

Dated

2023

CELERITY LIMITED (1)

and

[NAME] (2)

MASTER SERVICES AGREEMENT

TABLE OF CONTENTS

1.	INTERPRETATION	2
2.	COMMENCEMENT AND DURATION	9
3.	FRAMEWORK AGREEMENT	9
4.	SUPPLY OF SERVICES	9
5.	PROVISION OF EQUIPMENT ON CLIENT SITE	11
6.	SOFTWARE	12
7.	CLIENT RESPONSIBILITIES	13
8.	WARRANTIES	16
9.	CHANGE CONTROL	17
10.	CHARGES AND PAYMENT	18
11.	INTELLECTUAL PROPERTY RIGHTS	19
12.	COMPLIANCE WITH LAWS	20
13.	DATA AND DATA PROTECTION	21
14.	CONFIDENTIALITY	22
15.	AUDIT	23
16.	INSURANCE	23
17.	LIMITATION OF LIABILITY	23
18.	TERMINATION	24
19.	CONSEQUENCES OF TERMINATION	25
20.	FORCE MAJEURE	25
21.	ASSIGNMENT AND OTHER DEALINGS	26
22.	VARIATION	26
23.	WAIVER	26
24.	RIGHTS AND REMEDIES	26
25.	SEVERANCE	26
26.	ENTIRE AGREEMENT	27
27.	NO PARTNERSHIP OR AGENCY	27
28.	THIRD PARTY RIGHTS	27
29.	NOTICES	27
30.	COUNTERPARTS	28
31.	MULTI-TIERED DISPUTE RESOLUTION PROCEDURE	28
32.	GOVERNING LAW	28
33.	JURISDICTION	29
	SCHEDULE 1	30

THIS AGREEMENT IS DATED

Between

- (1) **CELERITY LIMITED** incorporated and registered in England and Wales with company number 04475496 whose registered office is at 11 St George's Court, St George's Park, Kirkham, Preston, England, PR4 2EF (**Supplier**);
- (2) **[FULL COMPANY NAME]** incorporated and registered in England and Wales with company number **[NUMBER]** whose registered office is at **[REGISTERED OFFICE ADDRESS]** (**Client**).

Background

- A. The Supplier is in the business of providing various technology solutions, IT and other related services.
- B. The Client wishes to appoint the Supplier to provide the services set out in this Agreement on the terms set out in this Agreement.

It is hereby agreed

1. INTERPRETATION

- 1.1 The following definitions and rules of interpretation apply in this Agreement:

Ad Hoc Services	Services requested by the Client which are not listed in the Available Services.
Applicable Laws	all applicable laws, statutes, regulation from time to time in force.
Authorised Users	those employees, agents and independent contractors of the Client who are authorised by the Client to use the Services and/ or the Documentation as may be further set out in a list of such use, if required by the appropriate Service Schedule.
Available Services	the Services set out in Schedule 1.
Back Up Policy	the Supplier's back-up policy available on request or as notified to the Client from time to time.
Business Day	a day, other than a Saturday, Sunday or public holiday in England, when banks in London are open for business.
Business Hours	the period from 9.00 am to 5.00 pm on any Business Day.
Change Control Notice	has the meaning given in clause 9.1.
Charges	the sums payable for the Services as set out in each Service Schedule.

Client Data	the data inputted by the Client, Authorised User or the Supplier on the Client's behalf for the purpose of using the Services or facilitating the Client's use of the Services.
Client Dependencies	those specific inputs and activities required of the Client in respect of the applicable services as set out in the relevant Service Schedule.
Client Equipment	any equipment, including tools, systems, cabling or facilities, provided by the Client, its agents, subcontractors or consultants which is used directly or indirectly in the supply of the Services including any such items specified in a Service Schedule.
Contract Year	a 12month period with the date of this Agreement or any anniversary of it.
Control	shall be as defined in section 1124 of the Corporation Tax Act 2010, and the expression change of Control shall be construed accordingly.
Controller, processor, data subject, personal data, personal data breach, processing and appropriate technical measures	has the meaning given to it in the Data Protection Legislation.
Client Materials	all documents, information, items and materials in any form, whether owned by the Client or a third party, which are provided by the Client to the Supplier in connection with the Services, including the items provided pursuant to clause (I).
Data Protection Legislation	the UK Data Protection Legislation and any other European Union legislation relating to personal data and all other legislation and regulatory requirements in force from time to time which apply to a party relating to the use of personal data (including, without limitation, the privacy of electronic communications);
Delivery	the transfer of physical possession of the Supplier Equipment to the Client at its site.
Deliverables	All documents, products and materials developed by the Supplier, its agents, subcontractors and personnel as part of or in relation to the Services in any form, including computer programs, data, reports and specifications (including drafts).

Documentation	the documentation describing the Software Services set out in a Service Schedule and, if applicable related user instructions referred to in the relevant Service Schedule.
Enhanced Services	means, with respect to a particular Service Schedule, Service Metrics in addition to those set out in such Service Schedule as included in the Charges.
Event of Insolvency	(a) when a party suffers an Event of Insolvency suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or (being a company or limited liability partnership) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 (IA 1986) as if the words "it is proved to the satisfaction of the court" did not appear in sections 123(1)(e) or 123(2) of the IA 1986; (b) the other party commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with any of its creditors other than (being a company) for the sole purpose of a scheme for a solvent amalgamation of that other party with one or more other companies or the solvent reconstruction of that other party; (c) a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of the other party (being a company, limited liability partnership or partnership) other than for the sole purpose of a scheme for a solvent amalgamation of that other party with one or more other companies or the solvent reconstruction of that other party; (d) an application is made to court, or an order is made, for the appointment of an administrator, or a notice of intention to appoint an administrator is given or an administrator is appointed, over the other party (being a company); (e) the holder of a qualifying floating charge over the assets of that other party (being a company) has become entitled to appoint or has appointed an administrative receiver; (f) a person becomes entitled to appoint a receiver over all or any of the assets of the other party or a receiver is appointed over all or any of the assets of the other party;

- (g) a creditor or encumbrancer of the other party attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of the other party's assets and such attachment or process is not discharged within 14 days;
- (h) any event occurs, or proceeding is taken, with respect to the other party in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clause a to g above (inclusive); or
- (i) the other party suspends or ceases, or threatens to suspend or cease, carrying on all or a substantial part of its business.

Force Majeure Event

means an event beyond the reasonable control of the affected party which does not relate to its fault or negligence, including: acts of God, epidemics, government intervention, war, hostilities, terrorist activities, local or national emergencies, floods, natural disasters, fires, explosions, strikes, lock-outs and labour disputes (except where such strikes, lock-outs or labour disputes involve the affected party's own staff or employees).

Good Industry Practice

means using practices and exercising that degree of skill and care which would reasonably be expected from a suitably skilled and experienced professional organisation engaged in the provision of services which are the same as or similar to the Services.

Go Live Date

The date on which Services enter into live use by the Client.

Intellectual Property Rights

patents, rights to inventions, copyright and related rights, moral rights, trade marks, business names and domain names, rights in get-up, goodwill and the right to sue for passing off, rights in designs, 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.

Implementation

the process of setting up any Services for the Client as set out in the applicable Service Schedule.

Milestone	a date by which a part or all of the Services is to be completed, as set out in a Service Schedule.
Privacy and Security Policy	the Supplier's policy relating to the privacy and security of the Client Data available at https://www.celerity-uk.com/privacy-policy or such other website address as may be notified to the Client from time to time.
Project Plan	a project plan agreed between the parties in respect of an Implementation
Reconciliation Credit	any sums to be credited to the Client's account in relation to a particular Service because the Client's use of the Service has not met the Service Metric specified as included in the Charges as set out in a Service Schedule.
Renewal Period	any period described as a 'Renewal Period' in a Service Schedule.
Services	the services to be provided by the Supplier under a Service Schedule including any Software Services, as detailed in each Service Schedule (but excluding any Supplier Equipment).
Service Credit	any sums attributable to a Service Failure as specified in a Service Schedule
Service Failure	a failure by the Supplier to deliver the Services in accordance with the Service Levels.
Service Metric	any capacity, storage, number of Authorised Users or other such metric related to a particular Service as set out in a Service Schedule.
Service Level	any service level specified in the relevant Service Schedule for a particular Service.
Service Schedule	a detailed plan, agreed in accordance with clause 3, describing the services to be provided by the Supplier, the timetable for their performance and any related matters.
Service Schedule Commencement Date	in relation to each Service Schedule the date on which the Service Schedule becomes effective as specified in the Service Schedule.
Service Schedule Term	in relation to a Service Schedule, the period commencing on the Service Schedule Commencement Date and ending on the expiry of the Service Schedule (as specified in the Service Schedule or, if the Service Schedule is terminated early, the date of termination of such Service Schedule).

Software	any software (whether provided as a Software Service or otherwise) to be made available to the Client by the Supplier in connection with or as a part of any Service under this Agreement.
Software Services	any subscription services provided by the Supplier to the Client under this Agreement whether by itself or as part of the Services, via a website or portal by the Supplier from time to time, as more particularly described in the Documentation.
Subcontractor	a third party to whom the Supplier subcontracts the performance of any of its obligations under this Agreement.
Supplier Equipment	any equipment, tools, systems, cabling or facilities, provided by the Supplier to the Client and used directly or indirectly in the supply of the Services, including any such items specified in a Service Schedule but excluding any such items which are the subject of a separate agreement between the parties under which title passes to the Client.
Supplier IPRs	all Intellectual Property Rights subsisting in the Supplier Equipment, the Software and the Deliverables and the Documentation (excluding any Client Materials incorporated in them).
Supplier Personnel	Personnel the Supplier or a Subcontractor employs or engages to perform the Services.
Support Service Policy	the Supplier's policy for providing support in relation to Software Services as detailed in the relevant Service Schedule.
Term	has the meaning to it in clause 2.1.
UK Data Protection Legislation	all applicable data protection and privacy legislation in force from time to time in the UK including the General Data Protection Regulation ((EU) 2016/679); the Data Protection Act 2018; the Privacy and Electronic Communications Directive 2002/58/EC (as updated by Directive 2009/136/EC) and the Privacy and Electronic Communications Regulations 2003 (SI 2003/2426) as amended.
VAT	value added tax or any equivalent tax chargeable in the UK or elsewhere.
Virus	any thing or device (including any software, code, file or programme) which may prevent, impair or otherwise adversely affect the guarantee of any computer software, hardware or network, any telecommunications service, equipment or network or any other services or device; prevent, impair or otherwise adversely affect access to or the operation of any programme or

data, including the reliability of any programme of data (whether by re-arranging altering or erasing the programme or data in whole or part or otherwise); or adversely affect the user experience, including worms, trojan horses and other similar things or devices.

- 1.2 Clause, Schedule and paragraph headings shall not affect the interpretation of this Agreement.
- 1.3 A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
- 1.4 The Schedules form part of this Agreement and shall have effect as if set out in full in the body of this Agreement. Any reference to this Agreement includes the Schedules.
- 1.5 A reference to a **company** shall include any company, corporation or other body corporate, wherever and however incorporated or established.
- 1.6 Unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular.
- 1.7 Unless the context otherwise requires, a reference to one gender shall include a reference to the other gender.
- 1.8 This Agreement shall be binding on, and enure to the benefit of, the parties to this Agreement and their respective personal representatives, successors and permitted assigns, and references to any party shall include that party's personal representatives, successors and permitted assigns.
- 1.9 A reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time and shall include all subordinate legislation made under that statute or statutory provision.
- 1.10 A reference to **writing** or **written** includes fax and email.
- 1.11 Any obligation on a party not to do something includes an obligation not to allow that thing to be done.
- 1.12 A reference to **this Agreement** or to any other Agreement or document referred to in this Agreement is a reference of this Agreement or such other Agreement or document as varied or novated (in each case, other than in breach of the provisions of this Agreement) from time to time.
- 1.13 References to clauses and Schedules are to the clauses and Schedules of this agreement and references to paragraphs are to paragraphs of the relevant Schedule.
- 1.14 Any words following the terms **including**, **include**, **in particular**, **for example** or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.
- 1.15 Notwithstanding the provisions of clause 3.4 if there is any conflict between the provisions of the body of this Agreement and any Service Schedule, then the provisions of the Service Schedule shall prevail.

2. COMMENCEMENT AND DURATION

- 2.1 This Agreement shall commence on the date when it has been signed by all the parties and shall continue, unless terminated earlier in accordance with clause 18 (Termination), until either party gives to the other party three (3) months written notice to terminate. Provided, that such notice shall not expire before the date upon which there are no Service Schedules which still have time to run in their Service Schedule Term (**Term**).
- 2.2 Each Service Schedule shall commence on its Service Schedule Effective Date and, subject to any early termination in accordance with the terms of this Agreement, shall continue in full force and effect for the relevant Service Schedule Term, following which such Service Schedule shall terminate, unless expressly stated otherwise in the relevant Service Schedule.
- 2.3 The parties shall not enter into any further Service Schedules after the date on which notice to terminate is served under clause 2.1.

3. FRAMEWORK AGREEMENT

- 3.1 This Agreement is a framework agreement which sets out the terms and conditions under which the Supplier shall provide the Available Services, any Software and/ or Supplier Equipment to the Client.
- 3.2 Where the parties agree that the Supplier shall provide certain Services to the Client (or, where applicable, any Software and/ or Supplier Equipment), they shall complete and sign a Service Schedule for such purpose in accordance with clause 3.3 below. Each party acknowledges that neither party is obliged to enter into any Service Schedule.
- 3.3 The process for entering into a Service Schedule shall be as follows:
- (a) the Client asks the Supplier to provide any or all of the Available Services, any Ad Hoc Services, any Software and/ or any Supplier Equipment it requires;
 - (b) following such a request from the Client, the Supplier shall notify the Client of any information it reasonably requires in order to prepare the proposed Service Schedule requested, which the Supplier shall provide;
 - (c) following receipt of the additional information requested, the Supplier shall provide the Client with the proposed Service Schedule including the proposed Charges; and
 - (d) both parties shall sign the proposed Service Schedule once agreed.
- 3.4 Once such Service Schedule has been signed by the authorised representatives of both parties it is part of this Agreement and does not form a separate contract.

4. SUPPLY OF SERVICES

- 4.1 The Supplier shall use reasonable endeavours to:
- (a) provide the Services, and deliver the Deliverables to the Client, in accordance with the relevant Service Schedule and this Agreement in all material respects;
 - (b) meet any Go Live Dates, other performance dates and/ or Milestones specified in a Service Schedule but any such dates shall be estimates only and time for performance by the Supplier shall not be of the essence of this Agreement.

- (c) use reasonable endeavours to provide the Services in accordance with any applicable Service Levels;
 - (d) where any Service Credits and/ or Reconciliation Credits are applicable, calculate and honour such Service Credits and/ or Reconciliation Credits in accordance with the terms set out in the relevant Service Schedule; and
 - (e) appoint a manager in respect of the Services to be performed under each Service Schedule, such person to be identified in the Service Schedule. That person shall have authority to bind the Supplier on all matters relating to the relevant Service Schedule (including by signing Change Control Notices).
- 4.2 The Supplier shall and shall procure that the Supplier Personnel shall use reasonable endeavours to observe all health and safety and security requirements that apply at any of the Client's premises and that have been communicated to it under clause 7.1(m) below, provided that it shall not be liable under this Agreement if, as a result of such observation, it is in breach of any of its obligations under this Agreement.
- 4.3 Subject to clause 4.4 and 4.5 below the Client may, from time to time during any relevant Service Schedule Term request to purchase Enhanced Services with respect to a particular Service Schedule and the Supplier shall provide such Enhanced Services in accordance with the provisions of this Agreement,
- 4.4 If the Client wishes to purchase Enhanced Service with respect to a particular Service Schedule, the Client shall notify the Supplier in writing. The Supplier shall evaluate such request and respond to the Client with approval or rejection of the request. Where the Supplier approves the request, the Supplier shall activate the Enhanced Service promptly following approval of the Client's request.
- 4.5 If the Supplier approves the Client's request to purchase Enhanced Services, the Client shall, within 30 days of the date of the Supplier's invoice, pay to the Supplier the relevant Charges for such Enhanced Service as set out in the relevant Service Schedule and, if such Enhanced Service is purchased by the Client part way through the relevant Service Schedule Term or any Renewal Period (as applicable), such Charges shall be pro-rated from the date of activation by the Supplier for the remainder of the relevant Service Schedule Term or then current Renewal Period (as applicable).
- 4.6 The Client acknowledges that the Services may enable or assist it to access the website content of, correspond with, and purchase products and services from, third parties via third-party websites and that it does so solely at its own risk. The Supplier makes no representation, warranty or commitment and shall have no liability or obligation whatsoever in relation to the content or use of, or correspondence with, any such third-party website, or any transactions completed, and any contract entered into by the Client, with any such third party. Any contract entered into and any transaction completed via any third-party website is between the Client and the relevant third party, and not the Supplier. The Supplier recommends that the Client refers to the third party's website terms and conditions and privacy policy prior to using the relevant third-party website. The Supplier does not endorse or approve any third-party website nor the content of any of the third-party website made available via the Services.
- 4.7 Any rights granted under this Agreement are granted to the Client only, and shall not be considered granted to any subsidiary or holding company of the Client.

5. PROVISION OF EQUIPMENT ON CLIENT SITE

- 5.1 Where Supplier Equipment or Software is to be installed on a Client site (as set out in a Service Schedule) the Supplier shall Deliver the relevant Supplier Equipment and Software and shall use reasonable endeavours to make Delivery by the date and time agreed between the parties. Provided that time for doing so is not of the essence.
- 5.2 The Supplier shall install the relevant Supplier Equipment and Software at the nominated site (as set out in the relevant Service Schedule). The Client shall, at its sole expense, provide all required materials, facilities, access and suitable working conditions to enable Delivery and installation to be carried out safely and expeditiously including any materials, facilities, access and working conditions specified in the relevant Service Schedule.
- 5.3 The Supplier Equipment shall at all times remain the property of the Supplier and the Client shall have no right, title or interest in or to the Supplier Equipment (save the right to possession and use of the Supplier Equipment subject to the terms and conditions of this Agreement).
- 5.4 Risk in such Supplier Equipment shall pass to the Client on Delivery and such Supplier Equipment shall remain at the sole risk of the Client whilst the Supplier Equipment is in the possession, custody or control of the Client (**Risk Period**) until such time as the Supplier Equipment is collected by or redelivered (as the Supplier shall determine).
- 5.5 While risk in such Supplier Equipment is with the Client, the Client shall obtain and maintain the following insurance policies in relation to it with a reputable insurance company:
- (a) Insurance of at least the full replacement value of such Supplier Equipment against all usual risks of loss, damage or destruction by fire, theft or accident and such other risks as the Supplier may from time to time nominate in writing;
 - (b) Insurance for such amounts as a prudent owner or operator of such Supplier Equipment would insure for, or such amount as the Supplier shall determine from time to time to cover any third party or public liability risks whatever and however arising in relation to such Supplier Equipment; and
 - (c) Insurance against such other or further risks relating to such Supplier Equipment as may be required by Applicable Law together with such other insurance as the Supplier may from time to time consider reasonably necessary and advise to the Client,
- and shall provide copies of such policies to the Supplier upon request.
- 5.6 The Client shall give immediate written notice to the Supplier of any loss, accident or damage to such Supplier Equipment.
- 5.7 The Client shall during the Term:
- (a) ensure such Supplier Equipment is kept and operated in a suitable environment, used only for the purposes for which it is supplied and that it is operated in a proper manner by trained competent staff in accordance with any instructions provided by the Supplier;
 - (b) make no alteration to or move such Supplier Equipment and shall not remove any existing component(s) from such Supplier Equipment without the prior written consent of the Supplier.

- (c) permit Supplier or its duly authorised representatives access at all reasonable times to inspect and maintain such Supplier Equipment;
- (d) not part with control of, sell or offer for sale, underlet or lend such Supplier Equipment or allow the creation of any mortgage, charge, lien or other security interest with respect to it;
- (e) not without the prior written consent of the Supplier, attach such Supplier Equipment to any land or building so as to cause it to become a permanent or immovable fixture on such land or building;
- (f) not do or permit to be done any act or thing which will or may jeopardise the right, title and/or interest of the Supplier in such Supplier Equipment;
- (g) not suffer or permit such Supplier Equipment to be confiscated, seized or taken out of its possession or control under any distress, execution or other legal process, but if the Equipment is so confiscated, seized or taken, the Client shall notify the Supplier and the Client shall at its sole expense use its best endeavours to procure an immediate release of such Supplier Equipment and shall indemnify the Supplier on demand against all losses, costs, charges, damages and expenses incurred as a result of such confiscation;
- (h) ensure that at all times such Supplier Equipment remains identifiable as being the Supplier's property, not remove any labels from the Supplier Equipment;
- (i) at the Supplier's option deliver up such Supplier Equipment at the end of the Term at such address as the Supplier requires, or allow the Supplier or its representatives access to the site where such Supplier Equipment is located for the purpose of removing it; and
- (j) not do or permit to be done anything which could invalidate the insurances referred to in clause 5.5.

5.8 The Client acknowledges that the Supplier shall not be responsible for any loss of or damage to such Supplier Equipment, to the extent such loss or damage arises out of or in connection with any negligence, misuse, mishandling of such Supplier Equipment or otherwise caused by the Client or its personnel.

6. SOFTWARE

6.1 If the Client is purchasing the right to use Software from the Supplier such Software may be included as part of the Services, the Supplier Equipment or as a standalone supply (as the case may be).

6.2 Where the Supplier agrees to make available Software applications and/ or platforms specified in a Service Schedule on a pay-per-use basis, it shall (save to the extent set out to the contrary in a Service Schedule) do so on the basis set out in clause 6.3.

6.3 Subject to the terms and conditions set out in this Agreement, the Supplier hereby grants to the Client a non-exclusive, non-transferable right without the right to grant sub-licences, to permit the Authorised Users to use the Software Services and the Documentation during the relevant Service Schedule Term solely for the Client's internal business operation or as otherwise specified in the relevant Service Schedule.

- (a) The Client shall not:
 - (i) except as may be allowed by Applicable Law which is incapable of exclusion by agreement between the parties and except to the extent expressly permitted under this Agreement:
 - (A) attempt to copy, modify, duplicate, create derivative works from, frame, mirror, republish, download, display, transmit, or distribute all or any portion of the Software and/or Documentation (as applicable) in any form or media or by any means; or
 - (B) attempt to de-compile, reverse compile, disassemble, reverse engineer or otherwise reduce to human-perceivable form all or any part of the Software; or
 - (ii) access all or any part of the Software Services and Documentation in order to build a product or service which competes with the Services and/ or the Documentation; or
 - (iii) use the Software Services and/or Documentation to provide services to third parties; or
 - (iv) subject to clause 21, license, sell, rent, lease, transfer, assign, distribute, display, disclose, or otherwise commercially exploit, or otherwise make the Services and/or Documentation available to any third party except the Authorised Users, or
 - (v) attempt to obtain, or assist third parties in obtaining, access to the Services and/or Documentation, other than as provided under this clause.
- (b) The Supplier undertakes that it will perform the Software Services substantially in accordance with the Documentation and with reasonable skill and care.
- (c) The undertaking at (b) shall not apply to the extent of any non-conformance which is caused by use of the Software Services contrary to the Software Supplier's instructions, or modification or alteration of the Software Services by any party other than the Supplier or the Supplier's duly authorised contractors or agents. If the Software Services do not conform to the undertaking in clause (b), Supplier will, at its expense, use all reasonable commercial endeavours to correct any such non-conformance promptly, or provide the Client with an alternative means of accomplishing the desired performance. Such correction or substitution constitutes the Client's sole and exclusive remedy for any breach of the undertaking set out in clause (b).

7. CLIENT RESPONSIBILITIES

7.1 The Client shall:

- (a) without prejudice to its obligations under this Agreement, comply with any Client Dependencies and carry out all other Client responsibilities in a timely and efficient manner;
- (b) use reasonable endeavours to perform its obligations in accordance with any Project Plan;

- (c) make use of any Service Credits and Reconciliation Credits within the relevant Service Schedule Term;
- (d) devote such time and resource as is reasonably necessary to perform its obligations under this Agreement;
- (e) procure that its relevant third party providers provide such operation and assistance to the Supplier as reasonably required to enable the Supplier to perform the Services in accordance with this Agreement;
- (f) ensure that its network and systems comply with the relevant specifications provided by the Supplier from time to time;
- (g) to the extent permitted by law and except as otherwise expressly provided in this Agreement, be solely responsible for procuring, maintaining and security its network connections and telecommunications links from its systems to the Supplier's or its partners data centres, and all problems, conditions, delays, delivery failures and all other loss or damage arising from or relating to the Client's network connections or telecommunications links or caused by the internet;
- (h) use all reasonable endeavours to prevent any unauthorised access to, or use of, the Services and/ or the Documentation and, in the event of any such unauthorised access or use, promptly notify the Supplier.
- (i) co-operate with the Supplier in all matters relating to the Services;
- (j) appoint a manager in respect of the Services to be performed under each Service Schedule, such person as identified in the Service Schedule. That person shall have authority to contractually bind the Client on all matters relating to the relevant Services (including by signing Change Control Notices);
- (k) provide, for the Supplier, its agents, subcontractors, consultants and employees, in a timely manner and at no charge, access to the Client's premises, office accommodation, data and other facilities as required by the Supplier including any such access as is specified in a Service Schedule;
- (l) provide to the Supplier in a timely manner all documents, information, items and materials in any form (whether owned by the Client or a third party) required under a Schedule of Services or otherwise reasonably required by the Supplier in connection with the Services and ensure that they are accurate and complete in all material respects;
- (m) inform the Supplier of all health and safety and security requirements that apply at any of the Client's premises;
- (n) ensure that all the Client's Equipment is in good working order and suitable for the purposes for which it is used in relation to the Service and conforms to all relevant United Kingdom standards or requirements and any specific requirements or specifications set out in a Service Schedule;
- (o) obtain and maintain all necessary licences and consents and comply with all relevant legislation as required to enable the Supplier to provide the Services, including in relation to the installation of the Supplier's Equipment (if applicable), the use of all Client

Materials and the use of the Client's Equipment insofar as such licences, consents and legislation relate to the Client's business, premises, staff and equipment, in all cases before the Go Live Date;

- (p) keep, maintain and insure (with respect only to Supplier Equipment not covered by clause 5) any Supplier's Equipment provided under a Service Schedule in good condition and in accordance with the Supplier's instructions from time to time and not dispose of or use the Supplier's Equipment other than in accordance with the Supplier's written instructions or authorisation; and
- (q) comply with any additional responsibilities of the Client as set out in the relevant Service Schedule.

7.2 The Client shall not access, store, distribute or transmit any Viruses or any material during the course of its use of the Services that:

- (i) is unlawful, harmful, threatening, defamatory, obscene, infringing, harassing or racially or ethnically offensive;
- (ii) facilitates illegal activity;
- (iii) depicts sexually explicit images;
- (iv) promotes unlawful violence;
- (v) is discriminatory based on race, gender, colour, religious belief, sexual orientation, disability; or
- (vi) is otherwise illegal or causes damage or injury to any person or property;

and the Supplier may without liability or prejudice to its other rights to the Client disable the Client's access to any material that breaches the provisions of this clause 7.2.

7.3 The Client shall not introduce or permit the introduction of, any Virus into the Supplier's network and information systems.

7.4 In relation to the Authorised Users that Client undertakes that:

- (i) the maximum number of users that it authorises to access and use the Services and/ or the Documentation shall not exceed the number of Authorised Users;
- (ii) each Authorised User shall keep a secure password for his use of the Services and Documentation, that such password shall be changed no less frequently than every 90 days and that each Authorised User shall keep his password confidential;
- (iii) it shall maintain a written, up to date list of current Authorised Users and provide such list to the Supplier within 10 Business Days of the Supplier's written request at any time or times;
- (iv) if any audit reveals that any password has been provided to any individual who is not an Authorised User, then without prejudice to the Supplier's other rights, the Client shall promptly disable such passwords and the Supplier shall not issue any new passwords to any such individual and

- (v) It shall ensure that the Authorised Users use the Services and any Documentation provided in accordance with the terms and conditions of this Agreement and that it shall be responsible for any Authorised User's breach of this Agreement.

7.5 If the Supplier's performance of its obligations under this Agreement is prevented or delayed by any act or omission of the Client, its agents, subcontractors, consultants or employees then, without prejudice to any other right or remedy it may have, the Supplier shall be allowed an extension of time to perform its obligations equal to the delay caused by the Client.

7.6 The Supplier shall not be in breach of its obligations under this Agreement to the extent such breach is as a result of:

- (a) the Client's failure to perform, or its delay in performing, any of its obligations under this Agreement (including in respect of any Client Dependencies);
- (b) any act or omission carried out by an applicable regulator; and/or
- (c) compliance with specific instructions issued by an authorised representative of the Client,

(each being a "Relief Event" for the purposes of this Agreement).

7.7 Where reasonably practicable, the Supplier shall:

- (a) give the Client written details of the Relief Event promptly upon becoming aware of the Relief Event; and
- (b) use reasonable endeavours to perform its obligations under this Agreement, notwithstanding the Relief Event. Provided that the Supplier shall be entitled to be reimbursed by the Client for its directly incurred costs in doing so.

8. WARRANTIES

8.1 The Supplier warrants (as at the date of this Agreement and during the Term):

- (a) it will, during the relevant Service Schedule Term, provide the Services and make available any Documentation to the Client on and subject to the terms of this Agreement;
- (b) it will provide the Services in accordance with Good Industry Practice;
- (c) it will provide the Services with reasonable care and skill using suitably qualified personnel;
- (d) it will use commercially reasonable endeavours to make the Services available 24 hours a day, seven days a week, except for any:
 - (i) planned maintenance carried out during the maintenance window of 8pm to 10pm; and
 - (ii) unscheduled critical maintenance performed outside Business Hours, provided that the Supplier has used reasonable endeavours to give the Client at least 4 Business Hours notice in advance.
- (e) it will, as part of the Services in consideration of the support fees set out in the relevant Service Schedule, provide the Client with the Supplier's standard customer support

services during Business Hours in accordance with the Supplier's Support Services Policy. The Supplier may amend the Support Services Policy in its sole and absolute discretion from time to time. The Client may purchase enhanced support services separately at the Supplier's then current rates.

8.2 The Supplier does not warrant that:

- (a) the Client's use of the Services will be uninterrupted or error-free; or
- (b) that the Services, any Documentation provided and/or the information obtained by the Client through the Services will meet the Client's requirements.

8.3 The Supplier is not responsible for any delays, delivery failures, or any other loss or damage resulting from the transfer of data over communications networks and facilities, including the internet, and the Client acknowledges that the Services may be subject to limitations, delays and other problems inherent in the use of such communications facilities.

8.4 The Client warrants and represents to the Supplier that it has the authority to grant any rights to be granted to the Supplier under this Agreement.

8.5 Except as expressly provided in this Agreement, neither party gives any representation or warranty to the other party, and each party hereby excludes, to the fullest extent permitted by law, all express and implied terms, conditions, representations and warranties concerning the subject matter of this Agreement and the performance of its obligations hereunder, including any representation, warranty, term or condition of fitness for purpose, merchantability or satisfactory quality.

9. CHANGE CONTROL

9.1 Either party may propose changes to the scope or execution of the Services but no proposed changes shall come into effect until a relevant Change Control Notice has been signed by both parties. A Change Control Notice shall be a document setting out the proposed changes and the effect that those changes will have on:

- (a) the Services;
- (b) the Charges;
- (c) any Project Plan or timetable for delivery of the Services or any Implementation; and
- (d) any of the other terms of the relevant Service Schedule.

9.2 If the Supplier wishes to make a change to the Services it shall provide a draft Change Control Notice to the Client.

9.3 If the Client wishes to make a change to the Services:

- (a) it shall notify the Supplier and provide as much detail as the Supplier reasonably requires of the proposed changes, including the timing of the proposed change; and
- (b) the Supplier shall, as soon as reasonably practicable after receiving the information at clause (a), provide a draft Change Control Notice to the Client.

9.4 If the parties:

- (a) agree to a Change Control Notice, they shall sign it and that Change Control Notice shall amend the relevant Service Schedule; or

- (b) are unable to agree a Change Control Notice, either party may require the disagreement to be dealt with in accordance with the dispute resolution procedure in clause 31 (Multi-tiered dispute resolution procedure).

10. CHARGES AND PAYMENT

- 10.1 In consideration of the provision of the Services, any Software and/ or the Supplier Equipment by the Supplier, the Client shall pay the Charges, which shall be set out in the relevant Service Schedule.
- 10.2 If, at any time whilst using the Services, the Client exceeds the Service Metric included in the Charges as set out in a Service Schedule, then without prejudice to the Supplier's other rights, the Supplier shall charge the Client and the Client shall pay to the Supplier an amount equal to such underpayment as calculated in accordance with the prices set out in the relevant Service Schedule for the Service Metric exceeded, or if no prices are set out in the relevant Service Schedule its standard charges from time to time.
- 10.3 The Charges shall be as set out in Service Schedule or calculated in accordance with clause 10.2. If the Charges are not set out in the relevant Service Schedule and/ or clause 10.2 does not apply the Supplier may calculate the Charges on a time and materials basis as follows:
 - (a) the Supplier's daily fee rates as set out in the relevant Service Schedule are calculated on the basis of an eight-hour day, worked during Business Hours;
 - (b) the Supplier shall be entitled to charge an overtime rate of 150% of the daily fee rate referred to above on a pro rata basis for any time worked by individuals whom it engages on the Services outside Business Hours; and
 - (c) the Supplier shall ensure that every individual whom it engages on the Services completes time sheets to record time spent on the Services.
- 10.4 The Charges exclude the following, which shall be payable by the Client monthly in arrears, following submission of an appropriate invoice the cost of hotel, subsistence, travelling and any other ancillary expenses reasonably incurred by the individuals whom the Supplier engages in connection with the Services.
- 10.5 The Supplier shall invoice the Client for the Charges at the intervals specified, or as otherwise set out in the relevant Service Schedule. If no intervals are specified in a Service Schedule, the Supplier shall invoice the Client at the end of each month for Services performed during that month
- 10.6 Subject to clause 10.8, the Client shall pay each invoice submitted to it by the Supplier within 30 days of receipt to a bank account nominated in writing by the Supplier from time to time.
 - (a) Without prejudice to any other right or remedy that it may have, if the Client fails to pay the Supplier any sum due under this Agreement on the due date the Client shall pay interest on the overdue sum from the due date until payment of the overdue sum, whether before or after judgment. Interest under this clause will accrue each day at 4% a year above the Bank of England's base rate from time to time, but at 4% a year for any period when that base rate is below 0%.; and
 - (b) the Supplier may suspend part or all of the Services provided under this Agreement until payment has been made in full.

- 10.7 All sums payable to the Supplier under this Agreement:
- (a) are exclusive of VAT, and the Client shall in addition pay an amount equal to any VAT chargeable on those sums on delivery of a VAT invoice; and
 - (b) shall be paid in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law).
- 10.8 If the Client has a bona fide dispute with respect to the whole or any part of any invoice submitted by the Supplier, the Client:
- (a) shall notify the Supplier of the amount in dispute and explain why it is disputed;
 - (b) may withhold only the disputed amount and shall pay the balance of the relevant invoice in accordance with clause 10.5; and
 - (c) shall follow the process set out in clause 31 to resolve the dispute.

11. INTELLECTUAL PROPERTY RIGHTS

- 11.1 The Supplier and its licensors shall retain ownership of all Supplier IPRs and the Supplier confirms that it has all the rights necessary to grant the rights it purports to grant under and in accordance with this Agreement. The Client and its licensors shall retain ownership of all Intellectual Property Rights in the Client Materials. Nothing in this Agreement shall be construed as an assignment of any Intellectual Property Rights. Except as expressly stated in this Agreement, this Agreement does not grant the Client any rights to any Supplier IPRs.
- 11.2 The Supplier grants to the Client a fully paid up, worldwide, non-exclusive, royalty-free non-transferable licence to use, copy and modify the Deliverables for the Term for the purpose of receiving the Services.
- 11.3 The Supplier shall grant or procure the grant of a licence to use any Intellectual Property Rights in any Supplier Equipment and/ or Software provided pursuant to this Agreement on terms set out in this Master Agreement or in the relevant Service Schedule (as the case may be).
- 11.4 The Client grants to the Supplier a fully paid up, worldwide, non-exclusive, royalty-free, transferable licence to use, copy and modify the Client Materials for the Term for the purpose of providing the Services.
- 11.5 The Supplier:
- (a) warrants that the receipt and use of the Supplier IPRs by the Client in accordance with this Agreement shall not infringe the rights, including any Intellectual Property Rights, of any third party;
 - (b) shall, subject to clause 17.4, indemnify the Client against all liabilities, costs, reasonable expenses, damages and losses (included but not limited to any direct, indirect or consequential losses, loss of profit, loss of reputation and all other reasonable professional costs and expenses) suffered or incurred or paid by the Client arising out of or in connection with any claim brought against the Client for actual or alleged infringement of a third parties Intellectual Property Rights arising out of, or in connection with, the receipt, or use of the Supplier IPRs.
 - (c) shall not be in breach of the warranty at clause (a), and the Client shall have no claim under the indemnity at clause (b) to the extent the infringement arises from:

- (i) the incorporation of any Client Materials in what would otherwise be considered to be Supplier IPRs
- (ii) any modification of the Supplier IPRs other than by or on behalf of the Supplier; and
- (iii) compliance with the Client's specifications or instructions, provided that the Supplier shall notify the Client if it knows or suspects that compliance with such specification or instruction may result in infringement.

11.6 The Client:

- (a) warrants that the receipt and use in the performance of this Agreement by the Supplier, its agents, subcontractors or consultants of the Client Materials shall not infringe the rights, including any Intellectual Property Rights, of any third party; and
- (b) shall indemnify the Supplier against all liabilities, costs, expenses, damages and losses (including but not limited to any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other reasonable professional costs and expenses suffered or incurred or paid by the Supplier arising out of or in connection with any claim brought against the Supplier, its agents, subcontractors or consultants for actual or alleged infringement of a third party's Intellectual Property Rights arising out of, or in connection with, the receipt or use in the performance of this Agreement of the Client Materials.

11.7 If either party (Indemnifying Party) is required to indemnify the other party (Indemnified Party) under this clause 10.8, the Indemnified Party shall:

- (a) notify the Indemnifying Party in writing of any claim against it in respect of which it wishes to rely on the indemnity at clause (b) or clause (b) (as applicable) (IPRs Claim);
- (b) allow the Indemnifying Party, at its own cost, to conduct all negotiations and proceedings and to settle the IPRs Claim, always provided that the Indemnifying Party shall obtain the Indemnified Party's prior approval of any settlement terms, such approval not to be unreasonably withheld;
- (c) provide the Indemnifying Party with such reasonable assistance regarding the IPRs Claim as is required by the Indemnifying Party, subject to reimbursement by the Indemnifying Party of the Indemnified Party's costs so incurred; and
- (d) not, without prior consultation with the Indemnifying Party, make any admission relating to the IPRs Claim or attempt to settle it, provided that the Indemnifying Party considers and defends any IPRs Claim diligently, using competent counsel and in such a way as not to bring the reputation of the Indemnified Party into disrepute.

12. COMPLIANCE WITH LAWS

12.1 In performing their obligations under this Agreement, each party shall comply with Applicable Laws

12.2 The parties will agree changes to the Services required as a result of changes to the Applicable Laws using the change control procedure set out in clause 9 (Change control).

13. DATA AND DATA PROTECTION

- 13.1 The Client shall own all right, title and interest in and to all of the Client Data that is not personal data and shall have sole responsibility for the legality, reliability, integrity, accuracy and quality of all such Client Data.
- 13.2 The Supplier shall follow its archiving procedures for Client Data as set out in its Back Up Policy, as such document may be amended by the Supplier in its sole discretion from time to time. In the event of any loss or damage to Client Data, the Client's sole and exclusive remedy against the Supplier shall be for the Supplier to use reasonable commercial endeavours to restore the lost or damaged Client Data from the latest back-up of such Client Data maintained by the Supplier in accordance with the archiving procedure described in its Back-Up Policy. The Supplier shall not be responsible for any loss, destruction, alteration or disclosure of Client Data caused by any third party (except those third parties sub-contracted by the Supplier to perform services related to Client Data maintenance and back-up for which it shall remain fully liable under clause 13).
- 13.3 The Supplier shall, in providing the Services, comply with its [Privacy and Security Policy], as such document may be amended from time to time by the Supplier in its sole discretion.
- 13.4 Both parties will comply with all applicable requirements of the Data Protection Legislation. This clause 13 is in addition to, and does not relieve, remove or replace, a party's obligations or rights under the Data Protection Legislation.
- 13.5 The parties acknowledge that for the purposes of the Data Protection Legislation, the Client is the controller and the Supplier is the processor. As applicable each Service Schedule sets out the scope, nature and purpose of processing by the Supplier, the types of personal data and categories of data subject. Such processing shall take place throughout the Term.
- 13.6 Without prejudice to the generality of clause 13.1, the Client warrants that it has and will maintain in place throughout the term of his Agreement all necessary and/or appropriate consents and notices in place to enable lawful transfer of the personal data to the Supplier for the duration and purposes of this Agreement.
- 13.7 Without prejudice to the generality of clause 13.1, the Supplier shall, in relation to any personal data processed in connection with the performance by the Supplier of its obligations under this Agreement:
- (a) process that personal data only on the documented written instructions of the Client unless the Supplier is required by Applicable Laws to otherwise process that personal data. Where the Supplier is relying on the laws of a member of the European Union or European Union Law as the basis for processing personal data, the Supplier shall promptly notify the Client of this before performing the processing required by the Applicable Laws unless those Applicable Laws prohibit the Supplier from so notifying the Client;
 - (b) ensure that it has in place appropriate technical and organisational measures, in accordance with the UK Data Protection Legislation, 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.

- (c) ensure that all personnel who have access to and/or process personal data are obliged to keep the personal data confidential; and
- (d) only transfer personal data outside of the European Economic Area where the following conditions are fulfilled:
 - (i) the Client or the Supplier has provided appropriate safeguards in relation to the transfer in accordance with the UK Data Protection Legislation;
 - (ii) the data subject has enforceable rights and effective legal remedies;
 - (iii) the Supplier complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any personal data that is transferred; and
 - (iv) the Supplier complies with reasonable instructions notified to it in advance by the Client with respect to the processing of the personal data;
- (e) provide reasonable assistance to the Client, at the Client's cost, in responding to any request from a data subject and in ensuring compliance with its obligations under the Data Protection Legislation with respect to security, breach notifications, data protection impact assessments and consultations with supervisory authorities or regulators;
- (f) notify the Client without undue delay on becoming aware of a personal data breach;
- (g) at the written direction of the Client, delete or return personal data and copies thereof to the Client on termination of this Agreement or any relevant Service Schedule (as the case may be) unless required by Applicable Law to store the personal data; and
- (h) maintain complete and accurate records and information to demonstrate its compliance with this clause 13 and allow for audits by the Client or the Client's designated auditor of such records and information upon reasonable notice and at the Client's cost, (provided that the confidentiality of the Supplier's information and information relating to its other clients is not prejudice) and immediately inform the Client if, in the opinion of the Supplier, an instruction infringes the Data Protection Legislation.

13.8 Third party processors of personal data under this Agreement provided the Supplier into a written agreement with such third party processors which provide either substantially similar protection to personal data and data subjects to those set out in this clause 13 or which are substantially on that third parties standard terms of business and in either case which the Supplier undertakes reflect and will continue to reflect the requirements of the Data Protection Legislation. As between the Client and the Supplier, the Supplier shall remain fully liable for all acts or omissions of any third party processor appointed by it pursuant to this clause 13.

14. CONFIDENTIALITY

14.1 Each party undertakes that it shall not at any time during the Term, and for a period of two (2) years after termination of this Agreement, disclose to any person any confidential information concerning the business, affairs, Clients, clients or suppliers of the other party except as permitted by clause (a).

- 14.2 Each party may disclose the other party's confidential information:
- (a) to its employees, officers, representatives or advisers who need to know such information for the purposes of exercising the party's rights or carrying out its obligations under or in connection with this Agreement. Each party shall ensure that its employees, officers, representatives or advisers to whom it discloses the other party's confidential information comply with this clause 14; and
 - (b) as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.
- 14.3 No party shall use the other party's confidential information for any purpose other than to exercise its rights and perform its obligations under or in connection with this Agreement.

15. AUDIT

- 15.1 The Client shall allow the Supplier or its designated auditor to audit the Client's use of the Service in order to establish such information as it may reasonably require, including to assess the correct Charges and to establish that the Services are being used in accordance with this Agreement. Each such audit may be conducted no more than once per Contract Year at the Supplier's expense and in such a manner as not to substantially interfere with the Client's normal conduct of business.

16. INSURANCE

The Supplier shall for the duration of the Term and at its own expense ensure that it has in place adequate insurance in respect of its provision of the Services with a reputable insurance company. On request the Supplier shall provide to the Client copies of the insurance policies it has in place to comply with this clause 15.

17. LIMITATION OF LIABILITY

- 17.1 References in this clause 17 to liability include every kind of liability arising under or in connection with this Agreement including liability in contract, tort (including negligence), misrepresentation, restitution or otherwise.
- 17.2 Neither party may benefit from the limitations and exclusions set out in this clause in respect of any liability arising from its deliberate default.
- 17.3 Nothing in this Agreement limits any liability which cannot legally be limited, including liability for:
- (a) death or personal injury caused by negligence;
 - (b) fraud or fraudulent misrepresentation; and
 - (c) breach of the terms implied by section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession).
- 17.4 Subject to clause 17.3, the Supplier's total liability to the Client in respect of all breaches of duty occurring within any Contract Year shall not exceed one hundred and ten percent (110%) of the total Charges paid or due to the Supplier in the Contract Year in which the breaches occurred.
- 17.5 The amounts awarded or agreed to be paid by way of Service Credit shall count towards the cap on the Supplier's liability under clause 17.4.

17.6 Subject to clause 17.3 neither party shall be liable for the following types of loss:

- (a) loss of profits;
- (b) loss of sales or business;
- (c) loss of agreements or contracts;
- (d) loss of anticipated savings;
- (e) loss of use or corruption of software, data or information;
- (f) loss of or damage to goodwill; and
- (g) indirect or consequential loss.

18. TERMINATION

18.1 Without affecting any other right or remedy available to it, either party may terminate this Agreement as a whole with immediate effect by giving written notice to the other party if the other party:

- (a) commits a material breach of any term of this Agreement and such breach is irremediable or (if such breach is remediable) fails to remedy that breach within 28 Business Days of being notified in writing to do so; or
- (b) becomes subject to an Event of Insolvency.

18.2 Either party may terminate any Service Schedule immediately upon written notice to the other party if the other party commits a material breach of the relevant Service Schedule and such breach is irremediable or (if such breach is remediable) fails to remedy that breach within 28 Business Days of being notified in writing to do so.

18.3 Without affecting any other right or remedy available to it, the Supplier may at its option either:

- (a) suspend provision of the Services under this Agreement;
- (b) terminate this Agreement as a whole; or
- (c) terminate any Service Schedule;

with immediate effect by giving written notice to the Client, if:

- (i) the Client fails to pay any amount due under this Agreement on the due date for payment and remains in default not less than 30 days after being notified in writing to make such payment;
- (ii) the Client in respect of its receipt and use of the Services is in breach of any Applicable Laws or if the continued provision of any of the Services would be in breach of Applicable Laws;
- (iii) there is a change of Control of the Client.

18.4 Where the Supplier has exercised its right to suspension under clause 18.3 the Client shall notify the Supplier promptly of any rectification of the circumstances that gave rise to such right, following receipt of which the Supplier shall reinstate provision of the Services as soon as reasonably practicable.

19. CONSEQUENCES OF TERMINATION

- 19.1 Termination of any Service Schedule shall not affect the validity of any other Service Schedules outstanding at the date of such termination. Termination or expiry of this Agreement as a whole shall not affect any outstanding Service Schedules then in force and the provisions of this Master Services Agreement shall continue to apply to any such outstanding Services Schedules for the applicable Service Schedule Term.
- 19.2 On termination or expiry of this Agreement or any Service Schedule:
- (a) shall not affect the validity of any other Service Schedules entered into pursuant to this Agreement and shall not affect any outstanding Service Schedules then in force and the provisions of this Agreement shall be deemed to apply to any such outstanding Service Schedule for the duration of each applicable Service Schedule Term.
 - (b) the Client shall immediately pay to the Supplier all of the Supplier's outstanding unpaid invoices and interest and, in respect of the Services supplied under the Agreement or relevant Service Schedule but for which no invoice has been submitted, the Supplier may submit an invoice, which shall be payable immediately on receipt;
 - (c) all licences and rights granted under this Master Agreement or any Service Schedule so terminated or expired shall immediately terminate;
 - (d) the Client shall return and make no further use of any property, Documentation and other items (and all copies of them) belonging to the Supplier;
 - (e) the Client shall, promptly return any Supplier Equipment in its possession or control. If the Client fails to do so, then the Supplier may enter the Client's premises and take possession of the Supplier Equipment. Until the Supplier's Equipment has been returned or repossessed, the Client shall be solely responsible for its safe keeping; and
 - (f) the parties shall take such steps as may be specified with respect to termination in any relevant Service Schedule.
- 19.3 Any provision of this Agreement that expressly or by implication is intended to come into or continue in force on or after termination or expiry of this Agreement or the relevant Service Schedule shall remain in full force and effect.
- 19.4 Termination or expiry of this Agreement shall not affect any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination or expiry, including the right to claim damages in respect of any breach of this Agreement which existed at or before the date of termination or expiry.

20. FORCE MAJEURE

- 20.1 Provided it has complied with clause 20.3, if a party is prevented, hindered or delayed in or from performing any of its obligations under this Agreement by a Force Majeure Event (Affected Party), the Affected Party shall not be in breach of this Agreement or otherwise liable for any such failure or delay in the performance of such obligations. The time for performance of such obligations shall be extended accordingly.
- 20.2 The corresponding obligations of the other party will be suspended, and its time for performance of such obligations extended, to the same extent as those of the Affected Party.

20.3 The Affected Party shall:

- (a) as soon as reasonably practicable after the start of the Force Majeure Event, notify the other party of the Force Majeure Event, the date on which it started, its likely or potential duration, and the effect of the Force Majeure Event on its ability to perform any of its obligations under the Agreement; and
- (b) use all reasonable endeavours to mitigate the effect of the Force Majeure Event on the performance of its obligations.

20.4 If the Force Majeure Event prevents, hinders or delays the Affected Party's performance of its obligations for a continuous period of more 90 days], the party not affected by the Force Majeure Event may terminate the relevant Service Schedule, or if the Force Majeure Event affects the Affected Party's ability to perform the Agreement as a whole, it may terminate the Agreement as a whole by giving 4 weeks' written notice to the Affected Party.

21. ASSIGNMENT AND OTHER DEALINGS

21.1 The Client shall not assign, transfer, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any of its rights and obligations under this Agreement.

21.2 The Supplier may at any time assign, mortgage, charge, delegate, declare a trust over or deal in any other manner with any or all of its rights under this Agreement.

22. VARIATION

Subject to clause 9 (Change control), no variation of this Agreement shall be effective unless it is in writing and signed by the parties (or their authorised representatives).

23. WAIVER

23.1 A waiver of any right or remedy under this Agreement or by law is only effective if given in writing and shall not be deemed a waiver of any subsequent right or remedy.

23.2 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.

23.3 A party that waives a right or remedy provided under this Agreement or by law in relation to one party, or takes or fails to take any action against that party, does not affect its rights in relation to any other party.

24. RIGHTS AND REMEDIES

The rights and remedies provided under this Agreement are in addition to, and not exclusive of, any rights or remedies provided by law.

25. SEVERANCE

25.1 If any provision or part-provision of this Agreement is or becomes invalid, illegal or unenforceable, it shall be deemed deleted, but that shall not affect the validity and enforceability of the rest of this Agreement.

- 25.2 If any provision or part-provision of this Agreement is deemed deleted under clause 25.1 the parties shall negotiate in good faith to agree a replacement provision that, to the greatest extent possible, achieves the intended commercial result of the original provision.

26. ENTIRE AGREEMENT

- 26.1 This Agreement constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.
- 26.2 Each party agrees that it 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 Agreement. Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in this Agreement.

27. NO PARTNERSHIP OR AGENCY

- 27.1 Nothing in this Agreement is intended to, or shall be deemed to, establish any partnership or joint venture between any of the parties, constitute any party the agent of another party, or authorise any party to make or enter into any commitments for or on behalf of any other party.
- 27.2 Each party confirms it is acting on its own behalf and not for the benefit of any other person.

28. THIRD PARTY RIGHTS

- 28.1 This Agreement does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Agreement.
- 28.2 The rights of the parties to rescind or vary this Agreement are not subject to the consent of any other person.

29. NOTICES

- 29.1 Any notice given to a party under or in connection with this Agreement shall be in writing and shall be:
- (a) delivered by hand or by pre-paid first-class post or other next Business Day delivery service at its registered office (if a company) or its principal place of business (in any other case); or
 - (b) sent by email to 11 St George's Court, Kirkham, Preston PR4 2EF.(Celerity) and [ADDRESS] (Client)
- 29.2 Any notice shall be deemed to have been received:
- (a) if delivered by hand, on signature of a delivery receipt or at the time the notice is left at the proper address; and
 - (b) if sent by pre-paid first-class post or other next Business Day delivery services, at 9.00 am on the second Business Day after posting or at the time recorded by the delivery service (if appropriate); and
 - (c) if sent email, at the time of transmission, or, if this time falls outside Business Hours in the place of receipt, when Business Hours resume.
- 29.3 This clause does not apply to the service of any proceedings or any documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

30. COUNTERPARTS

- 30.1 This Agreement may be executed in any number of counterparts, each of which when executed shall constitute a duplicate original, but all the counterparts shall together constitute the one agreement.
- 30.2 Transmission of an executed counterpart of this Agreement or any Service Schedule (but for the avoidance of doubt not just a signature page) by (a) fax or (b) email (in PDF, JPEG or documents executed using "DocuSign") shall take effect as delivery of an executed counterpart of this Agreement or Service Schedule.

31. MULTI-TIERED DISPUTE RESOLUTION PROCEDURE

- 31.1 If a dispute arises out of or in connection with this Agreement or the performance, validity or enforceability of it (Dispute) then 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 [EMPLOYEE TITLE] of the Client and [EMPLOYEE TITLE] of the Supplier shall attempt in good faith to resolve the Dispute;
 - (b) if the [EMPLOYEE TITLE] of the Client and [EMPLOYEE TITLE] of the Supplier 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 [SENIOR OFFICER TITLE] of the Client and [SENIOR OFFICER TITLE] of the Supplier who shall attempt in good faith to resolve it; and
 - (c) if the [SENIOR OFFICER TITLE] of the Client and [SENIOR OFFICER TITLE] of the Supplier are for any reason unable to resolve the Dispute within 15 days of it being referred to them, the parties will attempt to settle it by mediation in accordance with the 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. The mediation will start not later than [NUMBER] days after the date of the ADR notice.
- 31.2 The commencement of mediation shall not prevent the parties commencing or continuing court proceedings in relation to the Dispute under clause 33 which clause shall apply at all times.
- 31.3 If the Dispute is not resolved within 30 days after service of the ADR notice, or either party fails to participate or to continue to participate in the mediation before the expiration of the said period of 30 days, or the mediation terminates before the expiration of the said period of 30 days, the Dispute shall be finally resolved by the courts of England and Wales in accordance with clause 33

32. GOVERNING LAW

This Agreement 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 the law of England and Wales.

33. JURISDICTION

Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with this Agreement or its subject matter or formation.

This Agreement has been entered into on the date stated at the beginning of it.

SCHEDULE 1
AVAILABLE SERVICES

1. Custodian Business-continuity services
2. Custodian Data back-up services
3. Cloud services
 - a. Software as a service with support desk
 - b. Infrastructure as a service
 - c. Storage management
4. Citadel IT Security Services
 - a. Security and training
 - b. Vulnerability scanning
 - c. Managed security and incident management services
 - d. Phishing services
 - e. Firewall
 - f. Patch Management
5. Intuition Monitoring Services
6. Intuition Services incorporating a Right to Use and Software Support
7. Managed Services (being a combination of two or more of the above)

Signed by [NAME OF
DIRECTOR] for and on behalf
of Celerity Limited

.....

Director

Signed by [NAME OF
DIRECTOR] for and on behalf
of [NAME OF CLIENT]

.....

Director