

SAPPHIRE TECHNOLOGIES LIMITED

GENERAL TERMS AND CONDITIONS

These are Sapphire Technologies' General Terms and Conditions, which together with Schedules attached to and forming part of this document containing any Supplemental Terms and Conditions (together the "**Terms and Conditions**"), apply to and shall be incorporated in all contracts that Sapphire technologies may enter into from time to time with the Customer for the supply of Security Consultancy Services and/or Managed Services and/or Software, Installation and Consultancy Services by Sapphire Technologies. By signing a Cover Sheet, the Customer agrees to be bound by the Terms and Conditions.

1. CONTRACT

- 1.1 The Contract shall consist of the following documents in the following order of priority to the extent of any conflict or inconsistency between them:
- 1.1.1 any Contract Change Notice;
 - 1.1.2 the Cover Sheet;
 - 1.1.3 any Supplemental Terms & Conditions as set out in Schedule 1;
 - 1.1.4 these General Terms and Conditions; and
 - 1.1.5 the Service Description as set out in Schedule 2.
- 1.2 Subject to clause **Error! Reference source not found.**, each signed Cover Sheet identifies a separate contract consisting of the documents listed in clause 1.1.
- 1.3 The Contract is concluded when both parties' Authorised Representatives have signed the Cover Sheet and that date shall be the commencement date for all contractual purposes.
- 1.4 Any variation of this Contract must be in writing and signed by the parties' Authorised Representatives.
- 1.5 Any descriptions or illustrations contained in the Supplier's brochures or advertising are for the purpose of giving an approximate picture of the goods, services or software described in them and do not form part of the Contract or constitute representations in any way.
- 1.6 The Contract shall commence on the Commencement Date. Where an Initial Term is set out in the Cover Sheet and unless terminated earlier in accordance with clause 14, the Contract shall continue for the Initial Term.

2. THE SOLUTION

- 2.1 The Supplier shall provide the Solution as set out in the Service Description and the Cover Sheet in all material respects and with reasonable skill and care.
- 2.2 The Supplier reserves the right to amend the Service Description, if necessary to comply with any applicable law or regulatory requirement, or if the amendment will not materially affect the nature or quality of the Services, and the Supplier shall notify the Customer in any such event.

- 2.3 The Supplier shall use reasonable endeavours to provide the Solution in accordance with any timetable set out in the coversheet or otherwise. Where no timetable is specified in the Cover Sheet or otherwise, the Solution shall be provided within a reasonable time. The Supplier shall not be liable for any failure to deliver by such date or within such period and nor shall any delays in the provision of the Solution entitle the Customer to refuse to take delivery of the Solution. Time for delivery shall not be of the essence of the Contract.

3. CUSTOMER OBLIGATIONS

3.1 The Customer shall:

- 3.1.1 at all times co-operate with the Supplier to facilitate the provision of the Solution acting reasonably and in good faith in all matters relating to this Contract, including executing any necessary documentation necessary for the Supplier to lawfully provide or continue to provide the Solution and all its activities connected with providing the Solution ;
- 3.1.2 provide such access to the Site, Systems, Computer Assets and Customer Data and Information, personnel and such office accommodation and other facilities, as the Supplier may reasonably request from time to time for the purpose of providing the Solution;
- 3.1.3 provide accurate and complete information to the Supplier;
- 3.1.4 comply with all Applicable Law including health and safety laws;
- 3.1.5 be responsible (at own cost) for performing and procuring the performance of the Customer Responsibilities including preparing the Site relevant premises and System for the supply of the Solution as may be reasonably required from time to time by the Supplier;
- 3.1.6 appoint an Authorised Representative who has the authority to contractually bind the Customer on all matters relating to the Contract. Where more than one Authorised Representative is appointed by the Customer, the Supplier shall be entitled to act on the instructions of any of the appointed individuals. Where there is a conflict of instructions between the Customer's Authorised Representatives the Supplier may choose to follow which instruction it follows; or otherwise refuse to act any further and such refusal shall not constitute a breach of the Contract.

4. CHARGES AND PAYMENT

- 4.1 In consideration of provision of the Solution, the Customer shall pay the Charges as set out in the Cover Sheet or as invoiced by the Supplier.
- 4.2 The Customer shall provide to the Supplier a Purchase Order and associated Purchase Order Number.
- 4.3 The Supplier shall invoice the Customer at any point or interval identified in the Cover Sheet payment information and that invoice shall contain the relevant Purchase Order Number.
- 4.4 The Customer shall pay all amounts duly invoiced by the payment date stated in the invoice in pounds Sterling, in full without any set-off, deduction or withholding other than withholding of tax as required by law.

4.5 If the Customer disputes any invoice:

- 4.5.1 The Customer shall notify the Supplier in writing immediately, specifying the reasons for disputing the invoice;
- 4.5.2 the Customer shall pay to the Supplier all amounts not disputed by the due date as set out in the invoice; and
- 4.5.3 the parties shall negotiate in good faith to resolve the dispute.

4.6 Time for payment shall be of the essence of this Contract.

If the Customer fails to make a payment due to the Supplier by the due date, then, without limiting the Supplier's other remedies, the Customer shall pay interest on the overdue sum from the due date until payment of the overdue sum. Interest under this clause shall accrue each day at 4% above the Bank of England base rate from time to time, at a minimum of 4% per annum for any period where the base rate is below 0%.

5. FORCE MAJEURE AND RELIEF EVENTS

- 5.1 The Supplier shall not have any liability to the Customer under the Contract if the Supplier is prevented from, or delayed in, performing its obligations under the Contract or from carrying on the Supplier's business by a Force Majeure Event.
- 5.2 If the performance of the Supplier's obligations under the Contract is prevented or delayed by any act or omission of the Customer or its personnel (including any breach of the provisions of this clause 5, any failure to perform or procure the performance of the Customer Responsibilities or any delays or postponements by the Customer of any installation dates specified by the Supplier, of dates for scheduled service visits or otherwise) then:
 - 5.2.1 the Supplier shall be granted relief from any failure to provide the Solution or otherwise comply with its obligations under the Contract; and
 - 5.2.2 the Customer shall be liable to pay to the Supplier on demand all reasonable costs, charges or losses sustained or incurred by the Supplier (including, without limitation, any direct, injury to or death of any person and), subject to the Supplier confirming such costs, charges and losses in writing.

6. NON-SOLICITATION

- 6.1 The Customer shall not at any time during the term of this Contract or six (6) months after it ends, directly or indirectly, including by engaging a third party, solicit or entice away (or attempt to solicit or entice away), any person employed or engaged by the Supplier in the provision of the Solution, other than by means of a national advertising campaign open to all and not specifically targeted at any of the Supplier's staff, except with the Supplier's prior written consent.
- 6.2 If the Customer breaches clause 6.1, the Customer shall on demand pay to the Supplier a sum equal to: (i) demonstratable loss of business revenue up to 100% of the individual's annual cost to the business; (ii) the reasonable recruitment costs incurred by the Supplier in replacing such person, such sum being a genuine pre-estimate of the cost of the disruption that such inducement would cause to the efficient conduct of the Supplier's business.

- 6.3 The restrictions in this clause 6 are intended to be separate and severable. If any of the restrictions shall be held to be void but would be valid if part of their wording were deleted, such restriction shall apply with such deletion as may be necessary to make it valid or effective.
- 6.4 This clause 6 shall apply during the Contract and after it has ended.

7. INTELLECTUAL PROPERTY RIGHTS

- 7.1 Nothing in this Contract shall operate to assign or transfer any Intellectual Property Rights from the Supplier or any of the Supplier's licensors to the Customer, or from the Customer to the Supplier.
- 7.2 The Supplier shall be entitled to use, develop and share knowledge, experience and skills of general application gained through all activities connected with providing the Solution and otherwise fulfilling its obligations under the Contract.
- 7.3 Without prejudice to the generality of the foregoing, nothing in the Contract, shall have the effect of transferring, or requiring the transfer to the Customer or a third party any ideas, written deliverables and or documents, methodologies, or concepts of, belonging to or created by the Supplier, whether before or after entering into the Contract including any tools, processes or procedures whether used in the carrying out of the Services or otherwise; or any Intellectual Property Rights in or any other right, title or interest in or to any system or procedure (including any computer systems and software) developed, owned or used by the Supplier whether or not in connection with the carrying out of the Services (together "**Sapphire IPR**").
- 7.4 The Supplier owns all Intellectual Property Rights and all other rights in any Sapphire IPR and the Customer shall not copy, use or disclose Sapphire IPR without the Supplier's express prior written consent which may be withheld in the Supplier's absolute discretion.

8. DATA PROTECTION

- 8.1 The Customer shall have sole responsibility for the legality, reliability, integrity, accuracy, and quality of all Customer Data.
- 8.2 Both Parties shall comply with all applicable requirements of the Data Protection Legislation. This clause 7 is in addition to, and does not relieve, remove, or replace, obligations or rights under the Data Protection Legislation.
- 8.3 Where the Supplier process any personal data on the Customer's behalf when performing its obligations under this Contract, the Customer is the data controller and the Supplier is the data processor for the purposes of the Data Protection Legislation.
- 8.4 each party shall ensure that it has in place appropriate technical and organisational measures, to protect against unauthorised or unlawful processing of personal data and against accidental loss or destruction of, or damage to, personal data, appropriate to the harm that might result from the unauthorised or unlawful processing or accidental loss, destruction or damage and the nature of the data to be protected, having regard to the state of technological development and the cost of implementing any measures.

8.5 Without prejudice to the generality of clause 8.2, the Customer:

- 8.5.1 undertakes, warrants and represents, it has and will during the term of the Contract maintain all necessary, required, and appropriate consents, authorisations, and notices in place to enable lawful transfer of the personal data to the Supplier for the purposes of the Contract in accordance with the terms of the Contract;
- 8.5.2 undertakes, warrants and represents that all instructions given to the Supplier for processing of personal data are lawful and as a minimum include the nature and purpose of the processing, type of personal data and categories of data subjects to whom the personal data related; and
- 8.5.3 is solely responsible as data controller for determining the lawful processing condition when providing instruction for processing data.

8.6 The Supplier shall

- 8.6.1 process any Customer Personal Data only on instructions by the Customer unless the Supplier is required by the Data Protection Legislation and other Applicable Law to process such personal data;
- 8.6.2 process Customer Personal Data in accordance with ISO 27001;
- 8.6.3 provide the Customer, at the Customer's cost, with reasonable assistance in responding to a request from a data subject and in supporting the Customer's compliance with the Data Protection Legislation with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators;
- 8.6.4 at the Customer's written request, delete or return the Customer Personal Data when this Contract ends unless required by Applicable Law to store the personal data;
- 8.6.5 notify the Customer without undue delay on becoming aware of a personal data breach affecting the Customer Personal Data ; and
- 8.6.6 maintain records to demonstrate compliance with this clause 8 and allow reasonable audit by the Customer or its designated auditor of such records on reasonable prior notice and at the Customer's cost.
- 8.6.7 The Customer hereby provides its prior, general authorisation for the Supplier to Appoint processors to process the Customer Personal Data, provided that the Supplier:
 - 8.6.7.1 ensures that the terms on which it appoints such processors comply with Data Protection Legislation and are consistent with the obligations imposed on the Supplier in this clause 8;
 - 8.6.7.2 remains responsible for the acts and omissions of any such processor as if they were the acts and omissions of the Supplier; and
 - 8.6.7.3 informs the Customer of any intended changes concerning the addition or replacement of the processors, thereby giving the Customer the opportunity to object to such changes provided that if the Customer objects to the changes and cannot demonstrate, to the Supplier's reasonable satisfaction, that the objection is due to an actual or likely breach of Data Protection Legislation, the Customer shall indemnify the Supplier for any losses, damages, costs (including legal fees) and expenses suffered by the Supplier in accommodating the objection.

- 8.6.8 transfer Customer Personal Data outside of the UK as required for the Purpose, provided that the Supplier ensures that all such transfers are effected in accordance with Data Protection Laws. For these purposes, the Customer shall promptly comply with any reasonable request of the Supplier, including any request to enter into standard data protection clauses adopted by the EU Commission from time to time (where the EU GDPR applies to the transfer) or adopted by the UK Information Commissioner from time to time (where the UK GDPR applies to the transfer).

9. CONFIDENTIALITY

- 9.1 The Customer shall keep in strict confidence all Confidential Information provided by or on behalf of the Supplier. The Customer shall restrict disclosure of the Confidential Information to such of the Customer's personnel, agents or sub-contractors as need to know it for the purpose of the performance of the Contract, and shall ensure that such personnel, agents or sub-contractors are subject to obligations of confidentiality corresponding to those set out in this clause 9.
- 9.2 A party's Confidential Information shall not be deemed to include information that:
- 9.2.1 is or becomes publicly known other than through any act or omission of the receiving party;
 - 9.2.2 was in the other party's lawful possession before the disclosure;
 - 9.2.3 is lawfully disclosed to the receiving party by a third party without restriction on disclosure;
 - 9.2.4 is independently developed by the receiving party, which independent development can be shown by written evidence.
- 9.3 Subject to clause 9.5, each party shall hold the other's Confidential Information in confidence for the term of the Contract and for five (5) years after the Contract ends. Neither party shall make the other's Confidential Information available to any third party, or use the other's Confidential Information for any purpose other than the performance of the Contract.
- 9.4 Each party shall take all reasonable steps to ensure that the other's Confidential Information to which it has access is not disclosed or distributed by its personnel or agents in breach of the terms of the Contract.
- 9.5 A party may disclose Confidential Information to the extent that such Confidential Information is required to be disclosed by law, by any governmental or other regulatory authority or by a court or other authority of competent jurisdiction, provided that, to the extent it is legally permitted to do so, it gives the other party as much notice of such disclosure as possible and, where notice of disclosure is not prohibited and is given in accordance with this clause 9.5, it takes into account the reasonable requests of the other party in relation to the content of such disclosure.
- 9.6 All materials, equipment and tools, drawings, specifications and data the Supplier provides to the Customer shall at all times be and remain the Supplier's exclusive property, but shall be held by the Customer in safe custody at the Customer's risk and maintained in good condition, and shall not be disposed of or used other than in accordance with the Supplier's written instructions or authorisation.
- 9.7 This clause 9 applies during the Contract and after it has ended.

- 9.8 The Customer's acknowledges and accepts that any licensor of the Supplier has direct rights to enforce the provisions of this clause 9 if and to the extent that the relevant Confidential Information is proprietary to that licensor.

10. LIMITATION OF LIABILITY

- 10.1 The restrictions, limitations, and exclusions on liability in this clause 10 apply to every liability arising under or in connection with this Contract including liability in contract, tort (including negligence), breach of statutory duty, misrepresentation, restitution, or otherwise.
- 10.2 Nothing in this Contract shall limit or exclude the Supplier's liability for death or personal injury caused by negligence, fraud or fraudulent misrepresentation, and any other type of liability which cannot be legally limited or excluded.
- 10.3 Nothing in this Contract shall restrict or limit the Customer's obligation at law to mitigate any loss as a result of any event that may give rise to any claim under the Contract.
- 10.4 Subject to clause 10.2, the Supplier's total liability to the Customer in respect of all breaches occurring shall not exceed 125% of the Charges paid by the Customer to the Supplier under the Contract in the preceding 12 months. If breaches committed in more than one contract year give rise to a single claim or a series of connected claims, the Supplier's total liability for those claims shall not exceed the single highest annual cap for those contract years
- 10.5 If a third party makes a claim, or notifies an intention to make a claim, against the Customer which may reasonably be considered likely to give rise to a liability of the Supplier under this Contract, the Customer shall as soon as reasonably practicable give written notice of such claim to the Supplier, specifying the nature of the claim in reasonable detail and shall:
- 10.5.1 not make any admission of liability, agreement or compromise in relation to such claim without the Supplier's prior written consent (which the Supplier shall not unreasonably withhold or delay);
 - 10.5.2 give the Supplier and its professional advisers access at reasonable times (on reasonable prior notice) to the Customer's premises, officers, directors, employees, agents, representative or advisors and to any relevant document and records within the Supplier's power or control to enable the Supplier and its professional advisers to examine them and take copies for the purpose of assessing the claim; and
 - 10.5.3 take such action as the Supplier may reasonably request to avoid, dispute, compromise or defend such claim.
- 10.6 Subject to Clause 10.2, unless the Customer notifies the Supplier that the Customer intends to make a claim in respect of an event within the notice period specified in this clause, the Supplier shall have no liability for that event. The notice period for an event shall start on the day on which the Customer became, or ought reasonably to have become, aware of the event having occurred and shall expire 12 months from that date. The notice must be in writing and must identify the event and the grounds for the claim in reasonable detail and proceedings in relation to such claim shall be issued and served on the Supplier within 6 months of serving such notice.
- 10.7 The Supplier shall not be obliged to ensure the Customer's System is free and/or defended properly or at all from any Malware, social engineering, hacks or illegal breaches of the Customer's Security and/or access to Customer Data.

- 10.8 Subject to Clause 10.210.1 and except as expressly provided to the contrary under this Contract, the Supplier shall not be liable for the following types of costs, damages, charges, expenses or losses howsoever arising even if the parties have been advised of the possibility of such costs, damages, charges, expenses or losses: loss of revenue, loss of profits, loss of business, damage or depletion of goodwill, loss or corruption of Customer Data or Customer Personal Data, loss of anticipated savings, loss of goods, loss of use or any special, indirect consequential or pure economic losses.

11. WARRANTIES AND INDEMNITIES

11.1 The Supplier warrants, represents and undertakes that:

- 11.1.1 it has the legal right and authority to enter into the Contract and perform its obligations under the Contract; and
- 11.1.2 it shall comply with all Applicable Laws in relation to its performance of the Contract.

11.2 The Customer warrants, represents and undertakes that:

- 11.2.1 It has the legal right and authority to enter into the Contract and perform its obligations under the Contract;
- 11.2.2 in relation to its use of any Software, neither the Customer nor any of the Customer personnel or associated parties will attempt to or permit any third party to reverse engineer, decompile, monitor or in any way replicate the coding, or functionality of any Software provided under the Contract;
- 11.2.3 it has, and shall maintain throughout the Term, any necessary licences and approvals under Applicable Laws to enter into and perform Its obligations under the Contract;
- 11.2.4 the Customer's employment contracts and policies lawfully permit the Supplier to carry out all activities required to provide the Solution and the Customer has implemented or obtained, and shall continue to maintain all necessary or desirable measures necessary for lawfully providing the Solution without being in breach, and without committing or assisting in the commission of any offence or breach of any Applicable Law or Requirement;
- 11.2.5 it shall at all times comply with all Applicable Law and Requirements which relate to the provision and receipt of the Solution and ensure that the Supplier is duly authorised to lawfully perform the Services on the Customer's behalf,

11.3 Without prejudice to the generality of clause 11.2.5, each party shall:

- 11.3.1 comply with all Applicable Laws, statutes and regulations relating to anti-bribery and anti-corruption including the Bribery Act 2010;
- 11.3.2 not engage in any activity, practice or conduct which would constitute an offence under sections 1, 2 or 6 of the Bribery Act 2010 if such activity, practice or conduct had been carried out in the UK; and
- 11.3.3 comply with the Modern Slavery Act 2015.

11.4 The Customer undertakes to defend, indemnify, keep indemnified and hold the Supplier harmless against any and all third-party claims, actions, and proceedings, and all losses, damages, expenses and costs (including legal costs) associated therewith, where any of the same arise out of or in connection with either the Customer's use of or access to and or the Supplier's provision of the Solution (or any part) including those arising out of:

- 11.4.1 the Contractor's failure to fully observe or perform any of its obligations contained in the Contract ; or
- 11.4.2 any loss, damage or injury to property or person caused or contributed to by the conduct or negligent act, error or omission of the Customer or its agents, employees, contractors or directors; or
- 11.4.3 the Customer's breach of any warranty, undertaking or other terms or conditions of the Contract,

unless, and to the extent that, the same arise as a direct result of the Supplier's negligence or as a direct result of any breach of the Supplier's obligations under the Contract.

11.5 The Customer agrees that:

- 11.5.1 in respect of the Solution, the Supplier acts only in the capacity of a supplier to the Customer and the Customer has sole responsibility for ensuring that the Solution and the results obtained from it meet the Customer's requirements ;
 - 11.5.2 the Supplier shall have no obligation or liability, in relation to any of the matters which the Customer undertakes, or warrants, as set out in this clause 11; and
 - 11.5.3 except as expressly set out in the Contract the Supplier gives no warranties or guarantees and makes no representations concerning the accuracy and supply of the Solution (or any part of it) concerning the suitability of the Solution for the Customer's requirements
- 11.6 Except as expressly and specifically provided in this Contract all warranties, representations, conditions, and all other terms of any kind whatsoever implied by statute or common law are, to the fullest extent permitted by applicable law, excluded from this Contract.

12. CHANGES

- 12.1 Either Party may submit a request to change the scope or execution of the provision of Solution in writing to the other Party.
- 12.2 If such a Change is requested, the Supplier shall prepare a Contract Change Notice outlining the nature and details of the Change including details of any impact the Change may have on the Charges, the timescales for delivery of the Solution, the Contract, and any other relevant information.
- 12.3 The Customer shall consider the Contract Change Notice and notify the Supplier in writing within five (5) Business Days on whether the Customer accepts the Change as set out in the Change Notice. If the Customer requests an amendment to the Change Notice, the process set out in clause 12.2 and subsequently clause 12.3 applies again. If the Customer fails to notify the Supplier in accordance with this clause, the Change Note expires and the Supplier is not obliged to provide the requested changed solution to the Customer.
- 12.4 The Customer remains liable to pay all Charges for all Solutions provided before the Change has been fully agreed and implemented.

13. TERMINATION

- 13.1 Without affecting any other right or remedy available to it, either party may give notice in writing to the other terminating the Contract immediately if the other experiences an Insolvency Event.
- 13.2 Without affecting any other right or remedy, the Supplier may give notice in writing to the Customer terminating the Contract immediately if the Customer:
- 13.2.1 fails to pay any amount due under the Contract or any other contract between the Parties on the due date for payment and remain in default not less than ten (10) Business Days after being notified in writing to make such payment; or
 - 13.2.2 commits a repeated breach of the Customer's obligations under the Contract. A repeated breach shall be defined as two (2) or more breaches of the same, or any three (3) breaches of different obligations under the Contract within a twelve (12) month period where the Supplier has notified the Customer of each of those breaches; or
 - 13.2.3 is subject to a change of control (within the meaning of section 1124 of the Corporation Tax Act 2010); or
 - 13.2.4 commits any act or omission which could or might in the Supplier's sole opinion bring the Supplier into disrepute or damage its reputation; or
 - 13.2.5 breaches clauses 7, 8, 11.2, 11.5, 17 or otherwise challenge the Intellectual Property Rights of the Supplier or its licensors.

14. CONSEQUENCES OF TERMINATION AND SURVIVAL

14.1 The termination of the Contract

- 14.1.1 shall not affect the rights, remedies, obligations or liabilities of the parties which have accrued on or before the date it ends including the right to claim damages in respect of any breach of the Contract which existed at or before the date it ends;
- 14.1.2 shall not affect the continuation in force of any provision of the Contract which expressly or by implication is intended to come into or continue in force on or after the date this Contract ends; and
- 14.1.3 terminates any licence the Supplier has granted to the Customer in connection with the provision of the Solution.

14.2 On termination of the Contract,

14.2.1 the Supplier shall be entitled to payments

- 14.2.1.1 of Charges for all Services performed up to and including the date the Contract ends whether or not invoiced by the Supplier;
- 14.2.1.2 of Charges which would fall due after the date on which the Contract ends; and
- 14.2.1.3 of Charges contained in outstanding unpaid invoices (together with any accrued interest if such invoices are outside their payment terms

- 14.2.2 the Supplier shall be entitled to remove any Software or Supplier Computer Assets from the Customer Systems or Sites whether by means of remote access or otherwise and the Customer shall not do or omit to do anything which might prevent or hinder such removal and you will provide physical access to any Sites so removal may take place; and
- 14.2.3 the Supplier may destroy or otherwise dispose of any of the Customer storage media, software, equipment or other items in the Supplier's possession unless the Customer requests delivery of such items from the Supplier in writing within ten (10) calendar days after the effective date of the termination of this Contract. The Supplier shall use reasonable commercial efforts to deliver the requested items within thirty (30) days of the Supplier's receipt of such a request, provided that the Customer has, at that time, paid all fees and charges outstanding at and resulting from termination (whether or not due at the date of termination). The Customer shall pay all expenses reasonably incurred by the Supplier in returning or disposing of them.

15. PUBLICITY

The Customer may not make, or permit any person to make, any public announcement concerning the existence, subject matter or terms of the Contract, the wider transactions contemplated by it, the relationship between the parties, or use the Supplier's name, logo or branding, or other Intellectual Property Rights in any way without the Supplier's prior written consent (which shall not be unreasonably withheld), except as required by Applicable Law or Requirement or to comply with the Customer's obligations or enforce its rights under this Contract. Nothing in this clause 15 shall be construed as limiting the Customer's obligations under clause 9 or restrict the Customer from recommending the Supplier's services to others.

16. MISCELLANEOUS

- 16.1 A waiver of any right or remedy is only effective if given in writing and shall not be deemed a waiver of any subsequent right or remedy and a delay or failure to exercise of any right or remedy shall not waive that or any other right or remedy, nor shall it restrict the further exercise of that or any other right or remedy.
- 16.2 If any provision or part-provision of this Contract is or becomes invalid, illegal, or unenforceable, the other provisions will continue in effect and it shall be deemed modified to the minimum extent necessary to make it valid, legal, and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of the Contract.
- 16.3 If any provision or part-provision of this Contract is invalid, illegal, or unenforceable, the Parties shall negotiate in good faith to amend such provision so that, as amended, it is legal, valid, and enforceable, and, to the greatest extent possible, achieves the intended commercial result of the original provision.
- 16.4 This Contract constitutes the entire agreement and understanding between the Parties relating to its subject matter and it supersedes and extinguishes all other agreements, arrangements, statements, undertakings, promises, assurances, warranties, representations, and understandings between the Parties, (whether in writing or not), relating to its subject matter, except to the extent expressly repeated in this Contract.

- 16.5 The Parties warrant to the other that in entering into this Contract they do not rely on and shall have no remedies in respect of any statement, representation, assurance, or warranty (whether made innocently or negligently), that is not set out in this Contract.
- 16.6 Neither Party shall have a claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in this Contract.
- 16.7 The Customer acknowledges and confirms that it had an opportunity to carry out a thorough due diligence exercise in relation to the supply of the Solution including making its own relevant enquires as to the accuracy and completeness of any information received. The Customer confirms that it enters into the Contract in reliance on its own due diligence.
- 16.8 Nothing in this Contract is intended to, or shall, operate to create a partnership between the Parties or authorise either of the Parties to act as agent for the other, or otherwise to bind the other in any way (including the making of any representation or warranty, the assumption of any obligation or liability or the exercise of any right or power).
- 16.9 The rights and remedies under this Contract are in addition to, and not exclusive of, any rights or remedies provided by law.

17. ASSIGNMENT

The Customer shall not assign, transfer, charge, subcontract or otherwise deal with in any other manner, any of its rights or obligations under this Contract, or purport to do the same, except with the Supplier's prior written consent, not to be unreasonably withheld or delayed.

18. THIRD PARTY RIGHTS

Unless it expressly states otherwise, no one other than a party to this Contract, and where applicable their successors and permitted assignees, shall have any right to enforce any of its terms and the exercise of the parties rights under this Contract is not subject to the consent of any third party.

19. NOTICES

- 19.1 Any notice given under or in connection with the Contract shall be in writing and shall be delivered by hand or by pre-paid first-class post or other next working day delivery service addressed to the parties' addresses or email address stated in the Cover Sheet. (as amended by written notice from time to time in accordance with this Clause 20).
- 19.2 Any notice shall be deemed to have been received if delivered by hand, on signature of a delivery receipt or at the time the notice is left at the proper address, if sent by pre-paid first-class post or other next working day delivery service, at 9.00am on the second Business Day after posting or at the time recorded by the delivery service.
- 19.3 Clause 19 does not apply to service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution (or any part of it).

20. GOVERNING LAW AND JURISDICTION

- 20.1 This Contract and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation shall be governed by and construed in accordance with English Law and the English courts shall have exclusive jurisdiction.

21. DEFINITIONS AND INTERPRETATION

- 21.1 The definitions and rules of interpretation in this clause apply in the Contract which includes any Supplemental Terms and Conditions and the Service Description.

Ad-Hoc Threat Intelligence Investigations and Take Down Services	the ad-hoc threat intelligence investigations and take down services described in Schedule 5a (which are supplemental to and form part of the Managed Services (where applicable)).
Applicable Law	all relevant and applicable laws or regulations, regulatory policies, legislation, and statutes from time to time in force.
Authorised Representative	the person or persons identified as such in the Cover Sheet, representing the Supplier and the Customer respectively.
Authorised User	means those employees of the Customer who are authorised by the Customer to use the Solution (or any part of it) as notified to the Supplier from time to time.
Business Day	a day, other than a Saturday, Sunday, or public holiday in England and/or Scotland, when banks in London are open for business.
Change	any change You or The Supplier wish to make to the scope or execution of the Services pursuant to clause 12 (or otherwise).
Charges	means the following: (i) Our charges set out in the Cover Sheet or Service Description and a Contract Change Note (if any) PLUS (ii) VAT PLUS (iii) Our Expenses (if any) and (iv) any other additional charges agreed between the Parties from time to time.
Computer Assets	includes desktop computers, laptops, mobile phones, tablets, iPods and MP3 players, hard drives, USB drives, digital cameras, CD ROMs, and DVDs, back up tapes, network devices, servers, cabling, external hardware, accessories and or other associated hardware of any kind whether used or not in conjunction with some or all of the above and the applications and/or software on such devices and any media, data or information thereon.
Contract	this contract between the parties for the provision of the Solution.
Contract Change Notice	the notice for a request to change the Solution to be completed in substantially

Confidential Information	any technical data or commercial know-how, specifications, inventions, processes or initiatives, trade secrets or other information in any form which are of a confidential nature and have been disclosed by one party to the other (including the details and terms of any Contract) received or obtained by a party that is proprietary or confidential of the other party or in the case of licensors, and (i) is clearly labelled as such; (ii) is otherwise clearly identified as such; or (iii) from its nature and/or the circumstances of its disclosure it is reasonable to infer that it is such.
Customer Data	any data processed by the Supplier on behalf of the Customer as part of the Services, or for the purpose of using or providing the Solution
Customer Personal Data	Customer Data that is personal data as defined in the Data Protection Legislation.
Customer Responsibilities	any acts or activities that are identified anywhere in the Contract as the Customer's obligations and responsibilities or by third parties engaged or directed by the Customer.
Data Protection Legislation	all applicable data protection and privacy legislation in force from time to time in the UK including the UK GDPR (as defined in section 3(10) (as supplemented by section 205(4)) of the Data Protection Act 2018) ("UK GDPR"), the Data Protection Act 2018 (and regulations made thereunder) ("DPA 2018") and the Privacy and Electronic Communications Regulations 2003 (SI 2003/2426) as amended from time to time and the guidance and codes of practice issued by the Information Commissioner or other relevant regulatory authority and applicable to a party.
EDR Services	the EDR services described in Schedule 5 (which are supplemental to and form part of the Managed Services (where applicable).
Equipment	Means the equipment agreed in the Contract to be purchased by the Customer from the Supplier or any parts thereof as set out in the Service Description.
Expenses	any reasonable and properly incurred expenses and disbursements are incurred by the including hotels, subsistence, travelling, mileage at 45p per mile, supplies, telephone charges, copying charges, and the cost of any materials or services reasonably and properly provided by third parties, all as required by the Supplier for providing the Solution.

Force Majeure Event	acts, events, series of related events, omissions or accidents beyond Our reasonable control, including, strikes, lock-outs, or other industrial disputes (whether involving Our workforce or any other party), failure of the internet, hacker attacks, denial of services attacks, Malware or other malicious software attacks or infections, power failures, failure of a utility service or transport or telecommunication network, act of God, war, riot, civil commotion, malicious damage, compliance with any Applicable Law, Requirement or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, explosions, pandemic, terrorist attacks, storm or default of suppliers or sub-contractors.
Information	information provided by the Customer or obtained by the Supplier in the provision of the Solution.
Initial Term	Means the initial contract term which may be specified in the Cover Sheet.
Insolvency Event	<p>means that a party:</p> <ul style="list-style-type: none"> (a) is unable to pay its debts or deemed unable to pay its debts, within the meaning of section 123 of the Insolvency Act 1986 or becomes insolvent or bankrupt or ceases to trade; (b) is the subject of an order made or a resolution passed for the administration, winding-up or dissolution (otherwise than for the purpose of a solvent amalgamation or reconstruction, which does not materially reduce that entity's assets); (c) has an administrative or other receiver, manager, trustee, liquidator, administrator, or similar officer appointed over all or any substantial part of its assets or an encumbrancer taking possession of or selling, the whole or any part of a party's undertaking, assets, rights, or revenue;; (d) enters into or proposes any composition or arrangement with its creditors generally (otherwise than for the purpose of a financing or solvent amalgamation or reconstruction, which does not materially reduce the entities' assets) or taking steps to obtain a moratorium, or making an application to a court of competent jurisdiction for protection from its creditors; or (e) is the subject of any events or circumstances analogous to any of the foregoing in any applicable jurisdiction.

Intellectual Property Rights	any and all intellectual property rights of any nature anywhere in the world whether registered, registrable or otherwise, including patents, utility models, trademarks, registered designs and domain names, applications for any of the foregoing, trade or business names, goodwill, copyright and rights in the nature of copyright, design rights, rights in databases, moral rights, know-how and any other intellectual property rights which subsist in computer software, computer programs, website, documents, information, techniques, business methods, drawings, logos, instruction manuals, lists and procedures and particulars of customers, marketing methods and procedures and advertising literature, including the "look and feel" of any the websites, rights in get up, rights to inventions, rights in goodwill or to sue for passing off, unfair competition rights, topography rights, rights in confidential information (including know how and trade secrets) and all similar rights and including all applications for, and renewals or extensions of such rights and all similar or equivalent rights or forms of protection in any part of the world.
Interest Rate	4% above the base lending rate from time to time of Barclays Bank PLC or at a rate of 4% if such base rate is less than zero.
Log Collector Software	the software for log collection.
Malware	any malicious code, Trojan, worm and virus, lock, authorisation key or similar device that impairs or could impair the operation of the Software and/or the Services.
Managed Services	the managed services and/or Goods and/or Software set out in the Cover Sheet and described in Schedule 3 (Services Description – Managed Solutions) [and the supplemental EDR services described in Schedule 5 (EDR Services Supplemental Terms and Conditions) and/or the supplemental Ad-Hoc Threat Intelligence Investigations and Take Down Services described in Schedule 5a (Ad-Hoc Threat Intelligence Investigations and Take Down Services Supplemental Terms and Conditions (where applicable))] and where applicable, any Contract Change Note, to be provided by Us to You under the Contract.
Measures	any and all necessary or desirable or required consents, authorisations, permissions, rights, measures (including technical and organisational measures), policies, terms including where relevant from Your Personnel and or Specified Persons.
Online Services	any element of the Services which is provided over the internet including Customer dashboards.

Regulatory Body	those judicial bodies, government departments and regulatory, statutory, and other entities, committees, and bodies which, whether under statute, rules, regulations, codes of practice or otherwise, are entitled by any Applicable Law to supervise, regulate, investigate, order, or influence the matters dealt with in the Contract or any other affairs between the parties.
Renewal Term	any additional term of the Contract as may be agreed by the Parties in writing.
Requirement	any order of any court of competent jurisdiction and/or the requirements of any Regulatory Body.
Security	Your data, information, and cyber security.
Security Consultancy Services	the security consultancy services set out in the Cover Sheet and described in clause Error! Reference source not found. (as applicable) and where also applicable, any Contract Change Note, to be provided by Us to You under the Contract.
Service Levels	Service levels as set out in the Service Level Agreement (if any)
Service Level Agreement	the service level agreement set out in [REFERENCE DOCUMENT WHERE THIS IS LOCATED]
Services	the Managed Services and/or the Security Consultancy Services and/or the Software, Installation and Consultancy Services (as applicable).
Site	The Customer's premises specified in the Cover Sheet and any buildings on such premises.
Software	The Software (including Log Collector Software) that the Supplier provides to the Customer as part of the Solution and/or software used by the Supplier to provide the Solution which may comprise Third Party Software.
Software, Installation and Consultancy Services	The software, installation and consultancy services set out in the Cover Sheet and described in the Service Description and where applicable, any Contract Change Notice.
Solution	the Services and/or Goods and/or Software (as the case may be) set out and described in the Service Description in Schedule 2.
Supplemental Terms and Conditions	means the additional terms forming part of and applying to this Contract as set out in Schedule 1 which may be <ul style="list-style-type: none"> (i) in relation to the supply of Security Consultancy Services, (ii) in relation to the supply of Managed Services, (iii) in relation to the supply of Software, Installation and Consultancy Services,
System	The Customer's information technology system, physical and virtual, including Cloud assets.
Term	Means the whole duration of the Contract including the Initial Term if any and any Renewal Terms if any.

Test Systems	the systems (including the application systems, application programming interfaces, front-end/back-end servers, operating systems, ports, intrusion detection systems, and other systems) and the web applications and processes that the Customer has instructed the Supplier to test in accordance with this contract.
Third Party Software	Software the rights in which are owned by one or more third parties that the Supplier supplies to the Customer under a contract and/or which is used by the Supplier to provide the Solution to the Customer under this Contract.
VAT	value added tax or any similar or replacement tax chargeable in the United Kingdom from time to time.
Virus	Any malicious code, Trojan, worm and virus, lock, authorisation key or similar device that impairs or could impair the operation of the Software or the System

- 21.2 Unless expressly stated otherwise, a reference to **writing** or **written** includes email.
- 21.3 A reference to including means including without limitation.
- 21.4 References to clauses and schedules are to clauses of, and schedules to, the Contract.
- 21.5 Clause, schedule, and paragraph headings shall not affect the interpretation of this Contract.
- 21.6 The Schedules form part of this Contract and shall have effect as if set out in full in the body of this Contract. Any reference to this Contract includes the schedules.
- 21.7 References to the singular include the plural and vice versa and references to one gender include all genders.
- 21.8 A reference to a statute or statutory provision is a reference to it as amended, extended, consolidated, or re-enacted from time to time.
- 21.9 A reference to a statute or statutory provision shall include all subordinate legislation made from time to time under that statute or statutory provision.
- 21.10 A reference to when this Contract **ends** or this Contract **ending** means the expiry or termination of this Contract, howsoever arising.
- 21.11 Terms defined in the Data Protection Legislation shall bear the same meaning in this Contract.
- 21.12 A **person** includes a natural person, company, partnership or unincorporated body (whether or not having separate legal personality).
- 21.13 A reference to a **company** shall include any company, corporation or other body corporate, wherever and however incorporated or established.
- 21.14 Any obligation not to do something includes an obligation not to allow that thing to be done.
- 21.15 A reference to a holding company or a subsidiary means a holding company or a subsidiary (as the case may be) as defined in section 1159 of the Companies Act 2006 and a company shall be treated, for the purposes only of the membership requirement contained in sections 1159(1)(b) and (c), as a member of another company even if its shares in that other company are registered in the name of (i) another person (or its nominee) by way of security or in connection with the taking of security; or (ii) its nominee.