

Version 1 Master Services Agreement

This Agreement is between

Version 1 Solutions Limited

Company number 03438874 of Suite 3 D&E, Third Floor, 31 Temple Street, Birmingham,
B2 5DB

Email: LegalTeam@Version1.com

("VERSION 1")

and

Customer Name

Address

Registration Number

Customer Email Address

("CUSTOMER").

The "**Effective Date**" of this Agreement is

Signed for and on behalf of **CUSTOMER**

Signed for and on behalf of **VERSION 1** and all
Version 1 Subsidiaries

Signed:

Signed:

Duly authorised by **CUSTOMER**

Duly authorised by **VERSION 1**

Name:

Name:

Title:

Title:

Date:

Date:

1 SERVICES

1.1 VERSION 1 will provide the Services and the Deliverables specified in an applicable Terms of Reference. VERSION 1 has the right to provide the Services and Deliverables through one or more of its Affiliates or through the use of sub-contractors and shall remain responsible for the acts and omissions of such Affiliates and sub-contractors to the same extent as if performed by employees of VERSION 1.

1.2 The CUSTOMER's Affiliates and VERSION 1 may execute a Terms of Reference under this Agreement. Any Affiliate(s) so used shall be subject to the terms and conditions of this Agreement and the CUSTOMER shall be liable for the acts and omissions of its Affiliates as if such acts and omissions were its own.

2 DEFINITIONS

2.1 **"Affiliates"** shall mean any entity that directly or indirectly controls, is controlled by, or is under common control with another entity.

2.2 **"Agreement"** shall mean this Master Services Agreement between the CUSTOMER and VERSION 1 including any addenda and such variations as maybe agreed in writing by the CUSTOMER and VERSION 1.

2.3 **"Charges"** shall mean the fees and expenses payable for the Services as further defined in Clause 4 and as set out in the relevant Terms of Reference.

2.4 **"Customer Data"** shall mean data relating to the business of the CUSTOMER, held on the CUSTOMER's computer systems.

2.5 **Customer Personal Data:** shall mean any personal data which VERSION 1 processes in connection with this Agreement, in the capacity of a Processor on behalf of the CUSTOMER in the provision of the Services.

2.6 **Business Day:** shall mean a day, other than a Saturday, Sunday or public holiday when banks are open for business.

2.7 **"Data Processing Annex"** shall mean the Annex to a Terms of Reference which sets out the nature, purpose and other information regarding the Processing of Customer Data to occur under an applicable Terms of Reference.

2.8 **"Data Protection Law"** shall mean GDPR, the Data Protection Acts 1988-2018 and the EU Privacy & Electronic Communications Directive 2002/58/EC, any amendments and replacement legislation including laws implementing or supplementing the GDPR, Commission decisions, binding EU and national guidance and all national implementing primary and secondary legislation [in each case as such legislation is amended, revised or replaced from time to time.]

2.9 **"Deliverables"** shall mean the outputs of the Services including any other documents and materials that may be developed and/or supplied by VERSION 1 as described in the applicable Terms of Reference.

2.10 **"EEA"** shall mean the European Economic Area, which comprises of the EU Member States and Iceland, Liechtenstein, and Norway.

2.11 **"EU Standard Contractual Clauses"** shall mean the standard contractual clauses set out in the European Commission Implementing Decision of (EU) 2021/914 of 4 June 2021 on standard contractual clauses for the transfer of Personal Data to third countries made under Regulation (EU) 2016/679 of the European Parliament and of the European Council as may be amended or replaced from time to time in accordance with the Commission's requirements, under the GDPR, and/or in order to comply with applicable laws.

2.12 **"EU Restricted Transfer"** shall mean a transfer of Personal Data where such transfer would be prohibited by European Union Data Protection Law in the absence of the protection for the transferred Personal Data provided by the EU Standard Contractual Clauses or any other mechanism permitted under applicable laws to be established under Clause 11.5.

2.13 **"GDPR"** shall mean EU General Data Protection Regulation 2016/679 as amended from time to time.

2.14 **"Good Industry Practice"** shall mean the degree of skill and care, diligence, prudence and foresight which would reasonably and ordinarily be expected from a skilled and experienced person or body engaged in the provision of similar services under the same or similar circumstances.

2.15 **"Intellectual Property Rights"** shall mean rights to inventions, copyright and related rights (including software and source code), moral rights, trade marks business names and domain names, rights in designs, rights in computer software, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how and trade secrets) and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.

2.16 **"Material(s)"** shall mean any design, specification, instruction, information, data or other like documents supplied by either party to this Agreement to the other for the performance of the Services.

2.17 **"Regulator"** shall mean any supervisory authority with competent jurisdiction under Data Protection Law over the Processing of Personal Data.

2.18 **"Restricted Transfer"** shall mean an EU Restricted Transfer and/or a UK Restricted Transfer as the context dictates.

2.19 **"Services"** shall mean the services to be performed by VERSION 1 for the CUSTOMER pursuant to and described in the applicable Terms of Reference, including the development and/or supply of the Deliverables (if any).

2.20 "Standard Contractual Clauses" shall mean the EU Standard Contractual Clauses or the UK IDTA (as applicable), any other set of contractual clauses or other similar mechanism approved by a Supervisory Authority or by Data Protection Law for use in respect of a Restricted Transfer, as updated, amended, replaced or superseded from time to time by such regulatory authority or Data Protection Law.

2.21 "Sub-processor" shall mean any third party appointed to process Personal Data on behalf of the CUSTOMER related to this Agreement.

2.22 "Supervisory Authority" shall mean (a) an independent public authority which is established by a European Union Member State pursuant to Article 51 GDPR; and (b) any similar regulatory authority responsible for the enforcement of Data Protection Law.

2.23 "Terms of Reference" shall mean VERSION 1's standard form for specifying Services and shall specify and describe the Services and Deliverables to be performed and/or delivered for a particular engagement.

2.24 "UK" shall mean the United Kingdom of Great Britain and Northern Ireland.

2.25 "UK IDTA" shall mean the International Data Transfer Addendum to the EU Commission Standard Contractual Clauses issued by the UK Information Commissioner under section 119A(1) Data Protection Act 2018.

2.26 "UK Restricted Transfer" shall mean a transfer of Personal Data where such transfer would be prohibited by Data Protection Law in the UK in the absence of the protection for the transferred Personal Data provided by the UK IDTA or any other mechanism permitted under applicable Data Protection Law to be established under Clause 10.4.

2.27 The terms "Commission", "Controller", "Data Subject", "Member State", "Personal Data", "Personal Data Breach", "Processor", "Processing" and "Supervisory Authority" shall have the same meaning as in Data Protection Law.

2.28 "VERSION 1 Know how" means the general knowledge, skills, methods, techniques, procedures, expertise and any ideas, concepts, know how, formats, templates, methodologies and techniques accumulated by VERSION 1 and its staff in the course of performing the Services and similar services for other customers.

3 AGREEMENT, TERMS OF REFERENCE AND ORDER OF PRECEDENCE

3.1 This Agreement sets out the (i) mechanism whereby the parties may enter into a Terms of Reference; (ii) mechanisms used for the Charges for Services and Deliverables (iii) terms and conditions under which the Services and Deliverables will be provided by VERSION 1 to the CUSTOMER under an applicable Terms of Reference and (iv) obligations of the parties under this Agreement and each Terms of Reference.

3.2 The parties may agree and execute a Terms of Reference from time to time and the parties acknowledge and agree that such executed Terms of Reference shall be subject to and governed by the terms of this Agreement. For the avoidance of doubt, each executed Terms of Reference,

together with this Agreement, form a single and separate contract between the parties. Where there is any conflict between the terms of this Agreement and the terms of any Terms of Reference, the Terms of Reference shall prevail. Any defined term used but not defined herein shall have the being ascribed to it in the applicable Terms of Reference.

4 CHARGES, PAYMENT AND TAXES

4.1 Charges for Services

4.1.1 Charges for the services shall be calculated either on a (i) fixed fee ("Fixed Price") or (i) time and material ("T&M") basis at the Daily Rates as specified in a Terms of Reference. Charges as specified in the applicable Terms of Reference are exclusive of incidental expenses which shall be charged in accordance with Clause 4.4.

4.1.2 Where the Charges are detailed in the applicable Terms of Reference on a T&M basis, any estimate of time or days work required to perform the Services or a monetary limit stated in the applicable Terms of Reference, shall be deemed an estimate for the CUSTOMER's budgeting and VERSION 1's resource scheduling purposes; and the parties agree that where any such estimate of time, days work or monetary limit is exceeded VERSION 1 will continue to provide the Services on a T&M basis.

4.1.3 Where the Charges are detailed in the applicable Terms of Reference on a Fixed Price basis, VERSION 1 will carry out the Services for the fee specified in the Terms of Reference.

4.1.4 Subject to Clause 4.1.5, VERSION 1 shall review and adjust the Charges [as specified in any Terms of Reference] on an annual basis with effect from each one-year anniversary of the Effective Date of this Agreement and VERSION 1 will use the Consumer Price Index (CPI) as an appropriate baseline for the calculation of this adjustment to the Charges.

4.1.5 The parties acknowledge and agree that the CPI may not be a sufficient measure alone to adjust the Charges and further acknowledge that the Charges may be further increased to take account of factors beyond VERSION 1's control (including, but not limited to, increases in, market input costs, skills demand and wage inflation) (the "Charges Adjustment"). In no event shall the Charges Adjustment exceed 1.5 x times CPI.

4.1.6 In such circumstances where a Charges Adjustment occurs under section 4.1.5, VERSION 1 (i) shall give the CUSTOMER not less than 90 days prior written notice to consider the proposed Charges Adjustment (the "Adjustment Notice"); and (ii) may terminate this Agreement where no response has been received on expiry of the notice period set out in the Adjustment Notice or the CUSTOMER rejects the Charges Adjustment in writing.

4.2 Variations to Services

4.2.1 Subject to Clause 4.2.2, VERSION 1 shall make such variations to the Services, whether by way of addition, modification, or omission as may be agreed by the parties under the relevant Terms of Reference.

4.2.2 All variations of the Services shall be valued by VERSION 1 and may result in the increase of Charges, in accordance with the terms of the relevant Terms of Reference, or if not specified in the Terms of Reference, the value shall be such as is fair and reasonable in all the circumstances as set out in any amendment to the Terms of Reference and signed by both parties.

4.3 Incidental Expenses

The CUSTOMER shall reimburse VERSION 1 for reasonable travel, accommodation, communications, equipment and out-of-pocket expenses incurred in conjunction with the Services ("Expenses") as set out in the Version 1 s Policy under the relevant Terms of Reference.

4.4 Invoicing and Payment

VERSION 1 shall invoice the CUSTOMER the Charges monthly in arrears or as otherwise specified in the Terms of Reference. Charges shall be payable within thirty (30) days from the date of invoice and shall be deemed overdue if they remain unpaid thereafter. If the CUSTOMER fails to pay any undisputed invoice due within thirty (30) days from and including the due date,; (i)VERSION 1 shall be entitled (without prejudice to any other right or remedy it may have) to charge interest at the rate set by law; (ii) any service levels specified in a Terms of Reference, which VERSION 1 would otherwise be obliged to provide, may be suspended by VERSION 1 until such undisputed invoice is paid in full, provided that the CUSTOMER is notified in advance of any intended suspension; and (iii) VERSION 1 may terminate this Agreement in accordance with Clause 5.5.

4.5 Disputed Invoices

If the CUSTOMER disputes any invoice or other statement of monies due, the CUSTOMER shall promptly notify VERSION 1 in writing, in any event within 30 days of receiving an invoice, detailing the reason for the dispute. The parties shall negotiate to attempt to resolve the dispute promptly. VERSION 1 will use reasonable endeavours to provide all such evidence as the CUSTOMER may reasonably request to verify the disputed invoice or request for payment. VERSION 1 reserves the right to suspend the Services associated with any payment in dispute under the applicable Terms of Reference.

4.6 Taxes and Duties

The Charges as detailed in the applicable Terms of Reference do not include taxes or duties and are, for the avoidance of doubt, exclusive of Value Added Tax ("VAT"). All additional taxes or duties which VERSION 1 shall have to pay or collect in connection with the provision of Deliverables and/or Services, shall be billed to and paid by the CUSTOMER, provided that the CUSTOMER shall not be liable for taxes based on VERSION 1's income. VAT will be charged to the Customer at the then current rate in effect at the date of invoice.

4.7 Purchase Orders

If the CUSTOMER, to support its own internal administration processes, requires that a purchase order is issued before payment of an invoice issued by VERSION 1 can be processed, then the CUSTOMER shall issue such purchase order(s) to

VERSION 1, in advance of the invoice frequency or dates agreed in any Terms of Reference.

4.8 No Set-Off or Deductions

The CUSTOMER shall make all payments in such currency as specified in the relevant Terms of Reference, without set-off or counterclaim and free and clear of all taxes, deductions, withholdings and other charges.

5 TERM AND TERMINATION

5.1 This Agreement shall commence on the Effective Date of this Agreement. It shall remain in force unless and until terminated in accordance with Clauses 5.2-5.5 below provided that each Terms of Reference shall set out the duration of that Terms of Reference. Termination of this Agreement pursuant to clause 5 shall not operate to terminate any Terms of Reference in existence at that time and termination or expiration of an individual Terms of Reference shall not operate to terminate any other Terms of Reference in existence at that time.

5.2 The CUSTOMER remains liable to pay all the Charges and Expenses due to VERSION 1 up to the date such termination becomes effective.

5.3 Either party may terminate this Agreement if the other party is in material breach of this Agreement following written notice specifying the breach and where a breach capable of remedy has not been cured within thirty (30) days of such notice.

5.4 Either party may terminate this Agreement immediately on written notice if the other party becomes the subject of a voluntary arrangement, has a receiver, examiner or liquidator appointed over all or any parts of it, its assets or income, or passes a resolution for its winding up, has a petition presented to any court for its winding up or for an administrative order, or has anything analogous to the foregoing happen in relation to it in any jurisdiction.

5.5 VERSION 1 may terminate this Agreement upon 30 days' notice if any invoice which is not in dispute remains unpaid after 60 days. This does not relieve the CUSTOMER of its obligation to pay such invoice.

5.6 Effect of Termination

The parties' rights and obligations under Clauses 4, 5, 6, 7 9 and 11 shall survive termination of this Agreement. Termination of this Agreement shall not prevent either party from pursuing any other remedies available to it, including but not limited to injunctive relief, nor shall termination relieve the CUSTOMER of its obligations to pay all Charges that have accrued prior to such termination.

6. INDEMNITIES AND WARRANTIES

6.1 Indemnity

6.1.1 Subject to compliance with the conditions of this Clause 6.1.1 and Clause 6.1.3, either party to this Agreement providing Materials ("Provider") will defend and indemnify the other party, to this Agreement, receiving such Materials ("Recipient") against a claim that any Materials furnished by the Provider and used by the Recipient as permitted by the terms of this Agreement infringes a third party's Intellectual

Property Rights provided that (a) Recipient notifies Provider in writing as soon as possible of any infringement; (b) Provider has sole control of the defence and all related settlement negotiations; (c) Recipient provides Provider with the assistance, information and authority reasonably necessary to perform the above. Reasonable out-of-pocket expenses incurred by Recipient in providing such assistance will be reimbursed by Provider; and (d) the Recipient does not make any admission as to liability or compromise or agree to any settlement without the prior written approval of the Provider.

- 6.1.2** In the event that some or all of the Materials is held, notified or is believed by the Provider to infringe a third party's Intellectual Property Rights, the Provider may at its sole option and cost: (a) modify, substitute or alter the Materials to render the Materials non-infringing ; or (b) to obtain for the Recipient the right to continue the use and possession of the Materials; or (c) to require return of the infringing Materials, or part thereof, from the Recipient and terminate all rights thereto. If such return materially affects either party's ability to meet its obligations under this Agreement, then either party may by written notice, terminate this Agreement. If the CUSTOMER is the Recipient of the indemnity pursuant to this Clause 6 then upon such termination the CUSTOMER shall be entitled to recover the Charges paid by the CUSTOMER for that portion of the Materials. If VERSION 1 is the Recipient, then upon such termination VERSION 1 shall be entitled to recover the Charges for Services ordered up to the date of termination together with the costs of committed resources. The Provider shall have no liability for any claim of infringement resulting from (a) modification or alteration of the Materials that is not authorised by the Provider in writing or a modification or alteration of the Materials implemented by the Provider pursuant to the Recipient's requirement, design, instruction or specification; or (b) the Recipient's use of a superseded, update altered release of some or all of the Materials if such infringement could have been avoided by the use of a subsequent unaltered release of the Materials which is provided or offered to be provided to the Recipient; or (c) use of the Materials, in combination with any Recipient Materials or any other hardware, software, application, process, methods, content or data not provided (or otherwise authorised in writing) by the Provider where there would be no infringement claim in the absence of such combination; or (d) any information, design, specification, instruction, software, data or materials not furnished by the Provider; or (e) use of the Materials after the Provider notifies the Recipient to cease using the Materials due to an infringement claim; and (f) use of the Materials other than in accordance with this Agreement.

- 6.1.3** The foregoing states the entire liability of VERSION 1 and the sole and exclusive remedies of the CUSTOMER with respect to the infringement of Intellectual Property Rights relating to this Agreement.

6.2 WARRANTIES AND PERFORMANCE WARRANTY

- 6.2.1** Both parties warrant that (i) they have the full power and authority to enter into and perform its obligations under this Agreement; (ii) where participation by their respective personnel is necessary in the execution or performance of this Agreement, such personnel shall possess the appropriate

skills and experience for any tasks assigned to them; and (iii) they will obtain and maintain necessary licenses, permissions and consents to enter into and to perform its obligations under this Agreement.

- 6.2.2** VERSION 1 warrants that the Services will be performed in accordance with Good Industry Practice.
- 6.2.3** VERSION 1 shall use reasonable endeavours to meet any performance dates, Schedules or Milestones (as specified in the applicable a Terms of Reference) but any such dates shall be estimates only and time for performance by VERSION 1 shall not be of the essence of this Agreement or any Services provided hereunder.
- 6.2.4** VERSION 1 shall use reasonable endeavours to provide the Services and deliver the Deliverables to the CUSTOMER, in accordance with a Terms of Reference in all material respects.
- 6.2.5** The CUSTOMER shall report deficiencies which do not materially conform to the description of the Services or Deliverables in the relevant Terms of Reference to VERSION 1 in writing within sixty (60) days of completion or delivery of same. In the event of a breach of the warranty as set out at Clause 6.2.4., VERSION 1's entire liability and the CUSTOMER's exclusive remedy will be for VERSION 1 to use its reasonable efforts to correct such deficiencies in the Services or Deliverables within a reasonable time after written notice from the CUSTOMER, provided VERSION 1 receives such written notice during the 60-day warranty period described above and to the extent applicable such deficiency is reproducible by VERSION 1 and CUSTOMER can provide supporting evidence that such deficiency did not arise during the testing of such Service or Deliverable preceding its acceptance under the Acceptance Criteria/Sign-Off of Deliverables under the applicable Terms of Reference . If such corrections are not delivered within a reasonable time frame and the CUSTOMER therefore cannot substantially use a Deliverable or Service for its intended scope of use as described in the applicable Terms of Reference, the CUSTOMER may elect to return the deficient Deliverable or terminate the deficient Service.

- 6.2.6** VERSION 1 does not warrant that the Services and/or Deliverables will be uninterrupted or error and/or bug free.

- 6.2.7** To the extent permitted by law, all other warranties and conditions or other terms, whether express or implied, are expressly excluded, including the implied warranties or conditions of merchantability, satisfactory quality and fitness for a particular purpose.

- 6.2.8** Each party shall have a duty to mitigate its loss or damage under this Agreement and take all reasonable commercial steps to mitigate such loss or damage which would or could reasonably result in a claim by that party.

7 LIMITATION AND EXCLUSIONS OF LIABILITY

- 7.1** Nothing in this Agreement shall limit or exclude either party's liability for:
- (a) personal injury or death caused by its negligence;
 - (b) fraud or fraudulent misrepresentation;
 - (c) infringement of a third party's Intellectual Property Rights; or

- (d) any liability for any matter for which it would be unlawful for that party to limit or exclude its liability.

7.2 Unless otherwise expressly stated in this Agreement, and whether or not either party has been advised of the possibility of such loss, neither party shall be liable, (in contract, tort, negligence or otherwise) for:

- (a) any indirect or consequential loss, costs, damages, charges or expenses;
- (b) Loss of revenue, profit, sales;
- (c) Loss of business, agreements or contracts,
- (d) loss of or damage to the other party's reputation, goodwill or similar loss;
- (e) Loss of use or corruption of software, data or information;
- (f) Loss of availability or use;
- (g) Special loss or damage;
- (h) Loss of customers;
- (i) Loss of time, wasted management time or resources,
- (j) Loss of anticipated savings,

arising out of or in connection with or in relation to the provision of the Services or otherwise under, in connection with or in relation to this Agreement.

7.3 Limitation of Liability (Data Protection Obligations) :

Subject to clauses 7.1, 7.2 above and notwithstanding Clause 7.4, VERSION 1's maximum aggregate liability to the CUSTOMER in contract, tort (including negligence, breach of statutory or other duty) arising from a material breach of its obligations in respect of Personal Data under this Agreement will be limited to the lower of (i) one hundred and fifty percent (150%) of the annual Charges paid or payable for the Services provided under the relevant Terms of Reference giving rise to the liability or (ii) one million Euro (€1,000,000).

7.4 Limitation of Liability (General): Subject to Clauses 6.2.5, 7.1, 7.2 and 7.3 above, VERSION 1's maximum aggregate liability to the CUSTOMER in contract, tort (including negligence, breach of statutory or other duty) arising out of or in connection with the Services or otherwise under, in connection with or in relation to this Agreement shall be limited to the annual Charges paid or payable for the Services provided under the relevant Terms of Reference giving rise to the liability.

7.5 Subject to Clauses 4.4, 7.1 and 7.2 above, the CUSTOMER's maximum aggregate liability to VERSION 1 in contract, tort (including negligence, breach of statutory or other duty) arising out of or in connection with the Services or otherwise under, in connection with or in relation to this Agreement and/or Terms of Reference shall be limited to the annual Charges paid or payable for the Services provided under the relevant Terms of Reference giving rise to the liability.

7.6 The exclusions and limitations set forth in this Agreement represent a fair allocation of the risks based on the Charges for the Services and apply even if an exclusive or limited remedy stated herein fails of its essential purpose.

8 CUSTOMER OBLIGATIONS

8.1 Where any Services are to be carried out at the CUSTOMER's premises then the CUSTOMER shall, subject to compliance by VERSION 1's personnel with the

CUSTOMER's reasonable security and health and safety requirements, allow VERSION 1 full and complete access to the area(s) where Services are to be performed and will provide adequate office accommodation and facilities for any VERSION 1 staff working on its premises as required.

8.2 At no extra costs to VERSION 1, the CUSTOMER will provide VERSION 1 in a timely manner with all necessary co-operation, information, documents, materials, equipment, data and support required under a Terms of Reference or otherwise reasonably required by VERSION 1 for the performance of its obligations hereunder and ensure that they are accurate and complete in all material respects, including access to suitably configured computer products at such times as VERSION 1 requests.

8.3 Unless stated to the contrary in a Terms of Reference, the CUSTOMER shall be obliged to effect and maintain its own back-up and archival copies of all software and Customer Data, and VERSION 1 shall have no obligation in relation thereto.

8.4 The CUSTOMER shall comply with any additional responsibilities of the CUSTOMER as set out in the relevant Terms of Reference.

8.5 If VERSION 1's performance of its obligations under this Agreement is prevented or delayed by any act or omission of the CUSTOMER, its agents, subcontractors, consultants or employees then, without prejudice to any other right or remedy it may have, VERSION 1 shall be allowed an extension of time to perform its obligations equal to the delay caused by the CUSTOMER and paid for any associated costs as agreed between the parties.

9 INTELLECTUAL PROPERTY

9.1 Subject to Clauses 9.2, 9.3 and 9.4, the Intellectual Property Rights in any Deliverables created as part of the Services will vest in the CUSTOMER upon payment in full by the CUSTOMER for those Deliverables.

9.2 The CUSTOMER hereby grants a non-exclusive, perpetual, irrevocable royalty free licence to VERSION 1 to use, modify, sub-licence, re-utilise and commercialise such Deliverables (save for any CUSTOMER Confidential Information).

9.3 VERSION 1 own all rights, title and interest in VERSION 1 Know how (including VERSION 1 Know-how which is created or arises in the performance of the Services and/or delivery of the Deliverables to the Customer) and nothing in this Agreement or any Terms of Reference provides the Customer with any right, title or interest to VERSION 1 Know how.

9.4 VERSION 1 owns all Intellectual Property Rights, including in its the Materials, methodologies, models, tools, processes, discoveries, and formats developed by VERSION 1 outside the scope of a particular Terms of Reference including that created by or behalf of Version 1 not specifically in connection with, or in connection with the provision of the Services ("Background IPR"). VERSION 1 grants the CUSTOMER a non-exclusive, revocable, sublicensable, royalty free licence for the CUSTOMER to use the VERSION 1 Background IPR solely to the extent

incorporated into a Deliverable subject to the terms of this Agreement.

- 9.5** The CUSTOMER retains all rights in and to its existing Intellectual Property Rights, including the Materials owned or developed by CUSTOMER outside the scope of a particular Terms of Reference and all Customer Data. The CUSTOMER hereby grants to VERSION 1 a non-exclusive, non-transferable, royalty free license to use such Materials and Customer Data solely to provide the Services and Deliverables to the CUSTOMER.

10 DATA PROTECTION & DATA SECURITY

10.1 Data Controller

The CUSTOMER is a Data Controller in respect of the Personal Data Processing as set out in the Data Processing Annex to each Terms of Reference and the CUSTOMER warrants and represents that it is fully compliant with applicable Data Protection Law and undertakes to perform its obligations under the Agreement and to continue to comply with applicable Data Protection Law.

10.2 The CUSTOMER agrees that:

- 10.2.1** The Data Processing Annex is an accurate and up to date description of the Processing in connection with the provision of Services provided pursuant to the applicable Terms of Reference;
- 10.2.2** The terms of this Agreement including the Data Processing Annex constitute its written instructions in respect of such Processing;
- 10.2.3** Except to extent expressly provided otherwise in this Agreement, it has sole responsibility for the lawfulness of its written and other instructions in relation to Processing, the legal basis for such Processing and the notification obligations to data subjects in relation to such Processing; and
- 10.2.4** Any change to the Data Processing Annex and/or this Agreement will be subject to agreement in writing between the Parties.

10.3 Data Processor

- 10.3.1** VERSION 1 acts as a Data Processor in respect of the Personal Data it Processes on behalf of the CUSTOMER or a CUSTOMER's Affiliate in the manner and to the extent as set out in the Data Processing Annex to each Terms of Reference.
- 10.3.2** VERSION 1 will comply with Data Protection Law to the extent that it applies to it as a Data Processor.
- 10.3.3** Nothing in this Agreement is intended by the Parties to be construed as requiring VERSION 1 to determine the purposes and means by which the Personal Data will be processed. Both Parties acknowledge that in respect of Personal Data Processed pursuant to this Agreement/ applicable Terms of Reference, the means and purposes for which the Personal Data are processed is and will continue to be determined exclusively by the CUSTOMER.

10.3.4 Instructions

VERSION 1 will Process the Personal Data in accordance with the reasonable written instructions of the CUSTOMER or as otherwise required to do so by law to which the Data Processor is subject and in such a case, the Data Processor will inform the CUSTOMER of that legal requirement before processing, unless that law prohibits such information on important grounds of public interest. If the CUSTOMER's instructions to VERSION 1 change in relation to Processing the Personal Data, such change shall be subject to agreement in writing between VERSION 1 and the CUSTOMER.

10.4 Data Transfers

- 10.4.1** The parties agree that the Standard Contractual Clauses shall form part of this Agreement. The parties agree that in the event of any conflict or inconsistency between the rest of the Agreement and the Standard Contractual Clauses, the Standard Contractual Clauses shall prevail. The requirements set out in this clause shall not apply if the transfer of Personal Data is to a country or is carried out in accordance with a framework or agreement, that the European Commission has recognised as providing adequate legal protection in respect of Personal Data and the Standard Contractual Clauses shall automatically terminate with effect from the date of that European Commission decision.
- 10.4.2** Except for transfers to Version 1 Subsidiaries, VERSION 1 will not transfer any of the CUSTOMER's Personal Data outside the EEA to any jurisdiction which does not have an adequate level of protection as determined by the European Commission, except with the prior written consent of the CUSTOMER, which may be obtained via e-mail or other electronic means.
- 10.4.3** In respect of any EU Restricted Transfer VERSION 1 hereby enters into Module 3 of the EU Standard Contractual Clauses with each Sub-Processor, which is hereby incorporated into this Agreement.
- 10.4.4** In respect of any UK Restricted Transfer, VERSION 1 hereby enters into the EU Standard Contractual Clauses and UK ITDA, which are hereby incorporated into this Agreement by reference.
- 10.4.5** The CUSTOMER consents to VERSION 1 entering into Sub-Processor agreements with the following Version 1 Group Companies: (i) Version 1 Software Limited, Company Registration No.257302 (ii) Version 1 Services Private Limited, Company Registration No.U74140KA2007PTC167471 ; (iii) Version 1 Technology Spain Registration No. ES – B93574580 (each a “Version 1 Subsidiary”) and (i)-(iii) together “Version 1 Subsidiaries”) a and agrees that each of the Version 1 Subsidiaries is a Sub-Processor for the purposes of the Agreement, and confirms its consent to VERSION 1 for this subcontracting.
- 10.4.6** The parties agree that Clause 11.2 shall not affect the operation of this Clause 10 and this Clause 10 shall take precedence over Clause 11.2.

10.5 Data Subject Rights

VERSION 1 will provide reasonable assistance to the CUSTOMER, having regard to the nature of the Processing being carried out by VERSION 1 and at the cost of the CUSTOMER, by appropriate technical and organisational measures insofar as is possible, to enable the CUSTOMER to respond to requests by Data Subjects to the CUSTOMER, exercising their rights under Data Protection Law, subject always to receipt of a written request from the CUSTOMER setting out the scope of the assistance required and provided that VERSION 1 shall have no obligation to communicate directly with any Data Subject unless otherwise agreed in writing by VERSION 1.

10.6 Assistance

VERSION 1 agrees to provide reasonable assistance, taking into account the nature of the Processing and the information available to VERSION 1, and at the cost of the CUSTOMER, within such reasonable timescale as may be specified by the CUSTOMER, in order to assist the CUSTOMER, on request, in complying with the CUSTOMER's obligations pursuant to:

- (a) Article 32 of the GDPR (Security);
 - (b) Articles 33 and 34 of the GDPR (Data Breach Notification)
 - (c) Article 35 of the GDPR (the conduct of Data Protection Impact Assessments); and
 - (d) Article 36 of the GDPR (Prior Consultation requests to Supervisory Authorities in relation to Personal Data Processing under the Agreement);
- and provided that VERSION 1 shall have no obligation to communicate directly with any Data Subject unless otherwise agreed in writing by VERSION 1 or with any Regulator unless otherwise agreed in writing by VERSION 1 or unless VERSION 1 is legally obliged to do so.

10.7 Breach Notification

VERSION 1 will notify the CUSTOMER within one Business Day if VERSION 1 becomes aware of a Personal Data Breach. VERSION 1 will include the applicable information referred to in Article 33 (3) of the GDPR to the extent such information is in the possession of or can reasonably be ascertained by VERSION 1 in the circumstances without undue delay. VERSION 1 shall have no obligation to communicate directly with any Data Subject or with any Regulator unless otherwise agreed in writing by VERSION 1 or unless VERSION 1 is legally obliged to do so.

10.8 Personal Data Confidentiality

VERSION 1 will ensure that its personnel and the personnel of the Version 1 Subsidiaries who Process Customer Personal Data under the Agreement are subject to obligations of confidentiality in relation to such Personal Data.

10.9 Data Security

- 10.9.1** VERSION 1 will, in the provision of the Services, Process Personal Data in compliance with its security policies which are aligned with the ISO 27001 standard or an equivalent standard (the "Security Measures").
- 10.9.2** Subject to Clause 10.9.4, the CUSTOMER hereby acknowledges and agrees that the Security Measures are appropriate technical and organisational measures to assure a level of security appropriate to the risk to the security of, in particular, from accidental or unlawful destruction, loss, alteration, unauthorised, disclosure of or

access, the Personal Data to be Processed in the provision of the Services under this Agreement.

- 10.9.3** If the CUSTOMER requests any changes to the Security Measures, any such changes will be at the cost of the CUSTOMER and will be subject to agreement in writing between the CUSTOMER and VERSION 1.

- 10.9.4** VERSION 1 shall be entitled to and reserves the right to modify the Security Measures provided the functionality and security of the Services are not degraded.

- 10.9.5** The CUSTOMER acknowledges that it is solely responsible for the technical and organisational security measures relating to its own systems and the obligations of VERSION 1 for technical and organisation security measures shall not oblige VERSION 1 to do anything that would exceed the scope of the Services. The CUSTOMER shall apply the 'principle of least privilege' (the practice of limiting systems, processes and user access to the minimum possible) to the IT systems access it grants to Version 1. Where the CUSTOMER grants increased ICT privileges or access rights to Version 1 staff, those staff shall be granted only those permissions necessary for them to carry out their duties. When staff no longer need elevated privileges or leave the organisation, their access rights shall be revoked in a timely manner.

10.10 Sub-processing

- 10.10.1** Except for the Version 1 Subsidiaries, VERSION 1 shall not engage any Sub-Processor without:

- (i) obtaining the prior consent of the CUSTOMER in writing which may be sought and given by email or other electronic means; and
- (ii) entering into a written agreement with the Sub-processor which will impose on the Sub-Processor the same protection obligations as set out in this Clause 10.

- 10.10.2** VERSION 1 will remain fully liable to the CUSTOMER for Processing the Version 1 Subsidiaries and by any third party as if the Processing was being conducted by VERSION 1.

10.11 Audit Rights

- 10.11.1** VERSION 1 shall, on reasonable prior written request in advance from the CUSTOMER setting out the nature of the information required:

- 10.11.1.1** make available to the CUSTOMER information reasonably necessary to demonstrate compliance with the obligations set out in Article 28 of the GDPR and subject to reasonable access arrangements; and

- 10.11.1.2** permit the CUSTOMER or a third-party auditor acting under the CUSTOMER's supervision, to conduct, at the CUSTOMER's cost, data protection audits, assessments and inspections concerning VERSION 1's data protection procedures relating to its compliance with this Clause 10 provided that such information

requests shall be conducted during normal business hours and shall not unduly interfere with the provision of the Services and/or VERSION 1's normal business activities.

- 10.11.2** Nothing in this Clause 10.11.2 shall oblige VERSION 1 to disclose information which is confidential, commercially sensitive or subject to legal privilege or to breach any confidentiality obligations which VERSION 1 has to its personnel or its other customers.
- 10.11.3** VERSION 1 reserves the right to require compliance with this 10.11.3 to be subject to agreeing additional charges where compliance with this clause requires the use of resources that are addition or different to those used in the provision of the Services.
- 10.11.4** The Customer shall give at least 30 Days' prior written notice, to inspect, audit and take copies of relevant records, and other documents as necessary to verify VERSION 1's compliance with the terms and conditions of this Agreement and such audits shall be conducted by the CUSTOMER no more than once per year.

10.12 Infringement of Data Protection Law

With regard to clause 10.11 and without prejudice to clause 10.2.3, VERSION 1 will inform the CUSTOMER if it becomes aware of circumstances or other information which, in its opinion, indicate that an instruction given or request made pursuant to clause 10.13 infringes Data Protection Law. The CUSTOMER acknowledges and agrees that VERSION 1 is not obliged on an ongoing basis to monitor and assess the lawfulness of instructions and VERSION 1 has no obligation to provide or procure legal advice to the CUSTOMER.

10.13 Return of data

On termination or expiry of this Agreement (or at any other time on request by the CUSTOMER), VERSION 1 shall, at the election of the CUSTOMER, return or delete all copies of Customer Data and Personal Data received and/or processed by it under this Agreement in the manner in which VERSION 1 usually returns or deletes customer and Personal Data, unless European Union or Member State law requires retention of the data whereupon VERSION 1 shall retain such data in accordance with its retention policy and procedures.

11 GENERAL

11.1 Confidentiality

- 11.1.1** Either party may provide (the "Disclosing Party") to the other party (the "Receiving Party") information that is confidential ("Confidential Information"). Subject to 11.1.2, Confidential Information shall be limited to information clearly identified as confidential. Confidential Information shall not include information which (a) is or becomes part of the public domain through no act or omission of, or otherwise than as a result of a breach of this Agreement by the Receiving Party; (b) was in the Receiving Party's lawful possession prior to the disclosure and had not been obtained by the other party either directly or indirectly from the Disclosing Party; (c) is lawfully disclosed to the Receiving Party by a third party without restriction on disclosure or obligation of

confidentiality; (d) is independently developed by the Receiving Party (without use of the Disclosing Party's Confidential Information) or (e) is disclosed by operation of law, provided that before doing so the Receiving Party promptly notifies the Disclosing Party and gives the Disclosing Party a reasonable opportunity to take any steps that the Disclosing Party considers necessary to protect the confidentiality of that information.

- 11.1.2** Each party undertakes that it shall not at any time during the Agreement, and for a period of five (5) years after termination or expiry of the Agreement disclose any Confidential Information concerning the business, affairs, customers, clients or suppliers of the other party except a to its employees, officers, representatives, contractors, subcontractors or advisers who need to know such information for the purposes of carrying out the party's obligations under the Agreement (in each case whether or not designated as Confidential Information).

- 11.1.3** The parties agree that: (i) each party shall ensure that its employees, officers, representatives, contractors, subcontractors or advisers to whom it discloses the other party's Confidential Information comply with the obligations this Clause 11.1; and (ii) neither party shall use any other party's Confidential Information for any purpose other than to perform its obligations under the Agreement.

11.2 Relationship between the Parties

VERSION 1 is an independent contractor; nothing in this Agreement shall be construed to create a partnership, joint venture, or agency relationship between the parties. Each party will be solely responsible for payment of all compensation owed to its employees, as well as employment related taxes. Each party will maintain appropriate employer's liability and public liability insurance for the term of this Agreement.

11.3 Non-Solicitation Clause

- 11.3.1** The CUSTOMER agrees that it will not, whether directly or indirectly through another person, entity or agency, engage, solicit or entice the employment or services of any person or entity engaged or employed by VERSION 1 who will have been assigned or worked under this Agreement, nor will it directly or indirectly induce such person or entity to terminate their employment or relationship with VERSION 1 for the entire term of this Agreement and for a period of six (6) months after expiration or termination of this Agreement or the termination or expiration of the applicable Terms of Reference, whichever the later. Where the CUSTOMER breaches this Clause, it shall pay to VERSION 1 upon demand, as liquidated damages, a sum equal or equivalent to the latest gross annual remuneration or fees of the person or entity concerned. VERSION 1's staff are not, nor will they be deemed to be at any time during the term of this Agreement, the employees of the CUSTOMER.

- 11.3.2** The Parties agree that the restriction contained in clause 11.3.1 (i) is reasonable in the circumstances of this Agreement; and (ii) shall not apply where it would cause either party to contravene any applicable employment law.

11.4 Ethical Business Practice

Both parties shall comply with all applicable laws, relating to: (i) anti-bribery and anti-corruption including but not limited to the Bribery Act 2010 and (ii) anti-slavery and human trafficking including but not limited to the Modern Slavery Act 2015.

11.5 Governing Law and Jurisdiction

This Agreement and all matters arising out of or relating to this Agreement shall be governed by and interpreted in accordance with the laws of England and Wales. The parties agree to submit to the exclusive jurisdiction of the courts of England.

11.6 Notice

All notices or communications required to be sent hereunder shall be in writing and shall be deemed to have been given: (a) when mailed by prepaid registered mail to the first address listed in this Agreement (or such address as may be notified and agreed) or (b) if sent by email (without getting an error message), at the time of transmission, or if this time falls outside of business hours in the place of receipt, at 9am in the place of receipt on the first business day after sending. In this Clause 11, business hours means 9am to 5pm Monday to Friday on a day that is not a public holiday in the place of receipt. This clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

11.7 Severability

In the event any provision or part provision of this Agreement is held to be illegal, invalid or unenforceable, it shall be deemed deleted and the remaining provisions of this Agreement which will remain in full force and effect.

If any provision or part-provision of this agreement is deemed deleted under this Clause 11.7 the parties may negotiate in good faith to agree a replacement provision that, to the greatest extent possible, achieves the intended commercial result of the original provision.

11.8 Waiver

A failure or delay by a party to exercise any right or remedy provided under this Agreement or by law shall not constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict any further exercise of that or any other right or remedy. No single or partial exercise of any right or remedy provided under this Agreement or by law shall prevent or restrict the further exercise of that or any other right or remedy.

11.9 Entire Agreement

This Agreement constitutes the complete agreement between the parties and supersedes and extinguishes all previous agreements, proposals or representations, written or oral, warranties or understandings between the parties in connection with its subject matter. The parties warrant to each other that it is not relying on any representations, warranties or assurances (written or oral, express or implied) of the other party except as specifically set out in this Agreement. Nothing in this clause 11.9 operates to limit or exclude any liability for fraud or fraudulent misrepresentation.

11.10 Counterparts

This Agreement may be executed in counterparts including fax, PDF and other electronic copies. All executed counterparts constitute one document. This Agreement may be executed by any form of electronic signature, which will be considered as an original signature for all purposes and shall have the same force and effect as an original signature.

11.11 Electronic Signatures

Each party agrees that the electronic signatures, whether digital or encrypted, of the parties included in this Agreement are intended to authenticate this writing and to have the same force and effect as manual signatures. Electronic signature means any electronic sound, symbol, or process attached to or logically associated with a record and executed and adopted by a party with the intent to sign such record, including email electronic signatures. Each party agrees to sign this Agreement by electronic signature (whatever form the electronic signature takes) and that this method of signature is as conclusive of our intention to be bound by this Agreement as if signed by each party's manuscript signature.

11.12 Amendments

This Agreement may not be modified or amended except in writing signed by a duly authorised representative of each party. It is expressly agreed that any terms and conditions of the CUSTOMER's purchase order or otherwise, shall be superseded by the terms and conditions of this Agreement.

11.13 Disputes

If a dispute arises out of or in connection with this Agreement or the performance, validity or enforceability of it then except as expressly provided in this Agreement, the parties shall follow the procedure set out in this clause:

(a) either party shall give to the other written notice of the dispute, setting out its nature and full particulars ("Dispute Notice"), together with relevant supporting documents. On service of the Dispute Notice, the appropriate representative of the CUSTOMER and the appropriate representative of VERSION 1 shall attempt in good faith to resolve the dispute;

(b) if the appropriate representative of the CUSTOMER and the appropriate representative of VERSION 1 are for any reason unable to resolve the dispute within 30 days of service of the Dispute Notice, the dispute shall be referred to the nominated senior officer of the CUSTOMER and nominated senior officer of VERSION 1 who shall attempt in good faith to resolve it; and

(c) if the nominated senior officer of the CUSTOMER and nominated senior officer of VERSION 1 are for any reason unable to resolve the dispute within 30 days of it being referred to them, the parties will attempt to settle it by mediation in accordance with the Centre for Effective Dispute Resolution "CEDR" Model Mediation Procedure. Unless otherwise agreed between the parties, the mediator shall be nominated by CEDR. To initiate the mediation, a party must serve notice in writing ("ADR Notice") to the other party to the dispute, requesting a mediation. A copy of the ADR Notice should be sent to CEDR. Unless otherwise agreed, the mediation will start not later than 28 days after the date of the ADR Notice.

The commencement of mediation shall not prevent the parties commencing or continuing court proceedings in relation to the Dispute under Clause 11.5) which clause shall apply at all times.

11.14 Publicity and Feedback

VERSION 1 may use the CUSTOMER'S name and logo for the purposes of listing the CUSTOMER as VERSION 1's customer on its website and on other promotional material (including but not limited to, the publication of case studies) on prior approval from the CUSTOMER.

11.15 Assignment

11.15.1 Either party to this MSA and Agreement shall be entitled to assign or transfer their rights, obligations and entitlements under this Agreement upon the written consent of the other party which consent shall not be unreasonably withheld.

11.15.2 Notwithstanding the foregoing, VERSION 1 has the right to assign or transfer, without the consent of CUSTOMER, its rights, obligations and entitlements to an Affiliate or pursuant to a sale, merger or other business combination relating to the business to which this Agreement relates.

11.16 Third Party Rights

Unless it is expressly stated otherwise, this Agreement does not give rise to any rights for a third party to enforce any term of this Agreement. The rights of the parties to terminate, rescind or agree any variation, waiver or settlement under this Agreement are not subject to the consent of any other person.

11.17 Force Majeure

Save for the Customer's payment obligations under Clause 4, neither party shall be liable to the other party for any cessation, interruption, delay or failure to perform their obligations, due to causes outside their reasonable control and shall include but not be limited to fire, flood, earthquakes, or other natural disasters; act of God, acts of war; terrorism, riots, civil disorders or disturbance, rebellions or revolutions; epidemics, pandemics, cyber-attacks, communication line or power failures; inability to obtain sufficient supplies, transportation, or other essential commodity or service required in the conduct of its business, change to or adoption of law, regulation or judgment; and any other cause beyond a parties reasonable control and in the event of such delay, cessation, delay or failure such party shall be entitled to a reasonable extension of time for performance considering the particular circumstances.

THIS DOCUMENT CONTAINS A NUMBER OF SECTIONS WHICH REQUIRE COMPLETION (YELLOW HIGHLIGHT)
PRIOR TO ISSUE.

TERMS OF REFERENCE

For (<<Project Name>>)

Version 1 Solutions Limited

And

<<Client Name>>

These **TERMS OF REFERENCE** are made on [] ("Commencement Date") between:

VERSION 1 SOLUTIONS LIMITED a company registered in England under company number 3438874 whose registered office is at Suite 3d&E, Third Floor, 31 Temple Street, Birmingham, England, B2 5DB ("**VERSION 1**") and

<<Client Name>> a company registered in UK whose registered office is at <<Address>> ("**CUSTOMER**").

Each a Party, together the Parties.

BACKGROUND

1. CUSTOMER wishes to avail of the Services in its [business operations/programme/INSERT HERE a brief description of the programme/project/business] for which CUSTOMER requires the Services.
2. VERSION 1 has agreed to provide, and CUSTOMER has agreed to pay for, the Services in these Terms of Reference subject to the terms and conditions of the Master Services Agreement ("MSA") jointly signed between CUSTOMER and VERSION 1 with an effective date of [].
3. These Terms of Reference shall remain in effect from the Commencement Date above until [] ("Term"). The Term may be extended by the Parties by way of a Change in accordance with Clause 8.

NOW THEREFORE IT IS HEREBY AGREED as follows:

1. DEFINITIONS

Any terms or phrases defined in the MSA shall have the same meaning in these Terms of Reference.

- 1.1. "**Agreed Support Hours**" means those hours when VERSION 1 will provide a Support service for specified In Scope Systems as further set out in Appendix A, Services.
- 1.2. "**CUSTOMER Dependencies and Responsibilities**" means the CUSTOMER dependencies and responsibilities in relation to the Services set out in Appendix E, CUSTOMER Dependencies and Responsibilities.
- 1.3. "**DrawDown Days**" ("DDD") means the days that are subject to a reduced daily rate in return for a bulk advanced purchase and then used, (drawn down), as required over the 12 month period from the date of purchase as further set out in Appendix B, Charges, Invoicing and Payment.
- 1.4. "**Implementation Services**" means the works and activities set out in Appendix A, Services, forming part of the Services.
- 1.5. "**In Scope Systems**" means the applications, systems and software which are set out in the Service Catalogue in Appendix A, Services.
- 1.6. "**Managed Services**" means the works and activities set out in Appendix A, Services, forming part of the Services.
- 1.7. "**Out of Scope**" means those items excluded from the Services as set out in Appendix A, Services, and/or those items not included in the Service Catalogue.
- 1.8. "**Patching**" means the application of vendor-supplied updates to the In Scope Systems.
- 1.9. "**Request for Change**" ("RFC") means a request by either Party for a change to the Services and/or any other provision in these Terms of References which will be submitted in accordance with Clause 8.

- 1.10. **“Service Catalogue”** means those items of Services set out in Appendix A, Services; any reference to the Service Catalogue refers to the most recent version which has been agreed and signed off by both Parties.
- 1.11. **“Service Request”** means a request by CUSTOMER for an additional Services(s), which is/are not included in the Services, but which VERSION 1 may deliver as a chargeable activity, which shall be notified to VERSION 1 by way of a Request for Change or a new Terms of Reference.
- 1.12. **“Support”** means, telephone, email and remote assistance provided as part of the Services to address any malfunction or potential malfunction of the In Scope Systems.
- 1.13. **“System Operational Hours”** means those hours where the In Scope Systems should normally be operational.
2. **THE SERVICES**
 - 2.1. The Services are set out in Appendix A, Services (“Services”).
3. **CHARGES**
 - 3.1. The Charges for the Services are set out in Appendix B, Charges, Invoicing and Payment.
4. **TRANSITION SERVICES**
 - 4.1. In the event the Implementation Services include transition services, such services will be performed in accordance with the agreed transition plan set out in in Appendix A, Services.
5. **CUSTOMER DEPENDENCIES**
 - 5.1. VERSION 1’s provision of the Services is dependent on CUSTOMER’s compliance with its responsibilities under the MSA and these Terms of Reference, including, but not limited to, those set out in Appendix E, CUSTOMER Dependencies and Responsibilities.
 - 5.2. CUSTOMER shall provide all such dependencies and responsibilities together with all necessary cooperation, information, documents, materials, equipment, data and support required by VERSION 1 for the performance of its obligations hereunder, and CUSTOMER will ensure that the same are accurate and complete in all material respects, including access to suitably configured computer products, at such times as VERSION 1 requests.
 - 5.3. VERSION 1 shall have no liability with respect to the performance of the Services (including achieving any milestones, submission of any deliverables and/or achieving any service levels set out in Appendix C, Services Levels) to the extent, and for the duration, that CUSTOMER does not meet its obligations. All delivery dates (including any agreed milestones) shall be reviewed by the parties in the event of delay or by CUSTOMER
6. **SERVICE LEVELS**
 - 6.1. The service levels applicable to the Managed Services are set out in Appendix C, Service Levels.
7. **GOVERNANCE**
 - 7.1. The governance procedures and processes set out in Appendix D, Governance of the Services shall apply to the performance of the Services.
8. **CHANGE CONTROL**
 - 8.1. Any changes to these Terms of Reference and/or the Services shall be implemented using the Request for Change Form set out in Appendix, I, Sample Request for Change Form, and agreed by the Parties by way of an addendum to these Terms of Reference signed by both parties.
9. **ROTATION OF PERSONNEL**

- 9.1. VERSION 1 operates a rotation policy for all its personnel. Where VERSION 1 deems it necessary or an individual consultant requests rotation, a minimum of one month's notice will be given to CUSTOMER. VERSION 1 will provide comparable personnel replacement consultant or employee (as applicable) and where necessary, provide adequate knowledge transfer at its own cost.

If these Terms of Reference are terminated for convenience by CUSTOMER in accordance with the MSA, a termination fee will be payable by CUSTOMER to VERSION 1, calculated in accordance with the table below and will be payable immediately following termination of these Terms of Reference.

11. CUSTOMER DATA

The Parties signify their agreement to the terms of these Terms of Reference and intention to be bound by the contents of it by signing below:

Signed for and on)
 behalf of SUPPLIER)
 by:) Signature
)
) Name
)
) Position
)
) Date
)
)

APPENDIX A THE SERVICES

VERSION 1 will perform the Services as follows:

1. Implementation Services

[PROVIDE DETAIL OF IMPLEMENTATION SERVICES INCLUDING PROVISION OF ANY PERSONNEL, DELIVERABLES ETC] IF TRANSITION SERVICES WILL BE PART OF THE SERVICES, AND A TRANSITION PLAN IS REQUIRED, INCLUDE AT ANNEX 1 TO THIS APPENDIX A. IF A TRANSITION PLAN IS NOT APPLICABLE, ANNEX 1 TO BE DELETED OR 'NOT USED' TO BE INSERTED]

2. Managed Services

[DESCRIBE THE MANAGED SERVICES AT A SUMMARY LEVEL, E.G. MANAGED SERVICES FOR THE CUSTOMERS TEST, PRE-PROD AND PROD ORACLE EBUSINESS SUITE Vxxx APPLICATION OR MANAGED SERVICES FOR THE CUSTOMERS APPLICATIONS OR DATABASE A, B, C ETC...]

2.1. The Managed Services also includes those items set out in the Service Catalogue

[INSERT LINK TO SERVICE CATALOGUE OR SERVICE CATALOGUE REFERENCE]

2.2. The Service Catalogue shall be maintained by VERSION 1 and reviewed by the Parties as per Appendix D, Governance of the Services, to ensure it conforms to scope of the Managed Services.

Note: The Service Catalogue will typically be located on a Microsoft SharePoint External Collaboration Site and will be made available to CUSTOMER's nominated personnel for referential purposes on a read-only basis.

2.3. CUSTOMER dependencies are set out in Appendix E, CUSTOMER Dependencies and Responsibilities. Specific service dependencies required to be put in place and/or maintained by VERSION 1 to support the provision of the Managed Services and the underlying individual hardware and infrastructure components required to be put in place and / or maintained by VERSION 1 are detailed in the "Service Dependencies" and/or "Hardware" tabs of the Service Catalogue.

2.4. Further details of the Managed Services including the key activities and responsibilities of VERSION 1, are specified in the following tabs of the Service Catalogue which may include but are not limited to:

2.4.1. Server Management Policy

- 2.4.2. Database Services
- 2.4.3. Application Services
- 2.4.4. CI Inventory
- 2.4.5. Storage Management Policy
- 2.4.6. Network Management Policy
- 2.4.7. Backup Policy
- 2.4.8. Security Policy
- 2.4.9. Patching Policy
- 2.5. The Hardware tab of the Service Catalogue contains the relevant cross references to specific management policies outlined in the Service Catalogue.
- 2.6. Activities and Services that are Out of Scope are set out below. Further limitations to the scope of the Managed Services are also set out in the individual tabs of the Service Catalogue.
- 2.7. The following work, services and activities are Out of Scope:
 - 2.7.1. physical server and equipment, including responsibility for any communications with, and management of, any CUSTOMER third party vendors. CUSTOMER owns all physical equipment and has third party vendor support agreements. as such. CUSTOMER will be responsible for all such communications and management including timely provision of information and performance of services.
 - 2.7.2. facility management/hosting, including communication or management between CUSTOMER and any third parties in relation to the hosting of equipment, communication and security on services located in non-public cloud data centres or premises. CUSTOMER is responsible for the hosting of equipment, communication and security on servers located in non-public cloud data centres or premises;
 - 2.7.3. removable media backups;
 - 2.7.4. handling of backups, including physical backups, verification (including those backup checks) and handling of media.
 - 2.7.5. application software change;
 - 2.7.6. application installation for in Scope Systems;
 - 2.7.7. printer support.
 - 2.7.8. network infrastructure support;
 - 2.7.9. local desktop infrastructure support;
 - 2.7.10. Level 1 support: CUSTOMER is responsible for the triaging of all incidents that affect the daily operation activities of the IT service to its business. Level 1 support will look to solve basic customer issues and has a general understanding of the applications and services. CUSTOMER will gather CUSTOMER information, analyse symptoms and determine the basic problem(s) before triaging the call to VERSION 1 support;
 - 2.7.11. de-transition or exit management of In-Scope Services.

3. Anticipated Duration of the Services

Services	Start Date	End Date
Implementation/Transition Services		
Managed Service		

4. **Additional Project Services:**

VERSION 1 may agree to provide additional project services from VERSION 1's service portfolio. These additional project services will be delivered as an additional Service, implemented either through a Request for Change process (subject to Clause 8, Change Control) or a new Terms of Reference. No such additional project services will commence until the Request for Change or the new Terms of Reference is executed by both Parties.

**ANNEX I TO APPENDIX A
TRANSITION PLAN**

[INSERT PLAN OR DELETE/STATE 'NOT APPLICABLE']

APPENDIX B

CHARGES, INVOICING AND PAYMENT 1.

Implementation Services Charges

Description of Implementation/Transition Services	Total Implementation/Transition Services Value [£]
	100.00

2. Managed Service Charges

Year 1 [£]	Year 2 [£]	Year 3 [£]	Year 4 [£]	Year 5 [£]	Years 6-10 [£]	Total Managed Services Value [£]

3. Total Contract Value ("TCV")

Implementation/Transition Services	£
Managed Services	£
TOTAL CONTRACT VALUE OF SERVICES	£

4. Pricing Change

Changes to the Managed Services will be added to the Service Catalogue through the Request for Change process. Any change in the Managed Service Charges arising from changes to the Managed Services (the "Pricing Change") will be affected by way of addendum to this TOR.

5. Project Rate Card

Any additional project Service Requests required by CUSTOMER and agreed through either the Request for Change process or a new project Terms of Reference will be charged on either a fixed price basis or a time and materials basis according to the rates below

[RATE CARD TABLE TO BE INSERTED – THIS RATE CARD TO INCLUDE RATES FOR ROLES THAT WOULD BE USED IN A PROJECT LIKE PROJECT MANAGEMENT, SOLUTION ARCHITECT, ERP CONSULTANT, DEVELOPER, BI CONSULTANT, DBA ETC. THIS AVOIDS THE CUSTOMER TRYING TO USE DRAWDOWN DAYS TO DO PROJECT WORK WHICH CAN BE COMMERCIALY IMPRACTICAL. EXAMPLE BELOW.]

Role	Day Rate [£]

6. DrawDown Days Rate Card

CUSTOMER will draw down the DrawDown Days within 12 months of purchase; any DrawDown Days not drawn down within this timeframe will be deemed consumed. It is agreed that the Draw Down Days are to be used for small Service Request changes only, e.g., less than xx days effort, and not for project work. For project work, the Project Rate Card will be used.

Role	DrawDown Rate [£]	Drawdown Rate - *Offshore [£]	Minimum Purchase (days)
Consultant DBA			25/50/100/200/500
Consultant Developer			25/50/100/200/500
ERP Consultant			25/50/100/200/500

**Offshore =Version1 consultants based in India or other geographic location to be agreed in writing by the Parties.*

7. Annual Review

- 7.1. The Project Rate Card and DrawDown Days Rate Card rates set out in this Appendix B may be adjusted on an annual basis by VERSION 1.
- 7.2. The Managed Services Charges set out in this Appendix B may be adjusted on an annual basis by VERSION 1.

8. Standard and Overtime Rates

All rates provided are standard day rates based on a 7.50 hour day and being Monday-Friday (excluding public and/or bank holidays) between the hours of [09:00 hrs and 17:30 hrs] ("Standard Day"). Any hours outside of the Standard Day is overtime ('Overtime'). Overtime must be approved by CUSTOMER in writing prior to commencement of the applicable Service. The Overtime rate will be calculated as follows:

Description	Standard Day	Overtime (17.30hrs – 0.00hrs)	Overtime (00.00hrs – 09.00hrs)
Weekday	1	1.5	3
Saturday	1.5	2	3
Sunday/Public/Bank Holiday	2	2.5	3

9. **Travel and Expenses**

- 9.1. Expenses, including, but not limited to, travel, subsistence and accommodation, during the execution of the Services, will be reimbursed by CUSTOMER in accordance with the MSA.
- 9.2. Any time spent in excess of one hour (from VERSION 1 office at Suite 3d&E, Third Floor, 31 Temple Street, Birmingham, England, B2 5DB, travelling to and from CUSTOMER premises for onsite support will be charged on a time and materials basis. This time is in addition to the time spent on site and will be either charged for or taken from the DrawDown Days.

10. **Invoicing**

10.1. Implementation Services

VERSION 1 will invoice CUSTOMER for the Implementation Services either on a time and material basis or in accordance with any agreed invoicing milestones.

10.2. Managed Services

VERSION 1 will invoice CUSTOMER annually in advance for the Managed Services.

11. **Cloud Usage Costs**

- 11.1. Cloud Usage costs are set by the third party Cloud provider and are variable, subject to the usage profile of CUSTOMER environment and are subject to change. CUSTOMER shall pay the Cloud running costs accumulated through the operation of the Cloud service each month.
- 11.2. In addition to the Cloud running costs VERSION 1 will charge CUSTOMER:
- [E.g. AWS business support fee (calculated as 10% of converted monthly Cloud running costs converted from USD to EURO);
 - billing administration fee (calculated as 5% of converted monthly Cloud running costs converted from USD to EURO).]
- 11.3. VERSION 1 will invoice CUSTOMER monthly in arrears for the Cloud Usage costs. CUSTOMER shall pay such invoice in accordance with the provisions of the MSA. In the event CUSTOMER does not make such payment and VERSION 1 incurs any costs, penalties or interest as a result of late payment by CUSTOMER, CUSTOMER will immediately reimburse VERSION 1 for the same. 12. Bank Details

APPENDIX C

SERVICE LEVELS

This Appendix C details the service levels VERSION 1 shall meet in providing the Managed Services.

1. Priority Levels and Service Levels
 - 1.1. Service levels and priority definitions only apply to those production systems included in the Managed Services set out in Appendix A, Services.
 - 1.2. Priorities are based both on the IMPACT of an issue, and the urgency of that issue at the time it is reported.

Impact	Urgency
1. Major - Critical Business Service or Function unavailable or inaccessible 2. Significant - Critical Business Service or Function severely degraded 3. High - Non-Critical Business Service or Function unavailable or degraded 4. Moderate - Non Critical Business Service or Function disrupted, but workaround available 5. Minor - Question, query or minor bug	1. Critical - Immediate fix required 2. Urgent 3. High 4. Medium 5. Low – Next scheduled release

	Impact					
Urgency	Priority Levels	1	2	3	4	5
	1	1	1	2	2	4
	2	1	2	3	3	4
	3	2	2	3	4	4
	4	3	3	3	4	5
	5	4	4	4	5	5

- 1.3 Incidents will be responded to in accordance with this prioritisation, as detailed in the table below:

Priority	Description	Target Response Time	Update Time	Target Resolution Time
P1	Critical Business Service or Function unavailable, severely degraded or inaccessible	30 minutes (By Phone)	Every hour	4 hours

P2	Critical Business Service or Function severely degraded	2 hours	2 hours or As Agreed	3 working days
P3	Non-Critical Business Service Function unavailable or degraded	4 hours	Daily or As Agreed	10 working days
P4	Non-Critical Business Service Function disrupted but workaround available	8 hours	As agreed	1 month
P5	A question, query or minor bug	12 hours	As Agreed	As agreed

1.4 Exceptions to the Service Levels

RFCs
Disaster / Catastrophic Incidents
Data Corruption issues
Patching
External events or outages outside of VERSION 1's control (including but not limited to malicious attacks, network failures, data centre failures, pandemics, etc.)

APPENDIX D
GOVERNANCE OF THE SERVICES

1. **Implementation/Transition Services**

[INSERT AGREED GOVERNANCE PROCEDURES FOR THE IMPLEMENTATION/TRANSITION SERVICES]

2. **Managed Service and Commercial Reviews**

2.1. The Parties shall carry out a review of the Managed Services and the performance against the defined service levels set out in Appendix C, Service Levels as applicable at the following intervals:

2.1.1. Service Review – quarterly - from the Commencement Date (in a format to be agreed between the Parties within one month of the Commencement Date).

2.1.2. Commercial Review – annually, one month before each anniversary of the Commencement Date.

2.2. VERSION 1 shall produce minutes of each such review meeting together with an action list and provide a copy of those minutes and action list to CUSTOMER as soon as is practicable following each such meeting. CUSTOMER will provide any comments in relation to the same within seven (7) working days of receipt of same.

3. **Reporting**

3.1. Service reports detailing the service status and service levels carried out by VERSION 1 will be provided on a regular basis. In addition, any RFCs, resource requests or site visits will also be documented.

Report Type	Content
Monthly Service Report	Full Report, Email Only
Site Report	Any additional onsite work carried out by Managed Services team
Request for Change Request	Form with details of any changes to the system and likely impact
Resource Request	Form confirming when a resource has been requested, the tasks to be carried out and any costs incurred
Call Report	On request a list of all calls open in Managed Services can be requested

4. **Communication**

4.1. The table below details VERSION 1 personnel involved in the Services:

Role	Name	Landline Tel No.	Mobile No.	Availability	Email
Practice Director					
Account Manager					
Delivery Manager					
Service Desk Manager					

4.2. The table below details CUSTOMER personnel:

Role	Name	Landline Tel No.	Mobile No.	Email
	*			

* required to approve all RFCs.

Note: The tables above are correct at the time of signing. Any amendments to these tables will be recorded and updated, as required, in the Service Catalogue.

- 4.3. In the event of any dispute in relation to these Terms of Reference, the parties will seek to resolve any such dispute between them, first, by negotiating promptly with each other in good faith in direct negotiations. These direct negotiations shall be conducted by the respective designated in Clause 4 of this Appendix D and the dispute shall be escalated internally by each party as reasonably necessary or appropriate to seek resolution of the dispute. If the parties are unable to resolve the dispute between them within thirty (30) days, the Dispute provision of the MSA will apply.

APPENDIX E
CUSTOMER DEPENDENCIES AND RESPONSIBILITIES

1. CUSTOMER is responsible for and will provide to VERSION 1 all necessary co-operation, information, documents, materials, equipment, data and support required for the performance of the Services as set out in these Terms of Reference or as otherwise reasonably required by the Supplier for the performance of its obligations hereunder and will ensure that the foregoing are accurate and complete in all material respects, in the timeframes specified, or if no timeframe specified, in a reasonable timeframe such that the Services can be performed in accordance with the MSA and these Terms of Reference.
2. In addition, CUSTOMER is responsible and will provide to VERSION 1 the following:

No:	Description	Due Date

3. **Implementation/Transition Services**

[INSERT ANY CUSTOMER RESPONSIBILITIES AND DEPENDENCIES WHICH MAY BE APPLICABLE FOR IS]

4. **Managed Services**

[INSERT ANY CUSTOMER RESPONSIBILITIES AND DEPENDENCIES WHICH MAY BE APPLICABLE FOR MS]

5. **Remote Access**

For In-Scope Systems , VERSION 1 will require access to the applications remotely. CUSTOMER will provide and facilitate such remote applications access to VERSION 1 within [INSERT days/weeks] of the Commencement Date. The provision of the Managed Services is dependent on this access being made available by CUSTOMER within the time frame specified and such access being fit for purpose, 100% reliable and with continuous availability.

6. **Alerts and Email Notification**

Where VERSION 1 provides proactive monitoring as part of the Managed Services, this may require that either a monitoring tool or a script runs periodically to check the health of the system. These results are then communicated to the Service Desk either directly or via email and acted upon accordingly. This notification is a necessity for the smooth and efficient running of the Managed Services. For In Scope Systems, CUSTOMER will be responsible for the provision and facilitation of email accounts for [INSERT] and relay of messages from CUSTOMER to external VERSION 1 email addresses.

7. **Proactive Monitoring**

To enable VERSION 1 to provide proactive monitoring it requires the installation of a dedicated virtual or physical server to a minimum specification of 2 x CPU, 4 GB RAM, 40GB disk space placed within the CUSTOMER'S DMZ or LAN with external secure communication to the VERSION 1 primary monitoring service, Opsview. VERSION 1 also provides a monitoring solution 'New Relic' for services running in the Microsoft Azure Cloud. The Azure monitoring integration requires an agent to be installed on each of the CUSTOMER VM's required for monitoring. The agent is a lightweight piece of software that will use ~30MB of RAM and 50MB of disk space. The agent will need outbound access to the below networks and ports, from each VM. The agent can be configured to use a proxy to send data back to the New Relic environment.

[More detail to be provided as part of any transition phase – insert detail into Appendix A]

8. **Licence Compliance and Support**

Licence compliance and vendor support related to third party software is the responsibility of CUSTOMER.

VERSION 1 recommends that third party software, including but not limited to the operating system, database, or any other software is maintained at a level that is within the original vendor's active support programme. Where this is not the case, any defects caused by that software will be excluded from any Service Levels in Appendix C. Where the software vendor cannot provide a solution for the installed software version, VERSION 1 may not be in a position to fix any issues which do arise. There may be an additional cost associated with investigation and rectification of issues associated with unsupported software which will be the subject of a Change.

9. **Third Party Application / VERSION 1s**

VERSION 1 may require support from third parties to diagnose and resolve incidents. VERSION 1 has no liability with respect to the service levels set out in Appendix C, Service Levels, or any other agreed service levels in this event.

10. **Communication of System Changes**

Any changes that occur to systems that are not implemented by or communicated to VERSION 1 may affect the fix time of an incident. Any outages that are planned to systems should be communicated to VERSION 1 Service Desk so that a gentle shutdown of services can be performed; also alerts (if applicable) can be disabled for the time of the outage.

APPENDIX F
DISASTER RECOVERY AND BUSINESS CONTINUITY MANAGEMENT

[INSERT DETAILS OR INSERT 'NOT USED' AS APPLICABLE TO THE SERVICES]

APPENDIX G
LICENCING OF VERSION 1-OWNED SOFTWARE OR INTELLECTUAL PROPERTY

[INSERT DETAILS OR INSERT 'NOT USED' AS APPLICABLE TO THE SERVICES]

APPENDIX H
SOURCE CODE AND ESCROW

[INSERT DETAILS OR INSERT 'NOT USED' AS APPLICABLE TO THE SERVICES]

APPENDIX I
SAMPLE REQUEST FOR CHANGE FORM

VERSION 1PROJECT DETAILS©			
CUSTOMER Name: Name of the customer			
CUSTOMER Contact Details: Contact Details			
Project/System: Name of the project against which the change is being requested			
Project Manager: Name of the project manager responsible for implementing the change			
CHANGE DETAILS			
RFC No.	/	Tags	Change No.:
Write-Up:		Implement:	
RFC Requester: Name of person who is requesting the change			
RFC Request Date: Date on which this form is completed			
RFC Urgency / Priority: © Urgency for undertaking the change			
RFC Preferred / Implementation Date:			
Change Description: Brief description of the change requested		Change Drivers & Benefits: List any drivers which necessitate this change Describe the benefits associated with the change	
CHANGE ASSESSMENT			
Assessed by:		Date Assessed:	
System affected:			
Details of assessment:			
Impact / Risks			
Quality Assurance:			
Constraints / Restrictions			
Change Considerations: Add/Delete as required	Effort:	Daily Rate:	
Impact Analysis			
Design including updating the Design Documentation			
Development			
System Testing			
System Integration Testing			
User Acceptance Testing			
Deployment			
Training			
Project Management			
Cutover/HyperCare			
TOTAL			
Note: - Estimated days may vary from actual days required. This will be communicated to you in the form of an updated version of the RFC.			
BUSINESS BENEFITS			
Impact on Business Benefits: Review expected benefits as outlined in PID and outline impact change will/may have on benefits.			
APPROVAL DETAILS©			
Supporting Documentation:			

Reference any supporting documentation used to substantiate this change			
Submitted by Name:		Approved by Name:	
		Purchase Order No:	
Signature:		Signature:	
Date:		Date:	
_____/____/____		_____/____/____	
Any documentation to support this change should be attached to this document			
PLEASE FORWARD THIS FORM TO THE CHANGE MANAGER			

APPENDIX

APPENDIX J PERSONAL DATA ANNEX

The CUSTOMER is the Controller of its data and decides what personal data, if any, to allow VERSION 1 to access. This Annex must be completed by CUSTOMER. It is a requirement of GDPR that this Annex is completed, providing the nature and purpose of the processing.

PERSONAL DATA ANNEX		
Subject Matter		
Duration		
Nature & Purpose of the Processing		
Categories of Data Subjects		
Types of Personal Data i.e. any information relating to an identified or identifiable* person.	Demographic Data	
	Contact Details	
	Financial Data	
	Digital Identifiers	
	Social Media	
	Special Data	
	Criminal Offences/Convictions	
	Government Identifiers	
	Other	
Data Transfers		
Other		
Version 1 Customer Rights and Obligations	CUSTOMER'S rights and obligations are described in the MSA.	