legal advice more widely, this should be done on a confidential basis and mindful of the risk of loss of any legal professional privilege that attracts to the applicable Deliverables or legal advice.
- qq) If the Buyer disseminates privileged documentation to a third party, including a Beneficiary, whether internally or externally, it may be waiving privilege and should discuss this with the Supplier in advance.
- rr) The Buyer agrees that the Supplier is not under any obligation to disclose to the Buyer or use for the Buyer's benefit any documents or information in respect of which the Supplier owes a duty of confidentiality to any other party.
- ss) In the event that an actual or anticipated conflict of interest arises during the course of the engagement, the Supplier may be obliged to cease acting for the Buyer and/or the other party. The Buyer reserves the right to continue to advise one of the parties involved, subject to any legal or professional restrictions.

The Buyer agrees to the following terms with respect to any **secondments**:

- a) The precise duties of the Supplier personnel will be agreed between the Buyer and the Supplier personnel. The Supplier personnel will report directly to the Buyer representative, who will be responsible for providing appropriate instructions and day-to-day supervision and guidance ("Buyer Supervisor"). The Buyer confirms that the Buyer Supervisor will have the requisite skill, availability and ability to supervise the Supplier personnel.
- b) The Buyer agrees that the Supplier personnel will not hold a management position and will not be required to make any management decisions. The Buyer agrees to provide copies of all working rules, conditions and regulations to the Supplier personnel immediately on commencement of the Call-Off Contract. Nothing in the Call-Off Contract will make the Supplier personnel an employee of the Buyer.
- c) The Supplier will provide the Buyer with the opportunity to interview the Supplier personnel and review the Supplier personnel's curriculum vitae and will assess their suitability prior to commencement of the Call-Off Contract. The Supplier personnel will be working under the direct supervision of the Buyer personnel and at the Buyer premises, their work will not be subject to Supplier review or quality control procedures. Accordingly, Supplier will have not responsibility for supervising the Supplier individual's work.
- d) The Buyer will be responsible for meeting the legal obligations regarding the health and safety of the Supplier personnel. The Buyer agrees that for the duration of the Call-Off Contract it will comply with all relevant employment legislation (including, but not limited to the Equality Act 2010) and all other applicable legal obligations, including the Data Protection Legislation.
- e) The Supplier personnel will need to be covered under the Buyer's public and employer's liability insurance, in the event of physical injury or damage to property caused by the Supplier personnel's activities on the Buyer premises, and by other applicable insurance arrangements.
- f) The Supplier personnel will be available to the Buyer on such days and for such hours as are agreed in advance between Supplier and the Buyer at such other locations within the UK as

Supplier and the Buyer may agree. If, during the Term of the Call-Off Contract, the Supplier personnel is required to work overtime, weekends or public holidays, such arrangements shall be agreed in advance with the Supplier personnel. Whilst Supplier will encourage the Supplier personnel to satisfy the Buyer's needs, we cannot commit the Supplier personnel to working overtime or to work non-standard hours without the Supplier personnel's agreement.

- g) The Supplier personnel will be entitled to holiday during the Term of the Call-Off Contract. The Supplier personnel will also be entitled to be absent from the Buyer in order to attend essential team/group meetings or specific training courses applicable to Supplier personnel's grade (in relation to which Supplier will use its reasonable endeavours to minimise the disruption to the Buyer), or to discharge personal or professional commitments entered into before the commencement of the Call-Off Contract. The Supplier personnel will inform the Buyer of all such dates and will seek the Buyer's approval, which the Buyer will not withhold unreasonably, to take holiday and attend any such events that arise after the commencement of the Call-Off Contract
- h) If for any reason, apart from short-term illness, the Supplier personnel is unable to complete the Call-Off Contract, or if the Supplier personnel resigns from the Supplier's employment, Supplier will endeavour to provide a replacement member of staff, who will be subject to the Buyer's approval and on substantially the same terms as the Call-Off Contract. References in the Call-Off Contract to the Supplier personnel shall include any such replacement. If Supplier is unable to provide a replacement acceptable to the Buyer, the contract will terminate with immediate effect. Any such termination will be without liability to the Buyer on the Supplier's part.
- i) The Supplier and the Supplier personnel will be data controllers for the purposes of the Data Protection Legislation. The Buyer agrees that the Supplier and the Buyer will be independent controllers of Personal Data under this Call-Off Contract for the purposes of the Data Protection Legislation.

The Buyer agrees to the following terms with respect to any **resource augmentation**:

- a) The precise duties of the Supplier personnel will be agreed between the Buyer and the Supplier

personnel. The Supplier personnel will report directly to the Buyer representative, who will be responsible for providing appropriate instructions and day-to-day supervision and guidance ("**Buyer Supervisor**"). The Buyer confirms that the Buyer Supervisor will have the requisite skill, availability and ability to supervise the Supplier personnel.

- b) The Buyer agrees that the Supplier personnel will not hold a management position and will not be required to make any management decisions. The Buyer agrees to provide copies of all working rules, conditions and regulations to the Supplier personnel immediately on commencement of the Call-Off Contract. Nothing in the Call-Off Contract will make the Supplier personnel an employee of the Buyer.
- c) The Supplier will provide the Buyer with the opportunity to interview the Supplier personnel and review the Supplier personnel's curriculum vitae and will assess their suitability prior to commencement of the Call-Off Contract. The Supplier personnel will be working under the direct supervision of the Buyer personnel and at the Buyer premises, their work will not be subject to Supplier review or quality control procedures. Accordingly, Supplier will have not responsibility for supervising the Supplier individual's work.
- d) The Buyer will be responsible for meeting the legal obligations regarding the health and safety of the Supplier personnel. The Buyer agrees that for the duration of the Call-Off Contract it will comply with all relevant employment legislation (including, but not limited to the Equality Act 2010) and all other applicable legal obligations, including the Data Protection Legislation.
- e) The Supplier personnel will need to be covered under the Buyer's public and employer's liability insurance, in the event of physical injury or damage to property caused by the Supplier personnel's activities on the Buyer premises, and by other applicable insurance arrangements.
- f) The Supplier personnel will be available to the Buyer on such days and for such hours as are agreed in advance between Supplier and the Buyer at such other locations within the UK as Supplier and the Buyer may agree. If, during the Term of the Call-Off Contract, the Supplier personnel is required to work overtime, weekends or public holidays, such arrangements shall be agreed in advance with the Supplier

personnel. Whilst Supplier will encourage the Supplier personnel to satisfy the Buyer's needs, we cannot commit the Supplier personnel to working overtime or to work non-standard hours without the Supplier personnel's agreement.

- g) The Supplier personnel will be entitled to holiday during the Term of the Call-Off Contract. The Supplier personnel will also be entitled to be absent from the Buyer in order to attend essential team/group meetings or specific training courses applicable to Supplier personnel's grade (in relation to which Supplier will use its reasonable endeavours to minimise the disruption to the Buyer), or to discharge personal or professional commitments entered into before the commencement of the Call-Off Contract. The Supplier personnel will inform the Buyer of all such dates and will seek the Buyer's approval, which the Buyer will not withhold unreasonably, to take holiday and attend any such events that arise after the commencement of the Call-Off Contract.
- h) If for any reason, apart from short-term illness, the Supplier personnel is unable to complete the Call-Off Contract, or if the Supplier personnel resigns from the Supplier's employment, Supplier will endeavour to provide a replacement member of staff, who will be subject to the Buyer's approval and on substantially the same terms as the Call-Off Contract. References in the Call-Off Contract to the Supplier personnel shall include any such replacement. If Supplier is unable to provide a replacement acceptable to the Buyer, the contract will terminate with immediate effect. Any such termination will be without liability to the Buyer on the Supplier's part.
- i) The Supplier and the Supplier personnel will be data processors for the purposes of the Data Protection Legislation.

Appendix 1

Acceptance Certificate

To: DELOITTE LLP

From: Buyer

[Date]

Dear Sirs

ACCEPTANCE CERTIFICATE

DELIVERABLE(S): [insert description]

We refer to the agreement relating to the provision of Services between [#] (the "**Buyer**") and Deloitte LLP (the "**Supplier**") dated [#](the "**Agreement**").

[TECHNICAL DELIVERABLES COMPLETE: We confirm that the above Deliverable(s) have been tested in accordance with the relevant test documents. We confirm that the relevant Acceptance Criteria have been achieved.]

Accordingly, the Supplier is entitled to proceed on the basis of this Acceptance Certificate in respect of the above mentioned Deliverable(s) in accordance with the Agreement.

Signed as confirmation of the above, acting on behalf of the Buyer:

Signature

Name:

Position:

Appendix 2

[Insert name of Supplier Partner]

Deloitte LLP
2 New Street Square
London
EC4A 3BZ

[DD MMMM YYYY]

For the attention of [Insert name of Supplier Partner]

Dear Sirs

Security and Penetration Testing Services at [Complete legal name of Client entity] (the "**Buyer**") **in relation to** [describe the project/services] (the "**Project**")

As a person entitled to control access to, and determine whether any modification should be made to the programs and data of Buyer's computer systems, for the purposes of the Computer Misuse Act 1990 and the Police and Justice Act 2006, I hereby authorize Deloitte LLP (the "**Supplier**") and all persons employed by the Supplier together with the Supplier's servants, agents, suppliers and subcontractors to attempt to gain access to defined Internet-facing systems, 'owned' by the Buyer. I confirm that in doing so, or attempting to do so, there will be no infringement of the Computer Misuse Act 1990, the Police and Justice Act 2006 or other applicable legislation in relation to the Buyer, or any third parties programs and data.

I further confirm that we will take whatever steps that are necessary to ensure adequate protection of all the Buyer's data and programs throughout the Project.

The Buyer's computer system and infrastructure will be restricted to the agreed target IP addresses, and or base URLs, to be specified in an Order Form for each testing phase.

Signed as confirmation of the above, on behalf of the Buyer:

Signature

NAME:

POSITION:

Date:

Appendix 3

1. PRICE & PAYMENT TERMS

Prices for the products (including any parts, components, accessories, managed/professional services and/or cloud services hereinafter referenced as "**Products**") specified in the Order Form shall be as set out in the Order Form and payment in full is due on receipt of an invoice. Interest on any payment or part payment unpaid after thirty (30) days shall accrue daily at an annual rate of interest of 2% above the base rate from time to time of the Bank of England.

2. TAXES

In addition to the purchase price or other charges to be paid by Buyer under the Call-Off Contract relating to the Products, Buyer shall pay any applicable taxes, duties, tariffs or assessments however designated and whenever they occur (except taxes levied against Supplier income), including without limitation value added tax and similar taxes, in each case in the manner and in the amount prescribed by law.

3. SHIPMENT, DELIVERY / AVAILABILITY OF PRODUCTS

Shipment, delivery and availability of Products shall be in accordance with the terms and conditions of the provider of the Product ("**Provider**"), a copy of which is available to Buyer on written request. Risk of loss shall pass to Buyer at the time the Provider transfers risk of loss to Buyer or Deloitte in accordance with the Provider's terms and conditions. SUPPLIER SHALL NOT BE LIABLE FOR ANY FAILURE OF THE PROVIDER TO MEET BUYER'S DELIVERY DATES. On delivery Buyer shall within 3 working days inspect the Products and notify Supplier of any damage to, or short delivery of, the Products.

4. CANCELLATIONS AND RETURNS

Any charges incurred by Supplier as a result of changes to or cancellations of an order of a Product by Buyer, cancellations by Supplier pursuant to Clause 10 in this Appendix 3, or returns by Buyer shall be paid by Buyer.

5. TITLE AND SECURITY INTEREST

Unless otherwise indicated in an Order Form, title to the purchased Products (or in respect of Products that are software, title to the media on which the software is delivered) shall pass to Buyer on the latest of the date (1) when title passes to Supplier from the Provider, (2) when Buyer has made full payment of the purchase price, and (3) (where required) when Buyer has entered into any required end user license agreement with the licensor of the Product.

6. USE OF PRODUCTS

At the request of Supplier, Buyer shall certify in writing that the Products pursuant to any Order Form are for its own internal use. In terms of cloud services, Buyer shall promptly report to Supplier any actual use in excess of the number of authorised users or other applicable usage metric authorised in the Order. Buyer shall pay fees for any usage in excess of the applicable usage metrics in accordance with the Provider's terms and conditions. Buyer agrees that such fees shall accrue from the date the excess use began.

7. SOFTWARE/DATA/CONTENT LICENSE(S)

Supplier does not purport to grant any license to software, data or content Products under this Agreement. Buyer agrees to be bound by and/or execute the Provider's (or other third party's) software, data or content license agreement as required.

8. INDEMNIFICATION

Buyer agrees to indemnify and hold Supplier harmless from any and all liability, loss, damages and other costs (including but not limited to legal expenses) of any nature arising out of Buyer's purchase, use or possession of the Products. This indemnity shall survive the termination for any reason of the Agreement.

9. WARRANTIES

Supplier is not the manufacturer or provider of the Products and makes no warranties and gives no undertakings of any kind with respect to the Products, which are provided by Supplier "AS IS". Supplier will not perform any related services and therefore makes no warranties and gives no undertakings of any kind with respect to such services. Supplier does, however, to the extent possible, assign to Buyer all warranties in relation to the Product(s) provided by the Provider subject to the relevant provisions of the Provider's terms and conditions.

THE FOREGOING ASSIGNMENT IS IN LIEU OF ALL WARRANTIES, CONDITIONS AND UNDERTAKINGS IMPLIED BY STATUTE, COMMON LAW OR USAGE, INCLUDING BUT NOT LIMITED TO WARRANTIES OF SATISFACTORY QUALITY AND FITNESS FOR A PARTICULAR PURPOSE, WHICH ARE EXCLUDED TO THE FULLEST EXTENT PERMITTED BY LAW.

10. TERMINATION

Termination of the Call-Off Contract howsoever occurring shall not affect the obligations of the parties in respect of any Order for any Products not yet completed, provided that if such termination is by Supplier for breach or due to independence or regulatory requirements then (i) Supplier may at its option cancel any outstanding Orders for Products and (ii) Buyer shall be liable for any cancellation charges levied by the Provider in respect of such cancellations. For the avoidance of doubt, termination of the Call-Off Contract shall not terminate the term of any software Product or maintenance term paid for by Buyer or affect any right or liability which has accrued before termination or any provision of this Agreement which expressly or by implication is intended to come into or continue in force on or after termination.

11. LIMITATION OF LIABILITY

SUPPLIER'S LIABILITY IN AGGREGATE FOR ALL CLAIMS UNDER OR IN CONNECTION WITH THE CALL-OFF CONTRACT IN RELATION TO ANY PRODUCTS, REGARDLESS OF THE FORM OF ACTION (I.E. WHETHER IN CONTRACT OR TORT OR PURSUANT TO STATUTE, INCLUDING WITHOUT LIMITATION NEGLIGENCE OR STRICT LIABILITY), SHALL NOT EXCEED THE AGGREGATE PAYMENTS MADE BY BUYER FOR THE RELEVANT PRODUCT(S). IN NO EVENT WILL SUPPLIER BE LIABLE FOR (I) ANY INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL OR PUNITIVE DAMAGES OR (II) ANY LOST PROFITS, REVENUE, SAVINGS, BUSINESS OR OPPORTUNITY OR ANY LOSSES RELATED TO GOODWILL OR REPUTATION, EVEN WHERE SUCH LOSSES ARE DIRECT LOSSES AND/OR EVEN IF BUYER HAS ADVISED SUPPLIER OF THE POSSIBILITY OF SUCH LOSS.



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