DATED 202[*]

(1) FRONTLINE CONSULTANCY AND BUSINESS SERVICES LIMITED

and

(2) [INSERT CUSTOMER DETAILS]

MASTER SERVICES & EQUIPMENT AGREEMENT

Bass Warehouse
4 Castle Street
Manchester
M3 4LZ

beyondcorporate.co.uk

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THIS AGREEMENT is made on the day of 202[*]

PARTIES

(1) FRONTLINE CONSULTANCY AND BUSINESS SERVICES LIMITED incorporated and registered in England and Wales with company number 02643915 whose registered office is at FRONTLINE HOUSE, EPSOM AVENUE HANDFORTH, WILMSLOW, CHESHIRE (the **Supplier**);

(2) [FULL COMPANY NAME] incorporated and registered in England and Wales with company number [NUMBER] whose registered office is at [REGISTERED OFFICE ADDRESS] (the **Customer**).

BACKGROUND

(A) The Supplier is in the business of providing the Services.

(B) The Customer wishes to obtain and the Supplier wishes to provide the Services on the terms set out in this agreement.

AGREED TERMS

1. INTERPRETATION

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

Additional Charges : application of Storage and/or Compute increases to protect Service, as defined in clause 10.1.(d)

Additional Services: other than the Services, such services (including the Services) as the Supplier may agree to supply to the Customer from time to time in accordance with the Change Control Note (CCN) process defined in the Contract

Affiliate: in relation to a party, any entity that directly or indirectly controls, is controlled by, or is under common control with that party from time to time.

Applicable Data Protection Laws: means:

(a) To the extent the UK GDPR applies, the law of the United Kingdom or of a part of the United Kingdom which relates to the protection of personal data.

(b) To the extent the EU GDPR applies, the law of the European Union or any member state of the European Union to which the Supplier is subject, which relates to the protection of personal data.

Applicable Laws: all applicable laws, statutes, regulation and codes from time to time in force.

Amortised Costs: costs, incurred by the Supplier prior to Go-Live, to provision and supply the services to the customer, that are to be invoiced as part of the Monthly Recurring Charges (MRC), spread evenly over the Initial Term of the agreement (or a term agreed in writing between the Customer and the Supplier)

Banked Time: A monetary value equivalent to a number of days at current published day rate. Actual work consumed against agreed contract day rates. All time spent on a project or piece of work is billable. Estimates are not a guarantee of total cost and the delivery make consume more or less than estimated. Overrun outside of PO coverage can be billed without the need of additional PO coverage but Frontline will inform the customer prior to exceeding the value as purchased. Expiry Date 12 months from Effective Date or as otherwise agreed in advance.

Blueprint : a specification document that describes which functionality within SAP Business One will be used and which functionality will not be used. The Blueprint also describes functionality required by the customer that will be delivered to change the default behaviour of the out of the box solution.

Business Day: a day, other than a Saturday, Sunday or public holiday in England, on which clearing banks are open for non-automated commercial business in the .City of London.

Bespoke Services: Any such service provided by the Supplier which does not form part of the Supplier’s Service Catalogue as updated from time to time, or is otherwise tailored to the Customer, as agreed between the parties within the Proposal, the PID or the SOW.

Business Hours: the period from 8.00 am to 6.00 pm on any Business Day.

Change Control Note (CCN): has the meaning given in clause 11.1.

Cloud Services: means a service or application (which may be provided by a Third Party Provider (Public Cloud Services) or the Supplier (Supplier Cloud Services) that is outside of a Customer's on-premises infrastructure described in the Statement of Work to be provided by the Supplier in accordance with the Contract and the Cloud Services Terms.

Cloud Services Terms: means the terms specifically applicable to Cloud Services.

Contractual Term: the recurring fixed term in respect of each of the Services as detailed in the Proposal and determined from the date of Go-Live, or as otherwise set out therein.

Co-location Service: has the meaning of Customer’s Equipment being located in a data centre facility for which the Supplier has management responsibility, contractual terms or ownership of, to provide space, power and heating/cooling services only. Additional Services can be added under a Bespoke Service.

Compute: refers to adjustable, scalable units of measure, typically related to CPU, vCPU, RAM, vRAM and Storage which in many cases can be increased following CCN, but often can’t be reduced.

Consumption Paid Services: CPS, whether Services, Professional Services or hosting capacity on demand**,** is provided as a method for payment to the Supplier after delivery of said service. This will be at full rate as defined by the Supplier in Schedule 4 - Reference Charges and payment terms. No discounts to these standard rates are provided for Consumption Paid Services.

Control: has the meaning given in section 1124 of the Corporation Tax Act 2010 and controls, controlled and the expression change of control shall be construed accordingly.

Customer's Equipment: any equipment, including tools, infrastructure, systems, cabling or facilities, provided by the Customer, its agents, subcontractors or consultants which is used directly or indirectly in the supply of the Works including any such items specified in a Statement of Work.

Customer's Manager: the Customer's project manager or designated service manager / change approver (anticipated to be at senior manager level or above) from time to time, for the Services appointed under clause 7, and as set out in either the Project Initiation Document (PID) or the Service Definition Document (SDD). Where neither a PID or SDD is required, then the Customer primary contact will be appointed this responsibility.

Customer Materials: all documents, information, items and materials in any form, whether owned by the Customer or a third party, which are provided by the Customer to the Supplier in connection with the Works, including the items provided pursuant to clause 7.1.4.

Customer Personal Data: any personal data which the Supplier processes in connection with this agreement, in the capacity of a processor on behalf of the Customer.

Deliverables: any output of the Works to be provided by the Supplier to the Customer as specified in a Statement of Work and any other documents, products and materials provided by the Supplier to the Customer in relation to the Works (excluding the Supplier's Equipment).

Document: includes, in addition to any document in writing, any drawing, map, plan, diagram, design, picture or other image, tape, disk or other device or record embodying information in any form including, but not limited to, all operational manuals, user instruction manuals, technical literature and all other related materials in human readable and/or machine readable form and Documents shall be construed accordingly.

Effective Date: the date on which the contract takes effect

EU GDPR: means the General Data Protection Regulation ((EU) 2016/679), as it has effect in EU law.

Equipment: computer hardware and/or any other equipment as detailed in the PID, SOW or Proposal and which is ordered by and supplied to the Customer in accordance with the Contract.

Escrow Agreement: the escrow agreement entered between the Supplier and the Customer as specified under clause 14.

Extended Support: the Support Service provided by the Supplier for which the hours shall be extended to 7am-7pm (Monday to Friday, excluding UK bank holidays), to reflect increased usage and Excessive Use, as defined in the FUP.

Fixed Price: A Fixed Price for a set of pre-defined Deliverables. Estimate is guaranteed within the bounds of the agreed scope as defined in the Solution Overview. During discovery a Scope of Works document and/or a Blueprint Document will be produced and prior to this stage any estimate can only be considered a Rough Order of Magnitude. If a customer order is received for a fixed price delivery prior to the completion of the scoping documents Frontline retains the right to highlight any unexpected or un-notified issues that impact our ability to deliver the scope, to the agreed quality and budget, and present an updated commercial model or suggested alternative approaches to reflect this new understanding. Changes to scope will require the issue and acceptance of a CCN.

FUP (**Fair Use Policy):** the Supplier’s fair use policy updated from time to time and available in the Service Wrapper and Dependency Terms document (located within the Service Catalogue portal.

Go-Live: in respect of all Services defined within Schedule 1Part 1 and Part 44, the date on which such Service is fully operational and available for use as confirmed by the Supplier in writing (and not, for the avoidance of doubt, the Effective Date and/or the Service Go-Live where only part of a Service is available or where there is only partial Go-Live). For Schedule 1Part 1 – Support Services: the Go-Live date is the Effective Date.

Go-Live Date: in respect of each Service, the date on which the Go-Live occurs.

Handover Period: such period as is required to carry out the Handover Services as set out in the Handover Timetable. During the Handover Period, it is agreed that SLAs and metrics related to Material Breach are not effective as this period allows for service stabilization and is likely supported by the project and delivery team not the service management team

Handover Timetable: the timetable in respect of the Handover Services as set out in the Proposal.

Handover Services: the services which are part of the handover process to a Customer, either On-boarding or Offboarding, as applicable, and more particularly set out in the Proposal.

Holding Company: means a holding company or subsidiary as defined in section 1159 of the Companies Act 2006.

Information Classification: Under the Suppliers commitment to ISO 27001, information Classification is assigned to media, documentation and designs, that clearly identifies the intended confidentiality of these items. Content shared with the Customer will either be Public or Customer Confidential, the latter is not intended for onward distribution and should be considered in line with Intellectual Property Rights.

Initial Term: the fixed initial term in respect of each of the Services as detailed in the Proposal and which shall commence from Go-Live.

Input Material: all Documents, information and materials provided by the Customer relating to the Services and/or the Equipment including (but not limited to) computer programs, data, reports and specifications.

Intellectual Property Rights: patents, utility models, rights to inventions, copyright and neighbouring and related rights, moral rights, trademarks and service marks, business names and domain names, rights in get-up and trade dress, goodwill and the right to sue for passing off or unfair competition, rights in designs, rights in computer software, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how and trade secrets) and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.

License Bound Services: refers to services committed to by the Supplier on behalf of (and in agreement with) the Customer that have vendor or Third Party Supplier terms that bind either usage or payment terms for a set duration. These License Bound Services cannot be reduced once allocated to the Customer and are entered into with the Customer acknowledging this liability.

Managed Services: where the Supplier takes on all administrative access exclusively and delivers pro-active services in line with the service descriptions, measurable against agreed KPIs and may result in Service Credits if KPIs are not achieved.any of the Services set out at part 1 of Schedule 1.

Material Breach: is taken to mean a fundamental failure in the delivery of contracted services by the Supplier (for example, consistent failure over consecutive months of the same matric to meet availability SLAs), or fundamental failure of the obligations of the Customer under the terms of the contract. During the first three months after Go-Live of any Service (for a new or renewed contract or term), Material Breach cannot apply as this is typically seen as a realistic timeframe for both parties to understand service and business as usual operation.

Mileage Rate: this is defined as the official HMRC business mileage rates for the appropriate tax year and will be billed as traveled between the Supplier’s head office and the Customer’s site being visited.

Milestone: a date by which a part or all of the Works is to be completed, as set out in a Statement of Work.

Milestone Payment: An agreed upon value to deliver discrete Deliverables as detailed in the Solutions Overview Invoiced upon completion of agreed and published milestones, to be detailed in any quotation or proposal. Delivery or proof of completion of the agreed items making up the milestone will trigger payment. Acceptance criteria for each milestone will be clearly identified in the project plan. Can only be used for a known project at the time of order placement.

Monthly Recurring Cost (MRC): is the monthly fee of the relevant Service or Services as defined within the Proposal but excludes any Variable Costs. Annual costs that are amortised over the year may also be included within MRC as agreed.

Non-Recurring Cost (NRC): is the one-off costs relating to the Proposal as also outlined in the SOW, that typically include, but are not limited to Co-location Service, Equipment and Professional Services.

Off-boarding: the process in which the Supplier facilitates the Customer transitioning from the Services provided by the Supplier to another service provider, as specified within the relevant documentation provided by the Supplier**.**

On-boarding: the process in which the Supplier facilitates the Customer's onboarding in respect of the Services, as specified in the relevant documentation**.**

Out of Pocket Expenses: refers to costs incurred for Customer site visits performed by consultants and Professional Services staff (may also apply to management or sales staff where travel is abroad or incurs significant cost), these are managed by the Supplier's internal policies to define acceptable limits, but include hotel (including WiFi), mileage (at the stated Mileage Rate), toll road fees, car parking, evening meals, breakfast, per diem and other accepted costs that are recharged to the Customer**.**

Partner: is the term given to either an interested party in the delivery of the Services to the Customer, or Reseller of the Supplier's Services to the Customer, or an authorised representative who introduced the Supplier and Customer for the purposes of this contract

Payment in Advance: An agreed upon value of Professional Services or discrete as detailed in the Solutions Overview. Invoiced for full payment of the balance upon receipt of order. This payment method has a natural expiry of 12 months from point of purchase and any remaining balance after 12 months will be written off without prior agreement. Can be used for Banked Time or Fixed Price delivery.

Payment in Arrears: An agreed upon value of Professional Services to be purchased by the customer via the issue of a Purchase Order. Invoice monthly in Arrears against actual consumed effort. The cost of effort will be deducted from the balance at the prevailing contract day rate for Frontline Professional Services. Can only be used for Banked Time delivery.

Payment Plan: An agreed upon value of Professional Services or discrete deliverables as detailed in the Solutions Overview, to be purchased by the customer via the issue of a Purchase Order. Invoiced quarterly or monthly in advance via Direct Debit. The cost of effort will be deducted from the balance at the prevailing contract day rate for Frontline Professional Services. Can be used for Banked Time or Fixed Price delivery.

Pre-existing Materials: all Documents, information and materials provided by the Supplier relating to the Services which existed prior to the commencement of the Contract, including computer programs, data, reports and specifications**.**

Professional Services: whether consultancy or otherwise, to deliver project management, delivery services or support services to achieve any of the services as set out at in Schedule 1 - Service Catalogue**.**

Project Initiation Document (PID): the project initiation document in respect of any Managed Services or Professional Services, the report (if any) prepared by the Supplier in accordance with clause 4 and which sets out details of any Professional Services that are to be supplied by the Supplier to the Customer pursuant to the Contract as set out in a Proposal and which sets out the specific duties and responsibilities of each of the parties in respect of such Services.

Project timeline: following Proposal Acceptance, the Supplier's project manager will engage with the Customer and agree the scope, Deliverables, success criteria and timeline that is identified within the PID. Further to this, the timeline and PID reserve key resources, skillsets and personnel from the Supplier who are in high demand. Adjustments to the timeline (at any point) will cause a significant amount of resource, skillset and personnel replanning that is not included within the project costing. As a result, any delays, may be chargeable outside of the project budget.

Proof of Concept / Proof of Value (PoC / PoV): relates to the deployment or delivery of an appliance, functionality, capability, Service or solution for a finite period of time to permit the verification of expected output from the proposed deployment or delivery. The expected output is expected to evidence suitability of the deployment / delivery to reassure the Customer that the deployment / delivery is fit for purpose and should then be included within the contract under CCN

Proposal Acceptance: has the meaning given at clause 2.3**.**

Proposal: the proposal, quotation or order confirmation (together with any Solutions Overview (SO) or Statement of Works attached) and which is attached to these Conditions detailing the Services and/or the Equipment to be provided by the Supplier to the Customer and as such Proposal may be varied from time to time in accordance with clause 10 (Change Control Process)**.**

Public Cloud Services: those services which are available in a public cloud environment, provided by a Third Party Supplier that is outside of a Customer's on-premises infrastructure described in the Statement of Work to be provided by the Supplier in accordance with the Contract and the Cloud Services Terms**.**

Reference Charges: the standard charges for the Service Catalogue items, Professional Services and or Equipment or the framework for calculating them as set out in Schedule 4 as varied from time to time in accordance with this agreement (essentially the Supplier's rate card).

Relevant Initial Term: in relation to a Managed Service, the Initial Term for that Managed Service, as detailed in the Proposal and where more than one Managed Service is being supplied pursuant to the Contract, Relevant Initial Terms shall mean all of such Initial Terms.

Renewal: the process by which the contract continues beyond the Initial Term, but for the same duration identified as the Initial Term.

Reseller: a party working with the Supplier to offer a holistic Service offering to the customer that combines resource, capability, knowledge or Services to the Customer to meet the Customer's requirements

SDD: the service definition document that (where the Supplier deems necessary for Bespoke Services) may be prepared by the Supplier in accordance with clause 4 and which sets out details of the Managed Services to be supplied pursuant to the Contract and the specific duties and responsibilities of each of the parties .

Service Catalogue: the full and complete list of defined Services provided by the Supplier that are available to the Customer as updated from time to time. This list can be found at https://www.frontline-consultancy.com/service_catalogue/ and is provided as defined. Any required adjustment or addition would be a Bespoke Service and would be defined separately.

Service Credit: the service credit payable by the Supplier for failing to meet a Service Level as defined in Schedule 1 - Service Catalogue - Supplier Service Catalogue – Managed Services: and in relation to Service Credits, shall be construed accordingly.

Service Go-Live: the date an individual Service commences, irrespective of Effective Date or Go-Live date

Service Level: such of the service levels applicable to the Managed Services as set out at Schedule 1 which the Customer has selected to apply in respect of a Service and as indicated in the Proposal for that Service and Service Levels shall be construed accordingly.

Service or Services: means any of the services provided by the Supplier to the Customer, including (but not limited to) the Managed Services, Cloud Services, Professional Services, Bespoke Services or Support Service or provision of Equipment to be supplied by the Supplier to the Customer pursuant to the Contract as set out in the Proposal other than any Services which have been terminated in accordance with these Conditions and 'Service' shall mean any one of them.

Software: the software program or programs to be supplied by the Supplier to the Customer pursuant to the Services as set out in the Proposal but excluding for the avoidance of doubt any Third Party Software.

Solutions Overview (SO): a high level document that outlines the scope of the solution to be provided, indicating the Services to be delivered to meet the agreed Customer needs in accordance with clause 4, describing the services to be provided by the Supplier and the related matters.

Source Code: the source of the Software to which it relates, in the language in which the Software was written, together with all related technical documentation, to enable the Customer's development personnel to understand, develop and maintain the Software.

SO Charges: the sums payable for the Works as set out in a Solutions Overview.

Statement of Work (SOW): a document confirming the scope of the Services to be provided, indicating the Services to be delivered to meet the agreed Customer needs in accordance with clause 4, describing the services to be provided by the Supplier and the related matters listed in the form set out in Schedule 3. The timetable for the delivery of the SOW may be found in the PID. For the avoidance of doubt, the Supplier and the Customer may enter into multiple SOWs under this MSA for different Services to be provided hereunder.

Storage: data storage space; this includes but is not limited to production storage (cloud, SaaS, other); backup storage (cloud, SaaS, other); replication storage (cloud, SaaS, other); and SaaS storage, for the avoidance of doubt, retention of electronic data on any form of media in any location.

Supplier's Equipment: any equipment, including tools, systems, cabling or facilities, provided by the Supplier to the Customer and used directly or indirectly in the supply of the Works, including any such items specified in a Statement of Work but excluding any such items which are the subject of a separate agreement between the parties under which title passes to the Customer.

Supplier Cloud Services: those services which are available in a cloud environment provided and hosted by the Supplier's infrastructure as described in the Statement of Work to be provided by the Supplier in accordance with the Contract and the Cloud Services Terms.

Supplier Licence: any third party or Supplier Licence purchased by the Customer as part of the Services as more particularly set out in the Proposal.

Supplier's Manager: in respect of each of the Services, the Supplier's account manager for those Services.

Supplier Personal Data: any personal data that the Supplier processes in connection with this agreement, in the capacity of a controller.

Support Services: services provided where the Supplier provides reactive support to calls or alerts received and is measured against reasonable endeavours, but do not result in service credits if issues run beyond 'reasonable endeavours' to the Customer outlined in Schedule 1.

Third Party Provider: third party providers used by the Supplier to deliver the Public Cloud Services, Third Party Software and other services from time to time.

Third Party Software: software owned by, or licensed by, any party other than the Supplier, including, but not limited to SAP AG and IBM and, where applicable, as such software may be modified by the Supplier under the agreement.

Variable Costs – fees for services, utilities or hosting capacity that can vary from month to month based on consumption by the customer. These can include, but are not limited to, Power and Cooling, Commercial Processing Workload (CPW), Memory or Storage as consumed by the customer

UK GDPR: has the meaning given to it in section 3(10) (as supplemented by section 205(4)) of the Data Protection Act 2018.

VAT: value added tax or any equivalent tax chargeable in the UK.

Works: the Services which are provided by the Supplier under a Statement of Work, including services which are incidental or ancillary to the Works.

24/7 Support: the Support Service provided by the Supplier on a 24-hour basis, to reflect increased usage and Excessive Use, as defined in the FUP.

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 genders.

1.8 This agreement shall be binding on, and ensure 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 legislation or a legislative provision is a reference to it as amended, extended or re-enacted from time to time.

1.10 A reference to legislation or a legislative provision shall include all subordinate legislation made from time to time under that legislation or legislative provision.

1.11 A reference to **writing** or **written** includes email.

1.12 Any obligation on a party not to do something includes an obligation not to allow that thing to be done.

1.13 A reference to **this agreement** or to any other agreement or document is a reference to this agreement or such other agreement or document, in each case as varied or novated from time to time.

1.14 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.

1.15 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.

2. CONTRACT DETAILS AND CALL-OFF CONTRACT PROCESS

2.1 The contract between the Supplier and the Customer shall comprise the following:-

(a) these terms and conditions and the documents referred to therein,

(b) where produced by the Supplier each of an SDD, SOW, Blueprint, PID or SO in respect of any of the Services; and

(c) each of the Proposals or Quotes upon Acceptance in respect of that Proposal or Quote;

together the agreement.

2.2 If there is any conflict or ambiguity between the terms of the documents listed in clause 2.1, a term contained in a document higher in the list shall have priority over the one contained in a document lower in the list.

2.3 The earlier of either the execution and return of the acknowledgment copy of the Proposal or the Supplier’s commencement or execution of work or commencement of delivery pursuant to the Proposal shall constitute acceptance by the Customer of the Proposal (Proposal Acceptance). For the avoidance of doubt , these conditions shall apply to the exclusion of any of the Customer’s standard terms and conditions (if any) or any terms that the Customer seeks to introduce whether they are attached to, or enclosed with, or referred to in, any documents including but not limited to a CCN that has been agreed and signed by the Customer and Supplier.

2.4 The Customer represents, warrants to and covenants with the Supplier that they have full authority to enter into and perform their obligations under the agreement and that the valid and binding obligations of this agreement on the Customer are respectively enforceable in accordance with its terms.

2.5 This agreement governs the overall relationship between the parties in relation to the Services provided by the Supplier to the Customer and sets out in this Clause 2.5 and pursuant to Clause 2.1, the procedure for the Customer to request the provision of Services from the Supplier under separate Quotes; and

2.5.1 The Customer shall be entitled from time to time to request in writing the provision of any or all of the Available Services from the Supplier.

2.5.2 Within 20 Business Days of receipt of a request from the Customer the Supplier shall:

(a) either notify the Customer that it is not able to provide the requested Available Services; or

(b) complete the draft SO and send to the Customer for its written approval as a Quote. In preparing the Quote the Supplier shall calculate the Charges by reference to the agreed charges for the Available Services set out in Schedule 4.

2.5.3 A Quote shall not enter into force be legally binding or have any other effect unless;

(a) the Quote has been signed by the authorised representative of both parties to it; and

(b) as at the date of the Quote is signed this agreement has not been terminated.

2.5.4 Each Quote :

a) Shall be entered into by the Customer and the Supplier ; and
b) forms a separate contract between its signatories
c) be governed by the conditions of time based or Fixed Price delivery

3. COMMENCEMENT AND DURATION

3.1 This agreement shall commence on the Effective Date or if earlier the date on which the Supplier commences any or all of the Services and or accepts an order for any Equipment and shall continue, unless terminated earlier in accordance with clause 19 (TERMINATION), until either party gives to the other party written notice to terminate. Such notice shall be served no earlier than the first anniversary of the commencement of this agreement and shall expire on the completion of the Initial Term entered into before the date on which it is served.

3.2 If there are no uncompleted Statements of Work as at the date notice to terminate is served under clause 3.1 such notice shall terminate this agreement with immediate effect.

3.3 The parties may enter into any further Statements of Work after the date on which notice to terminate is served under clause 3.1.

3.4 The Customer may procure any of the Service Catalogue items by agreeing a Statement of Work with the Supplier pursuant to clause 4 (Statements of Work).

3.5 The Supplier shall provide the Works after the Effective Date and once the Customer and Supplier have agreed a delivery timeline including timescales for the scope of work identified in the Statement of Work.

3.6 Where the Services comprise the granting by the Supplier of a Supplier Licence, maintenance of any Software or Cloud Services or Third Party Software (License Bound Services), the supply of such License Bound Services shall be for such Initial Term as is set out in the Proposal or applicable SOW, PID, Service Catalogue or SDD (as the case may be). For all Services, including Cloud Services or Bespoke Services (which shall be as specified in the Proposal or otherwise as in the Cloud Services Terms), after expiry of such Initial Term the supply of Services shall automatically extend on a recurring basis for a duration equal to the Initial Term and each subsequent Contractual Term unless the Customer gives the Supplier or the Supplier gives the Customer at least 120 days' written notice (prior to the end of the Relevant Initial Term or Contractual Term) that it does not wish to continue in which case the

Contract shall terminate at the expiry of the Initial Term or the relevant Contractual Term. At this point all defined License Bound Services will terminate with effect from expiry of the Initial Term or the relevant Contractual Term which has been paid for by the Customer and the Contract shall be terminated with regard to such License Bound Service with effect from the expiry date but for the avoidance of doubt shall continue in respect of any other License Bound Services not so terminated on the existing terms and conditions which shall remain in effect until the lapsing of the License Bound Services.

3.7 These conditions contain general terms for the provision of the Services and/or the supply of the Equipment and shall apply to the Supplier both in respect of the supply of Services and the sale of Equipment except where application to one or the other, or one Service in respect of any of the others, is specified.

4. PROPOSAL, SOW, PID , SDD, SO, BLUEPRINT AND SERVICE SPECIFICATION

4.1 This MSA governs the overall relationship of the parties in relation to the Services provided by the Supplier to the Customer. A Proposal, SO, and or a Service Specification is provided to outline the high-level Services, Professional Services, Bespoke Services, Equipment and Cloud Services that are required to meet the Customer defined needs, with pricing and payment terms defined.

4.2 Once a Proposal has been approved by the Customer, each Statement of Work (a template of which is set out at Schedule 3) shall be agreed in the following manner:

4.2.1 the Customer shall ask the Supplier to provide any or all of the Services and provide the Supplier with as much information as the Supplier reasonably requests in order to prepare a draft Statement of Work for the Services requested;

4.2.2 following receipt of the information requested from the Customer the Supplier shall, as soon as reasonably practicable either:

(a) inform the Customer that it declines to provide the requested Services; or

(b) provide the Customer with a Proposal, from which a draft Statement of Work, SO or PID would be produced.

4.2.3 if the Supplier provides the Customer with a draft Statement of Work or PID pursuant to clause (b), the Supplier and the Customer shall discuss and agree that draft Statement of Work or PID; and

4.2.4 both parties shall sign the draft Statement of Work or PID when it is agreed, where a contract or Service is already provided, the CCN process would be followed for this.

4.2.5 The Supplier shall take into account any reasonable requests from the Customer in respect of a SOW, SO, PID or SDD (as the case may be) but for the avoidance of doubt the Supplier shall not be obliged to make any amendments to a SOW, PID or SDD (as the case may be) which it does not reasonably consider are necessary in order to enable it to comply with its obligations pursuant to this agreement. For Services already in service, a CCN is the mechanism to request amendments to the Service provision.

4.2.6 Where the Supplier amends the SOW, PID, SO or SDD after taking into account any reasonable requests from the Customer in accordance with clause 4.2.5 such document shall be the SDD, SOW, SO or PID for the purposes of the Contract in respect of the relevant Managed Services or the SDD, SOW, SO or PID for the purposes of the Contract in respect of the relevant Professional Services.

4.2.7 Where the delivery of any Services and/or the Equipment is deliberately prevented or delayed at the request of, or because of the acts or omissions of the Customer, the relevant SOW, SO, PID or SDD (as the case may be) may be amended to take account of such delay and:

(a) the Customer shall additionally pay:

(i) the administrative costs of such changes to the Contract at the Supplier's then applicable rate;

(ii) any additional costs, charges or losses that the Supplier sustains or incurs that arise directly or indirectly from such prevention or delay including but not limited to the Additional Charges (including but not limited to, delay charges, re-deployment charges, re-work, knowledge transfer to available resources or resource management clashing of the Supplier's resources), as more particularly set out at clause 12 (both MRC and NRC);

(b) the Supplier shall:

(i) not be liable for any costs, charges or losses sustained or incurred by the Customer that arise directly or indirectly from such prevention or delay; and

(ii) be entitled to payment of the Charges despite any such prevention or delay.

(iii) in relation to CPS Services (only), the Supplier shall be entitled to recover the full anticipated Charges (whether such Services have been provided or not) and the Customer will be required be purchase additional CPS Services, subject to availability at that time (which the Supplier does not guarantee).

4.2.8 Where the Supplier supplies Professional Services pursuant to the Contract, the Supplier may in its absolute discretion elect not to produce a SOW, SO, PID or SDD in respect of such Services and may instead detail the delivery of such Services and the duties and obligations of the parties in respect thereof by way of a CCN, Statement Of Work or statement of user requirement (as the case may be) attached to the Proposal.

5. EQUIPMENT (ONLY APPLICABLE IF EQUIPMENT IS BEING PURCHASED BY THE CUSTOMER FOR USE ON-PREMISE OR FOR CO-LOCATION SERVICES)

5.1 The quantity and description of the Equipment is as specified in the Proposal. Any samples, drawings or specifications issued by the Supplier (whether directly to the Customer or by way of its general catalogues/brochures) are issued or published for illustrative purposes only.

5.2 The Supplier reserves the right to amend the specification of the Equipment if required by any applicable statutory or regulatory requirements, or to meet the sizing and specification requirements of the application, solution or Co-location Service environment.

5.3 The Supplier's employees, contractors and agents are not authorised to make any representations or contractually binding statements concerning the Equipment. If the Customer is relying on any statements which have been made to it, such statements must be notified expressly to the Supplier and annexed to the Contract.

5.4 Delivery

(a) The Supplier shall deliver the Equipment within a reasonable time from the Proposal Acceptance date, provided sufficient time is provided from the Proposal Acceptance and subject to allow vendor and courier lead times for delivery.

(b) Any dates quoted for delivery of the Equipment are approximate only and the time of delivery is not of the essence and the Supplier is not in any circumstances liable for any delay in delivery howsoever caused. Notwithstanding this, when the Supplier is expressly notified of any essential deadlines by the Customer, the Supplier will use its reasonable endeavours to meet such deadlines.

(c) Subject to courier / delivery service availability and performance, delivery of the Equipment is completed when the Equipment is placed at the delivery location agreed between the parties or, (if later) delivery shall be deemed to have been completed at 9.00am on 3 Business Days following the day on which the Supplier or the Supplier's distributor notified the Customer that the Equipment was ready for delivery.

(d) If the courier / delivery service fails to deliver the Equipment, its liabilities shall be limited to the level of insurance and liability cover in place with the reputable courier in use and agreed by both the Customer and Supplier. The Supplier will attempt to re-source and deliver (via an alternate courier / delivery service) and charge the administrative time required to do this, so that any costs and expenses incurred by the Customer in obtaining replacement equipment of similar description and quality can be recovered through the courier / delivery service compensation policies.

(e) The Supplier may deliver the Equipment by instalments where applicable. Any delay in delivery or defect in an instalment shall not entitle the Customer to cancel any other instalment.

(f) If the Customer fails to accept or take delivery of the Equipment then except where such failure or delay is caused by a Force Majeure Event or by the Supplier's failure to comply with its obligations under the Contract in respect of the Equipment, the Supplier shall store the Equipment until delivery takes place, and shall be entitled to charge the Customer for all related costs and expenses (including insurance) of doing so.

(g) Subject to 5.4 (f), if 20 Business Days after the Supplier or the Supplier's distributor (as the case may be) has notified the Customer that the Equipment is ready for delivery, the Customer has not taken or accepted delivery of it, the Supplier may resell or otherwise dispose of part or all of the Equipment and, after deducting reasonable storage and selling costs, account to the Customer for any excess over the price of the Equipment or charge the Customer for any shortfall below the price for the Equipment, such shortfall shall be payable upon demand.

(h) Reputable couriers will be selected to ensure Equipment is protected in transit and to the correct levels of insurance. All costs incurred for Delivery will be recharged back to the Customer (for the avoidance of doubt, this includes collections and deliveries). If the Customer has an existing contract in place and prefers to use their own courier, then this can be discussed and agreed.

(i) Should the Customer refuse to use the courier / delivery services proposed by the Supplier on the grounds of cost or prior dealing, then the Customer may accept the increased risk of lower cost, less reputable services by indemnifying the Supplier against loss or damage in transit, or coordinate their own courier or delivery services at the Customer's own risk.

5.5 Title

(a) Title to the Equipment shall not pass to the Customer until the Supplier receives payment in full (in cash or cleared funds) for the Equipment and until such time as title in the Equipment passes to the Customer, the Customer shall:

(i) store the Equipment separately from all other goods held by the Customer so that they remain readily identifiable as the Supplier's property and label the Equipment as such;

(ii) not remove, deface or obscure any identifying mark or packaging on or relating to the Equipment;

(iii) maintain the Equipment in satisfactory condition and keep it insured against all risks for the full price on the Supplier's behalf from the date of delivery;

(iv) notify the Supplier immediately if it becomes subject to any of the events listed in clauses 19.2.2 - 19.2.12(inclusive); and

(v) give the Supplier such information relating to the Equipment as the Supplier may require from time to time.

5.6 Risk in the Equipment shall pass to the Customer at the point of delivery.

5.7 The Supplier shall not in any circumstances be liable for any damage or defect to the Equipment once made available to the Customer (either on premise or under a Co-location Service), that is caused by the Customer's improper use of the Equipment or use outside of its normal application.

5.8 Unless otherwise agreed, the SOW or PID Charges shall be calculated in accordance with the Reference Charges.

5.9 The Supplier may charge for the preparation of Statements of Work on a time and materials basis in accordance with the Supplier's daily fee rates as set out in Schedule 4 - Reference Charges and payment terms.

5.10 Once a Statement of Work or SO has been agreed and signed in accordance with clause 2, no amendment shall be made to it except in accordance with clause 11 (CHANGE CONTROL) or clause 23 (VARIATION).

6. SUPPLIER'S RESPONSIBILITIES

6.1 The Supplier shall use reasonable endeavours to provide the Services, Works, and deliver the Deliverables to the Customer, in accordance with a Statement of Work and in accordance with Service Levels as defined in the Service Wrapper and Dependency Terms document (located within the Service Catalogue portal), or for Bespoke Services which the Customer has selected in respect of that Service as set out in the Proposal and in conformity with any other provisions of the Contract. For the avoidance of doubt, the Service Levels shall apply to Managed Services only as defined in the Service Catalogue portal, Bespoke Service definition and in relation to Services defined in Schedule 1 - Service Catalogue, Part 1– Managed Services:, and shall not apply to the Support Services in all material respects.

6.2 The Service Level in respect of each Service as defined in the Service Catalogue portal, Bespoke Service definition and in relation to Services defined in Schedule 1 - Service Catalogue, Part 1– Managed Services: shall apply with effect from the Go-Live Date for that Service and, for the avoidance of doubt, a Service Level shall not apply pre Go-Live or during any Handover Period. Notwithstanding this, the Supplier will use its reasonable endeavors to meet such Service Levels to the extent practicable.

6.3 The Supplier shall use reasonable endeavours to meet the Milestones specified in a Statement of Work or PID but any such dates shall be estimates only and time for performance by the Supplier shall not be of the essence of this agreement.

6.4 The Supplier shall appoint a manager in respect of the Works to be performed under each Statement of Work, mostly in the form of a Project Manager. That person shall have authority to contractually bind the Supplier on all matters relating to the relevant Works (including by signing CCNs). The Supplier may replace that person from time to time where reasonably necessary in the interests of the Supplier's business.

6.5 Subject to these Conditions and the type of Services being provided by the Supplier, if the Supplier fails to comply with the relevant Service Level in respect of a Service (as defined within the Supplier’s Service Catalogue or Bespoke Service description), then, subject to the terms of the Contract, the Customer shall become entitled to the Service Credit specified in the Service Wrapper and Dependency Terms document (located within the Service Catalogue portal), or for Bespoke Services, the agreed description, corresponding to the relevant failure. The parties acknowledge that each Service Credit is a genuine pre-estimate of the loss of Service availability likely to be suffered by the Customer and not a penalty and the provision of a Service Credit shall be an exclusive remedy for a particular Service Level failure at the agreed, proportion rate to the cost of the individual impacted Service.

6.6 The Supplier shall not be liable to the Customer for any delay or non-performance of the Services (or any of them) or costs, charges or losses (including, but not limited to, any Service Credit that would have been payable as a result of such delay or non-performance) arising as a result of:-

(a) any fault to the Customer’s Equipment which prevents or delays or restricts the Supplier from performing some or all of the Services; and

(b) any third party including, but not limited to, any Third Party Provider where such Third Party Software is necessary in order for the Supplier to provide the Services.

(c) the Customer holding or retaining elevated access to the Infrastructure or Service, or instructing an unauthorised change that impacts Service at any time.

6.7 If the Supplier's performance of its obligations under the Contract is prevented or delayed by any act or omission of a vendor or Third Party, the Customer, its agents, subcontractors, staff, consultants or employees, the Supplier shall not be liable for any costs, charges or losses sustained or incurred by the Customer that arise directly or indirectly from such prevention or delay (including, but not limited to, any Service Credit, that would have been payable as a result of such prevention or delay). For the avoidance of doubt, to meet the growing needs of Cyber Security, automated patching for issues deemed critical or related to security, are mutually agreed (in line with industry best practice) to be automatically applied. Where this results in performance or availability degradation, the Supplier shall not be liable for any costs, charges or losses sustained or incurred by the Customer.

6.8 Where a software issue or bug is identified in any of the Third Party Software which is relied upon to deliver the solution, which results in a delay, the Supplier shall be able to change the Go-Live date or previously defined project Milestone(s) to take account of the delay using the Change Control process in accordance with clause 11 without incurring penalty or delay Charges.

6.9 The provision of all services shall be subject to the Supplier’s FUP as defined in the Service Wrapper and Dependency Terms document (located within the Service Catalogue portal), or within the Bespoke Services definitions.

7. CUSTOMER'S AND PARTNER’S OBLIGATIONS

7.1 The Customer and/or Partner shall:

7.1.1 use the Services only in accordance with this agreement and co-operate with the Supplier in all matters relating to the Services and appoint the Customer's or Partner’s Manager in relation to the Services, who shall have the authority contractually to bind the Customer and/or Partner on all matters relating to the Services;

7.1.2 appoint a manager in respect of the Works to be performed under each Statement of Work, such person as identified in the Statement of Work. That person shall have authority to contractually bind the Customer and/or Partner on all matters relating to the relevant Works (including by signing CCNs);

7.1.3 provide, for the Supplier, its agents, subcontractors, consultants and employees, in a timely manner and at no charge, access to the Customer's premises, office accommodation, data and other facilities as required by the Supplier including any such access and passwords as is specified in a Statement of Work or as required by the Supplier to be able to provide the Services and Works;

7.1.4 provide to the Supplier in a timely manner all Input Material, documents, information, items and materials in any form (whether owned by the Customer, Partner or a third party) (Customer Materials) required under a Statement of Work or otherwise reasonably required by the Supplier in connection with the Services and Works, ensuring that they are accurate and complete;

7.1.5 inform the Supplier of all health and safety and reasonable security requirements that apply at any of the Customer's premises.

7.1.6 ensure that all the Customer's Equipment is in good working order and suitable for the purposes for which it is used and conforms to all relevant United Kingdom standards or requirements and in accordance with the manufacturer's instructions through a hardware maintenance vendor. The Customer must notify their hardware maintenance vendor that the Supplier is listed as the primary contact;

7.1.7 obtain and maintain all necessary licences and consents and comply with all relevant legislation as required to enable the Supplier to provide the Works, including in relation to the installation of the Supplier's Equipment, the use of all Customer Materials and the use of the Customer's Equipment insofar as such licences, consents and legislation relate to the Customer's business, premises, staff and equipment, in all cases before the date on which the Works are to start;

7.1.8 be responsible for its users' compliance with this Contract;

7.1.9 employ appropriate measures and controls to identify and classify the Customer data and ensure the basic requirements of good data protection and information security are implemented, applied and Customer staff awareness is promoted as the Customer's responsibility along with the accuracy, quality and legality of Customer data, the means by which Customer acquired Customer data, Customer's use of Customer data within the Services;

7.1.10 use commercially reasonable efforts to prevent unauthorised access to or use of Services and notify the Supplier promptly of any such unauthorised access or use;

7.1.11 keep, maintain and insure the Supplier's Equipment 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

7.1.12 comply with any additional responsibilities of the Customer as set out in the relevant Statement of Work.

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

7.3 The Customer or Partner may not use any of the Services:-

(a) in a manner which is contrary to any law;

(b) in a manner which could disrupt or prevent the Supplier from providing services to any other parties;

(c) in a manner that permits any Service to be accessed or used by anyone other than the Customer or authorised users, or use any Service for the benefit of anyone other than Customer, unless expressly stated otherwise in the relevant Proposal, the relevant SOW, SO, PID or Reseller Agreement;

(d) to sell, resell, license, sublicense, distribute, rent or lease any Service;

(e) to store or transmit infringing, libelous, or otherwise unlawful or tortious material, or to store or transmit material in violation of third-party privacy rights;

(f) to frame or mirror any part of any Services otherwise for its own internal business purposes or as expressly permitted by the Supplier;

(g) except to the extent permitted by applicable law, disassemble, reverse engineer, or decompile any of the Services;

(h) to permit Affiliates, Reseller Partners or unapproved parties access to the Services, Works or Bespoke Services; or

(i) for any activity which may violate the Intellectual Property Rights of a third party.

7.4 The Customer and/or Partner may not make adaptations or variations to the Software, infrastructure, configuration, Services, Works or Bespoke Services, without the prior written consent of the Supplier (through CCN or otherwise) and which consent may be subject to such conditions as the Supplier, in its absolute discretion, requires including, but not limited to, the payment of Additional Charges to the Supplier in respect of any assistance which it considers, in its absolute discretion, is required or necessary.

7.5 The Customer and/or Partner may not disassemble, decompile, reverse, translate or in any other manner decode the Software except as permitted by law.

7.6 Indemnify the Supplier against any claim, breach or service impact that arises from ingress / egress, supply chain, third party, hardware or infrastructure that sits outside of the Supplier provided Service, but is connected to the same network. For the avoidance of doubt, this is to say, if a non-managed entity (unsupported device, third party, PoC asset or otherwise) is permitted by the Customer to connect to their network and as a result, experience a data leak, cause service impact or corrupt all data - then this falls outside of the Supplier Service provision and as such the Customer will indemnify the Supplier.

8. NON-SOLICITATION AND EMPLOYMENT

8.1 The Customer shall not, without the prior written consent of the Supplier, at any time from the date on which any Works commence to the expiry of 12 months after the completion of such Works, solicit or entice away from the Supplier or employ or attempt to employ any person who is, or has been, engaged as an employee, consultant or subcontractor of the Supplier in the provision of such Works.

8.2 Any consent given by the Supplier in accordance with clause 8.1 shall be subject to the Customer paying to the Supplier a sum equivalent to 12 months' of that employee's full renumeration package, including (but not limited to) their base salary plus VAT and any benefits including allowances or bonuses/incentives plus VAT by the Supplier.

9. MAINTENANCE

9.1 The Supplier may have to restrict or remove the Customer's access to some or all of the Services for the purposes of routine maintenance or emergency. The Supplier shall give to the Customer as much notice as reasonably possible where it intends to carry out such maintenance. Any downtime as a result of such maintenance shall not be taken into consideration in calculating whether the Supplier has not met a Service Level in accordance with the Contract.

10. STORAGE AND COMPUTE

10.1 The Customer agrees and acknowledges that:-

(a) certain of the Services have limited Storage and Compute allocation as set out in the Service Catalogue and Proposal;

(b) it is the Customer's responsibility to ensure that the Storage and Compute is not exceeded and the Supplier shall notify the Customer from time to time when any Storage or Compute is near to capacity;

(c) if the Storage and/or Compute is exceeded, the Supplier may not be able to supply any or all of the Services in any capacity and such Services may cease in their entirety, including the ability of the Customer to store and/access some or all of its data and that this will continue unless and until Storage and/or Compute reviewed and likely increased to take into account such excess Storage and/or Compute requirements of the Customer. Where this has been communicated to the Customer and no action is taken, any resulting Service interruption will be excluded from Service measurement and will be exempt from Service Credit calculation; and

(d) where, in the reasonable opinion of the Supplier, Storage and/or Compute is likely to be exceeded in respect of any Service and the Customer has not put in place arrangements to increase such Storage and/or Compute, the Supplier may in its sole discretion and without recourse to the Customer, increase the Storage and/or Compute in increments of such amounts and at such cost as shall be set out in the Proposal or Schedule 4 - Reference Charges and payment terms (or Service Catalogue definition) as the case may be, or, where none is stated, as the Supplier reasonably considers is necessary having regard to the Customer's use of such Services and in order to ensure that the Supplier is able to continue to provide such Services in accordance with the Contract and the Customer is able to continue to use such Services (Additional Charges) at the Supplier's standard rates from time to time available on request and the Customer agrees to pay such Additional Charges for such additional Storage and/or Compute ("Additional Charges") in accordance with the terms of the Contract and the Contract shall be deemed to have been amended to incorporate such additional Storage and/or Compute and Additional Charges. The Supplier shall issue a CCN in respect of such additional Storage and/or Compute as soon as reasonably practicable after such increase in accordance with clause 11 provided that such CCN shall be deemed to have been approved by the parties on the date on which such additional Storage and/or Compute was provided by the Supplier.

(e) in many instances, the Services are configured with predetermined Storage and Compute values for optimal configuration and Service performance. Whilst Storage and/or Compute can be increased and charged for incrementally via CCN and against Schedule 4 - Reference Charges and payment terms (or Service Catalogue definition), the reduction of Storage and/or Compute is not always viable without full scoping within a SOW and a supporting Proposal. This can be due to license commitments and rules imposed by Third Party Software vendors, technical complexities related to hypervisor technology or other software or hardware agreements.

(f) where the Customer has requested and the Supplier therefore incorporated a secondary location for hardware, software, Storage, Compute and Service for disaster recovery or business continuity, the increase in Storage and/or Compute should also be replicated at the secondary location to maintain the same specification at both locations. This will be applied inline with Schedule 4 - Reference Charges and payment terms (or Service Catalogue definition) as appropriate.

10.2 Notwithstanding the provisions of clause 10.1, the Customer may request additional Storage and/or Compute at any time and from time to time and such request shall be dealt with by way of a CCN.

11. CHANGE CONTROL

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

11.1.1 the Works;

11.1.2 the SOW Charges (pre Go-Live);

11.1.3 the timetable for the Works; and

11.1.4 any of the other terms of the relevant Statement of Work.

11.1.5 the NRCs and MRCs as applied in relation to Schedule 4 - Reference Charges and payment terms (or Service Catalogue definition)

11.2 If the Supplier wishes to make a change to the Works it shall provide a draft CCN to the Customer.

11.3 If the Customer wishes to make a change to the Works:

11.3.1 it shall notify the Supplier and provide as much detail as the Supplier reasonably requires of the proposed changes, including but not limited to the following;

(a) the title of the change;

(b) the originator and date of the Request or recommendation for the change;

(c) the reason for the change;

(d) full details of the change including any specifications;

(e) the impact of the change on the:

(i) the Services including, but not limited to:

(A) the term of the Contract;

(B) the personnel to be provided;

(C) the documentation to be provided;

(D) the training to be provided;

(E) Service Levels (if applicable);

(F) working arrangements;

(G) Supplier License or Third Party Software License;

(H) any other terms of the Contract;

(I) impact to Service including, but not limited to Storage and/or Compute and security posture; and

(J) Charges in relation to Schedule 4 - Reference Charges and payment terms (or Service Catalogue definition)

(ii) the Supplier's existing Charges and any Additional Charges including a schedule of payments, if applicable;

(iii) the timetable of the Services amended to incorporate the change;

(iv) the date of expiry of the CCN; and

(v) provisions for signature by the Supplier and the Customer.

11.3.2 The Supplier may, from time to time and without notice, change the Services in order to comply with any applicable safety or statutory requirements, provided that such changes do not materially affect the nature, scope of, or the charges for the Services and such change shall be dealt with in accordance with this clause 11 save that no consent shall be required from the Customer in respect of such CCN and the Contract shall be amended immediately upon issue of such CCN.

11.3.3 the Supplier shall, as soon as reasonably practicable after receiving the information at clause 11.3.1, provide a draft CCN to the Customer.

11.4 If the parties:

11.4.1 agree to a CCN, they shall sign it and that CCN shall amend the relevant Statement of Work; or

11.4.2 are unable to agree a CCN, either party may require the disagreement to be dealt with in accordance with the dispute resolution procedure in clause 34 (Multi-tiered dispute resolution procedure).

11.4.3 unless both parties consent to a CCN before the date of expiry set out in it, there shall be no change to the Services and any other terms of the Contract including any relevant SOW, PID or Bespoke Service;

(a) if both parties consent to a CCN, it shall be signed by the authorised representatives of both parties or, notwithstanding that the Customer may not have signed a CCN, the Customer shall be deemed to have consented to the CCN upon the Supplier receiving an e-mail from the Customer, to commence the provision of the Services in accordance with such CCN.

(b) upon the consent or deemed consent to the CCN in accordance with clause 11.4.3 (a), the Contract shall be amended as set out in such CCN.

11.4.4 Where a CCN is submitted by the Supplier:-

(a) as a result of requests made by the Customer to changes to the Services as set out in the Proposal, the Customer shall have 10 Business Days from the date of such CCN to confirm in writing that it does not accept the proposed changes to the Contract as set out in that CCN. If the Customer disputes or rejects a CCN in accordance with this clause 11.4, the parties shall negotiate in good faith to resolve any issues and agree the CCN. If the Customer does not dispute or reject a CCN in accordance with this clause 11.4.4, the Customer shall be deemed to have accepted the changes to the Contract as set out in that CCN immediately upon expiry of such 10 Business Day notice period;

(b) as a result of a delay caused by a software issue or bug in any of the Third Party Software in accordance with Clause 6.8 the CCN Notice will be automatically accepted by the Customer; or

(c) as a result of Additional Charges payable by the Customer in relation to Storage and Compute increases or license count increments (based on user count or device count) and in accordance with the Contract, no consent shall be required from the Customer in respect of such CCN and the Contract shall be amended immediately upon issue of such CCN.

11.5 The Supplier may charge for the time it spends on preparing and negotiating CCNs which implement changes proposed by the Customer pursuant to clause 11.3 on a time and materials basis at the Supplier's daily rates specified in Schedule 4.

12. CHARGES AND PAYMENT

12.1 In consideration of the provision of the Works by the Supplier, the Customer shall pay the SOW Charges, plus any agreed CCNs at the point at which they are deployed, onboarded or available for consumption (through test, PoC or production). For the Customer's convenience, Charges are defined as either Monthly Recurring Costs (MRCs) or Non-Recurring Costs (NRCs), each Proposal or CCN should refer to these codes for clarity on Charges.

12.2 The Charges for each of the Services and/or the Equipment shall be as set out in the Proposal and which shall indicate whether the Charges are calculated on a fixed cost basis or a time and materials basis or a combination of both. Where:

(a) any ancillary equipment (e.g. cables) or licenses are required for the solution contained in the Proposal but are not expressly included these will be quoted and charged for separately; or

(b) a Proposal is for Managed Services, Support Services or Bespoke Services, the Professional Services for Off-boarding are not included and will be quoted for and a Proposal for Handover provided, separately upon request,

12.3 Clause 12.4 shall apply if any of the Services are to be provided on a time-and-materials basis (predominantly Professional Services). Clause 12.5 shall apply if any of the Services are to be provided for a Fixed Price/fixed scope basis (typically Services from the Service Catalogue). Clause 12.7 shall apply if the Customer has purchased Equipment from the Supplier. The remainder of this clause 12 shall apply in all cases.

12.4 Where any Services are provided on a time-and-materials basis:

(a) the charges payable for such Services shall be calculated in accordance with the Supplier's standard daily fee rates as amended from time to time and which are available on request;

(b) the Supplier's standard daily fee rates are calculated on the basis of a seven hour day worked on weekdays (excluding weekends and public holidays) at any time during Business Hours and where hours worked during Business Hours are less than seven hours, such daily rate shall be allocated on a pro rata basis to the number of hours worked and the minimum call off for time is no less than one hour;

(c) save where the provisions of clause 12.4(d) apply, any hours worked on weekdays (excluding weekends and public holidays) in excess of a seven-hour day (Additional Weekday Hours) shall be charged on the basis of the applicable daily fee rate allocated on a pro-rata basis in respect of such Additional Weekday Hours. Any hours worked on a weekend or public holiday (Weekend Hours) shall be charged on the basis of the applicable rate allocated on a pro-rata basis in respect of such Weekend Hours as set out in clause 12.4(d);

(d) where the Customer requires the Supplier to provide the Services or any part of them outside of Business Hours and the Supplier has available resources willing to work outside of Business Hours, the Supplier shall be entitled to charge the Customer at an overtime rate notified by the Supplier for such hours worked by members of the Supplier's team outside of such Business Hours (all rates excluding travel time and other expenses which will be charged at standard rate). For clarity, the rates for:

(i) Additional Weekday Hours will be 1.5 times (x) standard hourly rates;

(ii) Weekend Hours between 8am and 8pm will be 2x standard hourly rates; and

(iii) Weekend Hours outside of 8am and 8pm will be 2.5x standard hourly rates

(iv) Bank Holidays or any public holiday in England at any time will be 3x standard hourly rates

(e) the Supplier shall ensure that all members of the project team complete time sheets recording time spent in respect of the Services, and the Supplier shall use such time sheets to calculate the charges covered by each invoice submitted by the Supplier in accordance with the Proposal;

(f) the Customer shall pay invoices submitted by the Supplier in accordance with the relevant Contract; and

(g) the Supplier may provide the Customer with a report at agreed intervals that details time spent to date, delivering the Services as defined in the SOW and Service Catalogue and this will be utilised to justify increased Charges in providing any Services or Bespoke Services in line with the agreed upon payment terms as detailed in the Proposal.

(h) Project Management time is calculated as a percentage of the technical implementation delivery time, as such, once the Project timeline has been defined and scope / PID agreed, the Project Management time will be invoiced at that percentage of technical consumption for each month.

(i) The Supplier reserves the right to be the sole decision maker on which services are offered on a Time and Material basis under clause 12.4 and has the right to refuse any request by the Customer to deliver services under this clause;

(j) Cloud Services are not available as time-and-materials due to the vendor service agreements which stipulate, any time consumed in a month, will result in a full month of Service Charges (even if that usage is seconds into the month)

12.5 Where a Customer cancels scheduled Professional Services with the Supplier the following charges will apply:

(a) Cancellation 20 days before the time scheduled for such work, 25% of the charge for Professional Services;

(b) Cancellation 10days before the time scheduled for such work, 50% of the charge for Professional Services;

(c) Cancellation 5 days before the time scheduled for such work, 75% of the charge for Professional Services;

(d) Cancellation 2 or less days before the time scheduled for such work, 100% of the charge for Professional Services.

12.6 The Supplier reserves the right to charge for any adjourned meeting or delays caused by the Customer as an additional cost on a time and materials basis outside the scope of any Charges agreed with the Customer at the Suppliers then prevailing rates (available on request). This clause applies to scheduled Professional Services as part of a contract and does not in any way apply to a services contract in its entirety which is covered in this document under clause 19 (TERMINATION). Where the Services are provided for a Fixed Price/ fixed Scope basis:-

(a) save as otherwise set out in the Contract, the total price for the Services shall be the amount set out in the Proposal plus any Additional Charges identified and agreed in a signed CCN between the Customer and the Supplier and which shall be paid to the Supplier in accordance with the terms of the Proposal (whether in instalments, one off payments, a combination of both or otherwise);

(b) the Customer acknowledges that the Fixed Price/ fixed scope in respect of:-

(i) Professional Services is based on a seven hour working day delivered, unless stated otherwise in the Proposal, within Business Hours and, therefore that the Supplier shall be entitled to raise Additional Charges at the applicable daily rate for each hour worked allocated on a pro rata basis where the Customer requires the Supplier to perform such Professional Services or any of them outside of Business Hours and which has not already been provided for in the SOW / Proposal; and

(ii) Managed Services is as stated in the Proposal and is based on the Supplier delivering such Services in accordance with the relevant SDD;

(c) such Fixed Price shall not include any:

(i) Additional Services that the Customer may request during the Contract and which are not specifically provided for in the Proposal Any such Additional Services shall be requested by the Customer by way of a CCN, served in accordance with clause 10; or

(ii) Public Cloud or SaaS Services as detailed in Schedule 6.(d) where the delivery of any of the Services has been delayed as a result of the Customer's negligence, failure to perform or delay in the performance or any of its obligations under the Contract or by reason of a request from a Customer to delay delivery of any or all of the Services, the Customer agrees that:-

(a) where such delayed Services are Professional Services, the Supplier may require the Customer to pay to the Supplier on demand, a sum equal to the number of lost days delivery (including Project Management) at the published RRP day rate in schedule 4 including efforts to re-deploy any staff that were scheduled to carry out Professional Service Work, the Supplier making reasonable efforts to minimise these costs by re-deploying any staff onto other chargeable work where possible;

(b) the Customer agrees to pay the Supplier any time at the published RPI day rate in Schedule 4 to re-plan and schedule delayed work and future deliverables under this agreement. The Supplier cannot guarantee that any re-planned work can be delivered immediately upon confirmation by the Customer that any delay has now been resolved and the Supplier is indemnified from any losses incurred by the Customer, caused by the delayed completion of the Works defined in this agreement; and

(c) where such delayed Services are Managed Services, the Supplier may require the Customer to pay the relevant Charges with effect from the initially agreed Go-Live Date for that delayed Managed Service as set out in the

Proposal, SOW, SO, SDD, Blueprint or Service Specification Document (as the case may be).

12.7 Any price in respect of any Services contained in a Proposal excludes the cost of hotel, subsistence, travelling and any other ancillary expenses reasonably incurred by the project team in connection with those Services, and the cost of any materials or services reasonably and properly provided by third parties required by the Supplier for the supply of the Services. Where such costs and expenses are payable by the Customer, this will be set out in the Proposal with details of applicable rates. Such expenses, materials and third party services shall be invoiced by the Supplier.

12.8 The Charges and terms of payment in respect of the Equipment shall be as set out in the Proposal.

12.9 Any charges payable by the Customer under the Contract are exclusive of VAT.

12.10 The Customer agrees and acknowledges that it shall be liable to pay the Charges in accordance with the Contract where the Supplier is unable to provide the Services as a result of a defect in the Customer's hardware and/or other equipment or due to the Customer's failure to provide necessary access, information or co-operation.

12.11 The Supplier may increase the Charges:-

(a) in respect of each Service, on an annual basis with effect from each anniversary of the Go-Live Date for that Service in line with the percentage increase in the Retail Prices Index as defined on the website for the Office of National Statistics or any index replacing it in the preceding 12 months. The Supplier shall give the Customer written notice of any such increase two months before the proposed date of that increase.;

(b) at any time and from time to time to reflect any increase in the costs of providing the Services to the Customer (including, but not limited to third party supplier costs, maintenance, utilities and security costs);

(c) at any time and from time to time to proportionally reflect any increase in the costs charged to it by any Third Party Provider; and

(d) at any time to take account of the provision of additional Hardware or Software (including Third Party Software) required to perform the Services in accordance with the Contract.

12.12 Save where set out otherwise in a Proposal or as agreed between the parties in any other document signed by both parties, the Customer shall pay each invoice submitted to it by the Supplier in respect of the Services or any of them, in full and in cleared funds, within 30 days of receipt to a bank account nominated in writing by the Supplier.

12.13 Time for payment shall be of the essence of the Contract.

12.14 If any Service Credits are due, then they will be shown as a deduction from the amount due from the Customer to the Supplier in the next invoice then due to be issued under the Contract.

12.15 Without prejudice to any other right or remedy that it may have, if the Customer fails to pay the Supplier on the due date:

(a) the Customer shall pay interest on the overdue amount at the rate of 8% per annum above Bank of England's base rate from time to time or at the rate of 8% where the Bank of England's rate is 0. Such interest shall accrue on a daily basis from the due date until actual payment of the overdue amount, whether before or after judgment. The Customer shall pay the interest together with the overdue amount;

(b) the Supplier may in its absolute discretion suspend in whole or in part the Customer's ability to access the Services or any of them and/or delivery of any Equipment upon giving the Customer at least 14 days' notice; and

(c) the Supplier may, in its absolute discretion, reclaim any and all discounts applied to its Services (for the avoidance of doubt, including Payment in Advance and Payment Plan discounts) which were made in good faith on the assumption that the Customer would make payment to the Supplier in a timely manner and in accordance with this clause 12.

12.16 All sums payable to the Supplier:-

(a) in respect of a Service or any Equipment shall become due immediately on the termination of the Contract in respect of that Service in accordance with clause 20; and

(b) in respect of all of the Services shall become due immediately on the termination of the Contract in accordance with clause 19,

for the Contractual Term or Renewal of the same Term length, despite any other provision.

12.17 This clause 12 is without prejudice to any right to claim for interest under the law, or any such right under the Contract.

12.18 All amounts due under the Contract 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).

12.19 The SOW Charges exclude the following, which shall be payable by the Customer monthly in arrears, following submission of an appropriate invoice:

12.19.1 the cost of hotel, subsistence, travelling and any other ancillary expenses reasonably incurred by the individuals whom the Supplier engages in connection with the Works; and

12.19.2 the cost to the Supplier of any materials or services procured by the Supplier from third parties for the provision of the Works as such items and their cost are set out in the Statement of Work.

12.20 The Supplier may increase the Reference Charges and any SOW Charges not calculated in accordance with the Reference Charges on an annual basis with effect from each anniversary of the Effective Date of this agreement in line with the percentage increase in the Retail Prices Index in the preceding 12-month period and the first such increase shall take effect on the first anniversary of the date of this agreement and shall be based on the latest available figure for the percentage increase in the Retail Prices Index.

12.21 Any increase in the Reference Charges shall affect:

12.21.1 the SOW Charges (to the extent that they are calculated in accordance with the Reference Charges) in Statements of Work in force at the date the increase takes effect; and

12.21.2 the calculation of the Charges for Statements of Work entered into after the date the increase takes effect (unless specifically defined within the Proposal or Quote for Works that exceed 12 months, or where the expiry of the Proposal or Quote is later than the date for Reference Charges increasing) as per clause 12.20.

12.22 The Supplier shall invoice the Customer for the SoW Charges at the intervals specified as per the agreed Payment Plan in the proposal, or on the achievement of the Milestones indicated, in the Statement of Work. If no intervals are so specified, the Supplier shall invoice the Customer at the end of each month for Works performed during that month

12.23 All sums payable to the Supplier under this agreement are exclusive of VAT, and the Customer shall in addition pay an amount equal to any VAT chargeable on those sums on delivery of a VAT invoice.

13. SUBCONTRACT

13.1 Subject to the provisions of clauses 13.2 and 13.3, the Supplier may at any time and from time to time subcontract all or any of its obligations under the Contract.

13.2 The Supplier shall be responsible for all acts and omissions of its subcontractors as fully as if they were the acts and omissions of the Supplier or its employees or agents.

13.3 The Supplier will make available names and responsibilities of appropriate subcontracts in the delivery of the implementation or onward service upon request

14. INTELLECTUAL PROPERTY RIGHTS, SOFTWARE LICENSE AND CUSTOMER INDEMNITY

14.1 As between the Customer and the Supplier, all Intellectual Property Rights and all other rights in the Services including, but not limited to, the Software, scripts, code repositories, the Pre-existing Materials and the Documents other than any Third Party Software shall be owned by the Supplier and the Customer shall acquire no rights in them unless indicated otherwise in the Proposal. Subject to clauses 14.2 and 14.3, the Supplier licenses all such rights to the Customer free of charge and on a non-exclusive, non-transferrable worldwide basis to such extent as is necessary to enable the Customer to make reasonable use of the Services in accordance with the Contract provided that where:-

(a) the Contract is terminated in respect of any Service in accordance with clause 19, this licence will automatically terminate in respect of such terminated Service; and

(b) the Contract is terminated in respect of all Services in accordance with clause 19, this licence will automatically terminate.

14.2 The terms of clause 14.1 shall not apply in respect of any Supplier Licence which is provided as part of the Services where the granting of such licence, and the terms of Renewal and termination of such licence, shall be as set out at clause 3.6.

14.3 The Customer acknowledges that where the Supplier does not own any of the Pre-existing Materials, the Customer's use of rights in Pre-existing Materials is conditional on the Supplier obtaining a written licence (or sub-licence) from the relevant licensor or licensors on such terms as will entitle the Supplier to license such rights to the Customer.

14.4 The Customer acknowledges that all Intellectual Property Rights used by or subsisting in the Equipment are and shall remain the sole property of the Supplier or (as the case may be) third party right’s owner.

14.5 The Supplier shall retain the property and copyright in all Documents supplied to the Customer in connection with the Contract and it shall be a condition of such supply that the contents of such Documents shall not be communicated either directly or indirectly to any other person, firm or company without the prior written consent of the Supplier.

14.6 If:-

(a) the Supplier manufactures the Equipment, or applies any processes to it, in accordance with a specification submitted or prepared by the Customer or any other information or documentation provided by the Customer; or

(b) the Supplier provides the Services or any of them in accordance with a specification submitted or prepared by the Customer or any other information or documentation provided by the Customer, then;

(c) the Customer shall indemnify and keep indemnified the Supplier against all losses, damages, costs, claims, demands, liabilities and expenses (including without limitation consequential losses, loss of profit and loss of reputation, and all interest, penalties and legal and other professional costs and expenses) awarded against or incurred by the Supplier in connection with, or paid or agreed to be paid by the Supplier in settlement of, any claim for infringement of any third party Intellectual Property Rights which results from the Supplier's use of the Customer's specification or such other information. The indemnity in this clause 14.6 shall apply whether or not the Customer has been negligent or at fault and does not limit any further compensation rights of the Supplier.

14.7 The Supplier shall provide the Third Party Software to the Customer under the standard licence terms provided by the relevant third parties, copies of which shall be provided to the Customer, on request, and the Customer agrees to be bound to the relevant third parties by such licence terms and to indemnify and hold the Supplier harmless against any loss or damage which it may suffer or incur as a result of the Customer's breach of such terms howsoever arising.

(a) Where a fully Managed Service is provided, it is acknowledged that:

(i) The Customer has no administrative access to their infrastructure and the Supplier takes full responsibility for accurate licensing reporting on behalf of the Customer.

(ii) The Supplier will report all user based server license usage on the 1st of the month (for e.g. Microsoft Server, database licences or Desktop licensing (virtual or physical), including, but not limited to CALs / SALs, SPLA or SaaS / Cloud based licensing) and invoice accordingly at the rate determined by the licensing company e.g. Microsoft. Service and high level privilege accounts will be excluded from this count/declaration as there is no licensing liability.

(iii) Where a solution is provided under PoC using evaluation license keys it will only be available for the period limited by the evaluation license after which time the Supplier reserves the right to charge the Customer for any licensing costs at the prevailing standard rates applicable at the time. Hosting costs at the prevailing standard rates applicable at all times unless specifically agreed in advance in the Proposal. Any such solution should only be used for evaluation purposes and the Customer is prohibited from carrying out any revenue earing activity on the proof-of-concept solution until production licences have been applied by the Supplier;

(b) Where an unmanaged service environment is provided where the Customer retains administrative privileges to their active directory and service infrastructure:

(i) The Supplier will report all user based server license usage on the 1st of the month (for e.g. Microsoft Server, database licences or Desktop licensing (virtual or physical), including, but not limited to CALs / SALs, SPLA or SaaS / Cloud based licensing) invoice accordingly at the rate determined by the licensing company e.g. Microsoft or other appropriate vendors;

(ii) All desktop licenses remain the responsibility of the Customer;

(iii) If any software is installed or configured by a third party, the Customer is responsible for providing appropriate licenses as determined by the Third Party who license the Software. In this case the Customer is wholly responsible for ensuring their entire estate is correctly licensed and the Supplier takes no responsibility for incorrectly licensed software;

(iv) Where a solution is provided under PoC using evaluation license keys it will only be available for the period limited by the evaluation license after which time the Supplier reserves the right to charge the Customer for any licensing and hosting costs at the prevailing standard rates applicable at the time;

(v) If the Supplier would have provided, or procured the provision of, the Services in accordance with the Service Levels or this Contract, but has failed to do so as a result of the administrative privileges being retained by the Customer shall, subject to its obligation to notify the Customer as soon as it becomes aware of such an issue, be entitled to:

(A) use all reasonable endeavours to continue to provide the affected Services in accordance with this Contract; and

(B) be entitled to be paid for the provision of the Services which have been affected by the issue together with any additional proven and unmitigable costs which directly relate to such issue.

(C) Where the Customer's architecture runs on a dedicated infrastructure the Customer is wholly and solely responsible for all licensing that runs within the architecture (e.g. MS Windows, SQL, MS Office, Hardware Support and maintenance agreements).

(i) License types (purchased or rental) cannot be mixed on this architecture.

(ii) If any software is installed or configured by a third party, the Customer must indemnify the Supplier against any cyber security exposure this causes. The Supplier will, to the extent of the services sold, investigate and perform root cause analysis as to ingress or egress of malicious activity or data loss, however upon identification of said third party installed software, all costs for the investigation will be invoiced to the customer and all liability will sit with the Customer and Third Party for the remedy and rectification of damages incurred and the Supplier shall be held harmless in this scenario.

(iii) If the Customers architecture is not up to date in regards to security and feature patches (including Firmware, Operating System and any key Third Party Software) required to deliver the services as agreed in the Proposal/SOW, the Customer must indemnify the Supplier against any cyber security exposure this causes. The Supplier will, to the extent of the services sold, investigate and perform root cause analysis as to ingress or egress of malicious activity or data loss, however upon identification of said third party update being out of date, all costs for the investigation will be invoiced to the customer and all liability will sit with the Customer and Third Party for the remedy and rectification of damages incurred and the Supplier shall be held harmless in this scenario.

14.8 The Customer grants to the Supplier a fully paid up, non-exclusive, royalty free, non-transferable license to copy and modify the Customer's Input Materials for the term of the Contract and for the purpose of providing Services to the Customer in accordance with the Contract.

14.9 At the request and cost of the Customer, the Supplier agrees to enter into the Escrow Agreement on the terms acceptable, and agreed, between the parties pursuant to which the Supplier will deposit the Source Code via a mutually agreed third party ("Escrow Agent").

14.10 The Escrow Agreement will set out the circumstances in which the Source Code will be released to the Customer. The Parties shall mutually agree which Escrow Agent is used and for the avoidance of doubt any costs incurred in setting up the arrangements and related fees such as storage, verification and release (if applicable) will be paid by the Customer.

14.11 The Customer:

14.11.1 warrants that the receipt and use in the performance of this agreement by the Supplier, its agents, subcontractors or consultants of the Customer Materials shall not infringe the rights, including any Intellectual Property Rights, of any third party; and

14.11.2 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 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 Customer Materials.

14.12 If the Customer is required to indemnify the Supplier under this clause 14, the Supplier shall:

14.12.1 notify the Customer in writing of any claim against it in respect of which it wishes to rely on the indemnity at clause 14.11.2 (**IPRs Claim**);

14.12.2 allow the Customer, at its own cost, to conduct all negotiations and proceedings and to settle the IPRs Claim, always provided that the Customer shall obtain the Supplier's prior approval of any settlement terms, such approval not to be unreasonably withheld;

14.12.3 provide the Customer with such reasonable assistance regarding the IPRs Claim as is required by the Customer, subject to reimbursement by the Customer of the Supplier’s costs so incurred; and

14.12.4 not, without prior consultation with the Customer, make any admission relating to the IPRs Claim or attempt to settle it, provided that the Customer considers and defends any IPRs Claim diligently, using competent counsel and in such a way as not to bring the reputation of the Supplier into disrepute.

15. COMPLIANCE WITH LAWS AND POLICIES

15.1 In performing its obligations under this agreement, the Supplier shall comply with the Applicable Laws.

15.2 Changes to the Works required as a result of changes to the Applicable Laws shall be agreed via the change control procedure set out in clause 11 (Change control).

16. DATA PROTECTION

16.1 For the purposes of this clause 16, the terms **controller**, **processor**, **data subject**, **personal data**, **personal data breach** and **processing** shall have the meaning given to them in the UK GDPR.

16.2 Both parties will comply with all applicable requirements of Applicable Data Protection Laws. This clause 16 is in addition to, and does not relieve, remove or replace, a party's obligations or rights under Applicable Data Protection Laws.

16.3 The parties have determined that, for the purposes of Applicable Data Protection Laws:

16.3.1 the Supplier shall process the personal data as set out in Schedule 5 as processor on behalf of the Customer; and

16.3.2 the Customer shall act as controller of the personal data set out in of Schedule 5.

16.4 Should the determination in clause 16.3 change, the parties shall use all reasonable endeavours to make any changes that are necessary to this clause 16 and Schedule 5

16.5 The Customer consents to, (and shall procure all required consents, from its personnel, representatives and agents, in respect of) all actions taken by the Supplier in connection with the processing of Supplier Personal Data, provided these are in compliance with the then-current version of the Supplier's privacy policy available at [https://www.frontline-consultancy.com/frontline-privacy-policy/ (**Privacy Policy**). In the event of any inconsistency or conflict between the terms of the Privacy Policy and this agreement, the Privacy Policy will take precedence.

16.6 Without prejudice to the generality of clause 16.2 the Customer will ensure that it has all necessary appropriate consents and notices in place to enable lawful transfer of the Supplier Personal Data and Customer Personal Data to the Supplier or lawful collection of the same by the Supplier for the duration and purposes of this agreement.

16.7 In relation to the Customer Personal Data, Schedule 5 sets out the scope, nature and purpose of processing by the Supplier, the duration of the processing and the types of personal data and categories of data subject.

16.8 Without prejudice to the generality of clause 16.2 the Supplier shall, in relation to Customer Personal Data:

16.8.1 process that Customer Personal Data only on the documented instructions of the Customer, which shall be to process the Customer Personal Data for the purposes set out in Schedule 5(Processing, personal data and data subjects) unless the Supplier is required by Applicable Laws to otherwise process that Customer Personal Data (**Purpose**). Where the Supplier is relying on Applicable Laws as the basis for processing Customer Processor Data, the Supplier shall notify the Customer of this before performing the processing required by the Applicable Laws unless those Applicable Laws prohibit the Provider from so notifying the Customer on important grounds of public interest. The Supplier shall inform the Customer if, in the opinion of the Supplier, the instructions of the Customer infringe Applicable Data Protection Laws;

16.8.2 implement the reasonable technical and organisational measures set out in Schedule 5to protect against unauthorised or unlawful processing of Customer Personal Data (appropriate to the SOW / Proposal / PID) and against accidental loss or destruction of, or damage to, Customer Personal Data, which the Customer has reviewed and confirms are 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.

16.8.3 Highlight to the Customer any risks or vulnerabilities in writing resulting from the customer minimising service or solution design on the grounds of cost saving or any other limitation outside of the control of the Supplier (thereby accepting the elevated risk of loss or service disruption). The Customer will indemnify Frontline from any legal or financial burden upon receipt of such notification and any rectification will be at the Customers cost;

16.8.4 ensure that any personnel engaged and authorised by the Supplier to process Customer Personal Data have committed themselves to confidentiality or are under an appropriate statutory or common law obligation of confidentiality;

16.8.5 assist the Customer insofar as this is possible and as defined in the SO/SOW / Proposal / PID (taking into account the nature of the processing and the information available to the Supplier), and at the Customer's cost and written request, in responding to any request from a data subject and in ensuring the Customer's compliance with its obligations under Applicable Data Protection Laws with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators;

16.8.6 notify the Customer without undue delay on becoming aware of a personal data breach involving the Customer Personal Data, utilising the technology and services that are outlined, defined and commercially considered within the SO/SOW / Proposal / PID;

16.8.7 at the written direction of the Customer, delete or return Customer Personal Data and copies thereof to the Customer on termination of the agreement unless the Supplier is required by Applicable Law to continue to process that Customer Personal Data. For the purposes of this clause 16Customer Personal Data shall be considered deleted where it is put beyond further use by the Supplier; deletion on long term media will only be possible through scheduled overwriting which occurs in line with the agreed backup schedule; and

16.8.8 maintain records to demonstrate its compliance with this clause 16, [and allow for reasonable audits by the Customer or the Customer's designated auditor, for this purpose, on reasonable written notice].

16.9 The Customer provides its prior, general authorisation for the Supplier to:

16.9.1 appoint processors to process the Customer Personal Data, provided that the Supplier:

(a) Shall conform with all instructions relating to the processing of the Customers data as defined in Schedule 5;

(b) shall ensure that the terms on which it appoints such processors comply with Applicable Data Protection Laws, and are consistent with the obligations imposed on the Supplier in this clause 16;

(c) shall remain responsible for the acts and omission of any such processor as if they were the acts and omissions of the Supplier; and

(d) shall inform 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 Applicable Data Protection Law, the Customer shall indemnify the Supplier for any losses, damages, costs (including legal fees) and expenses suffered by the Supplier in accommodating the objection.

(e) shall inform the Customer of collaboration required with application vendors, whom, for the purpose of supporting the Customer, request an upload of live data to address a system bug or anomaly impacting service, under these specific circumstances, the Customer shall indemnify the Supplier for any losses, damages, costs (including legal fees) and expenses suffered by the Supplier in facilitating the data transfer to the vendors portal, using the vendors technology.

16.9.2 transfer Customer Personal Data outside of the geographic area as defined in Schedule 5, as required for the Purpose, provided that the Supplier shall ensure that all such transfers are effected in accordance with Applicable 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 Commissioner from time to time (where the UK GDPR applies to the transfer).

16.10 Either party may, at any time on not less than 30 days' notice, revise this clause 16 by replacing it with any applicable controller to processor standard clauses or similar terms forming part of an applicable certification scheme (which shall apply when replaced by attachment to this agreement).

16.11 The Supplier's liability for losses arising from breaches of this clause 16 is as set out in clause 18

17. CONFIDENTIALITY AND THE SUPPLIER'S PROPERTY

17.1 The Customer undertakes that it shall not at any time disclose to any person technical or commercial know-how, specifications, inventions, processes or initiatives which are of a confidential nature and have been disclosed to the Customer by the Supplier, its employees, agents, consultants or subcontractors and any other confidential information concerning the Supplier's business or its products which the Customer may obtain, except as permitted by clause 17.2.

17.2 The Customer may disclose the Supplier's confidential information:

(a) in relation to some or all of the Services and any documents acquired pursuant to such Services where it has acquired the Intellectual Property Rights to such Services in accordance with clause 14.1;

(b) 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 the Contract. The Customer shall ensure that its employees, officers, representatives or advisers to whom it discloses the Supplier's confidential information comply with this clause 17; and

(c) as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.

17.3 The Customer shall not use the Supplier's confidential information for any purpose other than to exercise its rights and perform its obligations under or in connection with the Contract.

17.4 All materials, Equipment and tools, drawings, specifications and data supplied by the Supplier to the Customer (including Pre-existing Materials and the Supplier's Equipment) shall, unless the Supplier agrees otherwise in writing, at all times:

(a) be and remain as between the Supplier and the Customer the exclusive property of the Supplier;

(b) be held by the Customer in safe custody at its own risk and in accordance with the provisions of clauses 5.5(a)(i) to 5.5(a)(v) (inclusive); and

(c) not be disposed of or used other than in accordance with the Supplier's written instructions or authorisation.

18. LIMITATION OF LIABILITY

18.1 The following provisions set out the entire financial liability of the Supplier (including without limitation any liability for the acts or omissions of its employees, agents and sub-contractors) to the Customer in respect of:

(a) any breach of the agreement howsoever arising; and

(b) any representation, misrepresentation (whether innocent or negligent), statement or tortious act or omission (including without limitation negligence) arising out of or in connection with the Contract.

18.2 All warranties, conditions and other terms implied by statute or common law including, but not limited to, the terms implied by sections 3, 4 and 5 of the Supply of Goods and Services Act 1982, are excluded from the Contract to the fullest extent permitted by law.

18.3 Nothing in the Contract shall limit or exclude the Supplier's liability for:

(a) death or personal injury caused by its negligence;

(b) fraud or fraudulent misrepresentation; or

(c) breach of the terms implied by section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession) or any other liability which cannot be limited or excluded by applicable law.

18.4 Subject to clauses 18.2 and 18.3 and save as otherwise set out in the Contract, the Supplier shall not be liable to the Customer, whether in contract, tort (including negligence), for breach of statutory duty, or otherwise, arising under or in connection with the Contract for:

(a) loss of profits;

(b) loss of sales or business;

(c) loss of agreements or contracts;

(d) loss of anticipated savings;

(e) loss of or damage to goodwill;

(f) loss of use or corruption of software, data or information;

(g) any indirect or consequential loss; and

(h) any loss resulting from the Customer minimising service or solution design on the grounds of cost saving or any other limitation outside of the control of the Supplier (thereby accepting the elevated risk of loss or service disruption).

18.5 Subject to clauses 18.2, 18,3 and 18.4 and save as otherwise set out in the Contract, the Supplier's total liability to the Customer, whether in contract, tort (including negligence), for breach of statutory duty, or otherwise, arising under or in connection with the Contract shall be limited to:-

(a) in respect of each of the Services, the Charges paid by the Customer to the Supplier in respect of such Services in the 12 month period prior to the date on which the liability was first incurred;

(b) in respect of any Equipment, the Charges paid for such Equipment; and

(c) in respect of any Public Cloud Services, the liability limitations set out therein.

18.6 Without prejudice to any other provisions of this clause 18, if the Services include penetration testing and ethical hacking or such similar services, the Customer agrees and acknowledges that the Supplier’s liability to the Customer shall be further limited as follows:

18.6.1 That the Supplier does not offer any guarantee that after such Services have been carried out, the Customer's network will be secure from any future attack;

18.6.2 That there are risks associated with such Services by virtue of their nature including, but not limited to, damage to the Customer's network which may impact on system availability, either on either a temporary or permanent basis or such other risks as the Supplier may advise to the Customer from time to time and the Customer agrees and acknowledges that the Supplier shall not be liable to the Customer (whether in contract, tort (including negligence) for breach of statutory duty or otherwise) for, and the Customer shall hold the Supplier harmless in respect of, any loss or damage whatsoever (whether direct, indirect or consequential) which may arise as a result of the provision of such Services and it is the Customer’s responsibility to ensure that it has carried out the necessary back up of all data and systems prior to the carrying out of such Services.

18.6.3 Such tests are scoped and for cost efficiency, documentation, diagrams and design specifications, configuration and credentials for access are often provided to maximise value from the exercise. This artificial approach to validating security therefore yields a meaningful report, but context must be applied the report output would likely not be possible without lowering defences and providing access.

18.6.4 The testing doesn't guarantee that all security issues are identified. There may be security elements that are not known at the time of the test, or elements of the infrastructure that actively stop these being fully tested.

18.6.5 Where the testing will emulate a "Denial of Service" attack. Performance or connectivity issues may occur on communications infrastructure during the period of testing.

18.6.6 Possible disruption of any internet facing services based on either a lack of adequate security or installed levels of protection working against the scan to protect the service (as outlined in the agreed SOW / Proposal / PID)

18.6.7 The Supplier has obtained cyber insurance cover in respect of its own legal liability for individual claims not exceeding £2,500,000 in the aggregate . The limits and exclusions in this clause reflect the insurance cover the Supplier has been able to arrange and the Customer is responsible for making its own arrangements for the insurance of any excess loss.

18.7 References to liability in this clause 18 (Limitation of liability) include every kind of liability arising under or in connection with this agreement including but not limited to liability in contract, tort (including negligence), misrepresentation, restitution or otherwise.

18.8 Nothing in this clause 18 shall limit the Customer's payment obligations under this agreement.

18.9 Unless the Customer notifies the Supplier that it intends to make a claim in respect of an event within the notice period, 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.

19. TERMINATION

19.1 Save as set out at clause 19.2, the Customer may not terminate the Contract in respect of any Services, Professional Services and/or any technical services or an order for Equipment, except with the agreement in writing of the Supplier and provided that:-

(a) in respect of an order for Equipment, the Customer indemnifies the Supplier in full against all loss (including, without limitation, loss of profit), costs (including, without limitation, the costs of all third party licences and services that cannot be co-terminated with this agreement, due to clauses in any third party agreement, details of any such restrictions having been shared with the customer prior to any termination notice being received, labour and materials used), damages, charges and expenses incurred by the Supplier as a result of cancellation; and

(b) in respect of any Services as defined in the Suppliers Service Catalogue, whether bespoke, standard or otherwise, the Supplier will invoice the Customer for immediate payment for the following:-

(i) all Charges due and payable in respect of such Services provided up to the end of the Initial Term or Renewal period

(ii) all Amortised Costs, including but not limited to Professional Services, hardware or Software charges, Licenses or initial setup fees, including recovery of discounts that may have been applied in the SOW / Proposal / PID in good faith, expecting full revenue recognition over the Initial Term

(iii) all Offboarding fees due for the transition of Services away from the Supplier (including, but not limited to removal of Supplier data, Intellectual Property Rights, licenses, coding, credentials and so forth)

(c) the use of any service beyond the termination date will result in a full monthly charge being applied to that month to cover the cost of License Bound Services or other Service embedded costs

(d) licenses may in certain instances be either amortised, or require a minimum time commitment (for example 3 years), in this instance, where the Customer Service utilises such cost models, the extrapolated cost will be calculated and recovered within the final payment from the Customer

(e) in respect of Professional Services and/or Cloud Services :-

(i) all Charges due and payable in respect of such Services provided up to the date of such termination have been paid in full and any booked work confirmed by the customer for a period of 3 (three) months post the termination date; and

(ii) the Customer pays to the Supplier all reasonable costs, charges, damages and/or losses sustained or incurred by the Supplier (including, but not limited to, any direct, indirect or consequential losses insofar as they relate to loss of profit and loss of opportunity) that arise directly or indirectly as a result of such termination

19.2 Without affecting any other right or remedy available to it, either party may terminate this agreement with immediate effect by giving written notice to the other party if:

19.2.1 the other party commits a Material Breach of any term of this agreement and (if such breach is remediable) fails to remedy that breach within a period of 30 working days after being notified to do so;

19.2.2 the other party repeatedly breaches any of the terms of this agreement in such a manner as to objectively justify the opinion that its conduct is inconsistent with it having the intention or ability to give effect to the terms of this agreement;

19.2.3 the other party 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;

19.2.4 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;

19.2.5 the other party applies to court for, or obtains, a moratorium under Part A1 of the IA 1986;

19.2.6 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);

19.2.7 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, partnership or limited liability partnership);

19.2.8 the holder of a qualifying floating charge over the assets of that other party (being a company or limited liability partnership) has become entitled to appoint or has appointed an administrative receiver;

19.2.9 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;

19.2.10 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;

19.2.11 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 19.2.11 to clause 19.2.10 (inclusive);

19.2.12 the other party suspends or ceases, or threatens to suspend or cease, carrying on all or a substantial part of its business; or

19.3 the other party's financial position deteriorates so far as to reasonably justify the opinion that its ability to give effect to the terms of this agreement is in jeopardy. For the purposes of clause 19.2.1 **Material Breach** means a breach (including an anticipatory breach) that is serious in the widest sense of having a serious effect on the benefit which the terminating party would otherwise derive from:

19.3.1 a substantial portion of this agreement; or

19.3.2 any of the Customer's obligations,

over any 3 month period during the term of this agreement. In deciding whether any breach is material no regard shall be had to whether it occurs by some accident, mishap, mistake or misunderstanding.

19.4 Without affecting any other right or remedy available to it, the Supplier may terminate this agreement and or any Proposal in respect of some or all of the Services or any Equipment with immediate effect by giving notice to the Customer if:

19.4.1 the Customer fails to pay any amount due under this agreement on the due date for payment and remains in default not less than 60 days the due date;

19.4.2 there is a change of Control of the Customer; or

19.4.3 the Customer repeatedly fails to co-operate reasonably with the Supplier and /or breaches any of the terms of the Contract in such a manner as to reasonably justify the opinion that its conduct is inconsistent with it having the intention or ability to give effect to the terms of the Contract.

19.5 Where the Services comprise Professional Services, the Contract shall terminate upon completion of delivery of those Professional Services as confirmed by the Supplier.

19.6 Where an Insolvency Event occurs on behalf of the Customer, the Supplier shall be entitled to hold a lien over the data received from the Customer for the provision of the Services and the data generated through operation of the Services until payment of the sums owed to the

Supplier have been made or the parties reach a form of settlement in accordance with the procedure outlined in clause 34.

20. OBLIGATIONS ON TERMINATION AND SURVIVAL

20.1 **Obligations on termination or expiry**

On termination or expiry of this agreement:

(a) the Customer shall immediately pay to the Supplier all of the Supplier's outstanding unpaid invoices and interest whether or not due and, in respect of the Works supplied but for which no invoice has been submitted, the Supplier may submit an invoice, which shall be payable immediately on receipt;

(b) subject to the Customer complying with the terms of the Contract, the Supplier shall render reasonable assistance as required by the Customer in order to enable the Customer to make arrangements in respect of the provision of the terminated Services or any of them by the Customer or a third party, subject to the payment of an additional fee in respect of such assistance;

(c) the Supplier shall on request return any of the Customer Materials not used up in the provision of the Work;.

(d) subject to clause 17.2(a), where the Customer does not immediately reimburse the Supplier, the Supplier reserves the right to make recovery of any non-payment and the aggregate sum of interest accrued to date on the outstanding sum in accordance with clause 12.5;

(e) on termination of the Contract in respect of some or all of the Services, any unpaid Service Credits or unpaid Service Credits in respect of the terminated Service shall represent a debt due from the Supplier to the Customer;

20.1.2 Termination of the agreement in respect of all or some only of the Services shall not affect any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of such termination, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of such termination.

20.1.3 The Supplier may provide such assistance as is reasonably requested by the Customer to transfer the services to the Customer or another third party, subject to payment of the Supplier’s Charges and any costs or other expenses it incurs.

20.1.4 On termination of the agreement in respect of any of the Services in accordance with these Conditions, the Customer shall return to the Supplier all of the Supplier’s Equipment and Pre-Existing Materials relating to such terminated Services failing which the Supplier may enter the relevant premises and take possession of them. Until these are returned or repossessed, the Customer shall be solely responsible for their safe keeping.

20.2 **Survival**

20.2.1 On termination or expiry of this agreement, all affected Statements of Works under terminated or expired Service(s) or contract, shall terminate automatically.

20.2.2 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 shall remain in full force and effect.

20.2.3 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 the agreement which existed at or before the date of termination or expiry.

21. FORCE MAJEURE

21.1 **Force Majeure Event** means any circumstance not within a party's reasonable control including, without limitation:

21.1.1 acts of God, flood, drought, earthquake or other natural disaster;

21.1.2 epidemic or pandemic;

21.1.3 terrorist attack, civil war, civil commotion or riots, war, threat of or preparation for war, armed conflict, imposition of sanctions, embargo, or breaking off of diplomatic relations;

21.1.4 nuclear, chemical or biological contamination or sonic boom;

21.1.5 any law or any action taken by a government or public authority, including without limitation imposing an export or import restriction, quota or prohibition, or failing to grant a necessary licence or consent;

21.1.6 collapse of buildings, fire, explosion or accident;

21.1.7 any labour or trade dispute, strikes, industrial action or lockouts;

21.1.8 non-performance by suppliers or subcontractors (other than by companies in the same group as the party seeking to rely on this clause); and

21.1.9 interruption or failure of utility service.

21.2 Provided it has complied with clause 21.3, 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.

21.3 The Affected Party shall:

21.3.1 as soon as reasonably practicable after the start of the Force Majeure Event, notify the other party in writing 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

21.3.2 use all reasonable endeavours to mitigate the effect of the Force Majeure Event on the performance of its obligations.

21.3.3 If the Force Majeure Event prevents, hinders or delays the Affected Party's performance of its obligations for a continuous period of more than 90 days, the party not affected by the Force Majeure Event may terminate the Contract by giving 5 Business Days written notice to the Affected Party.

22. ASSIGNMENT AND OTHER DEALINGS

22.1 The agreement is personal to the Customer and the Customer 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.

22.2 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.

23. VARIATION

Subject to clause 11 (Change control), no variation of this agreement shall be effective unless it is in writing and signed by the parties (or their authorised representatives).

24. WAIVER

24.1 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.

24.2 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.

25. 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.

26. SEVERANCE

26.1 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.

26.2 If any provision or part-provision of this agreement is deemed deleted under clause 26.1 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.

27. ENTIRE AGREEMENT

27.1 This agreement constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, discussions, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.

27.2 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 or the associated Service Descriptions. Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in this agreement.

28. CONFLICT

If there is an inconsistency between any of the provisions of this agreement and the provisions of the Schedules, the provisions of this agreement shall prevail.

29. NO PARTNERSHIP OR AGENCY

29.1 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.

29.2 For the avoidance of doubt, where a separate partnership agreement is signed between the Customer and the Supplier, clause 29.1 shall not render that agreement null and void and all provisions within said agreement will supersede clause 29.1

29.3 Each party confirms it is acting on its own behalf and not for the benefit of any other person.

30. THIRD PARTY RIGHTS

30.1 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.

31. NOTICES

31.1 Any notice given to a party under or in connection with this agreement shall be in writing and shall be:

31.1.1 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

31.1.2 sent by email by the Supplier to the address specified in [SPECIFY RELEVANT DOCUMENT OR CLAUSE].

31.1.3 sent by email by the Customer to contracts@frontline-consultancy.co.uk or other email address as notified to the Customer from time to time.

31.2 Any notice shall be deemed to have been received:

31.2.1 if delivered by hand, at the time the notice is left at the proper address;

31.2.2 if sent by pre-paid first-class post or other next Business Day delivery services, at 10.00 am on the second Business Day after posting; or

31.2.3 if sent if sent by email, at 9.00am on the next Business Day after transmission, or, if this time falls outside Business Hours in the place of receipt, when Business Hours resume.

31.3 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.

32. COUNTERPARTS

32.1 This agreement may be executed in any number of counterparts, each of which shall constitute a duplicate original, but all the counterparts shall together constitute the one agreement.

32.2 Transmission of an executed counterpart of this agreement (but for the avoidance of doubt not just a signature page) by email (in PDF, JPEG or other agreed format) shall take effect as the transmission of an executed "wet-ink" counterpart of this agreement. If this method of transmission is adopted, without prejudice to the validity of the agreement thus made, each party shall on request provide the other with the "wet ink" hard copy originals of their counterpart.

32.3 No counterpart shall be effective until each party has executed at least one counterpart.

33. COMPLIANCE

33.1 The Customer agrees that in engaging with Supplier and carrying out its respective obligations under these terms, it will ensure compliance and procure that each member of its Group complies with Supplier's own policies. For the avoidance of doubt, these include:

(a) the Anti-Bribery Policy; and

(b) the Anti-Slavery Policy.

33.2 Copies of the Supplier's policies shall be provided by Supplier to the Customer upon request. The Supplier may, at its sole discretion, require compliance with additional policies from time to time and will notify the Customer accordingly.

34. MULTI-TIERED DISPUTE RESOLUTION PROCEDURE

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

34.1.1 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 Customer and [EMPLOYEE TITLE] of the Supplier shall attempt in good faith to resolve the Dispute;

34.1.2 if the [EMPLOYEE TITLE] of the Customer 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 Customer and [SENIOR OFFICER TITLE] of the Supplier who shall attempt in good faith to resolve it; and

34.1.3 if the [SENIOR OFFICER TITLE] of the Customer and [SENIOR OFFICER TITLE] of the Supplier are for any reason unable to resolve the Dispute within 30 days of it being referred to them, the parties will attempt to settle it by mediation in accordance with the CEDR Model Mediation Procedure. Unless otherwise agreed between the parties, the mediator shall be nominated by CEDR. Each Party shall bear its own costs with respect to any such escalation and mediation; the costs of the mediator shall be borne equally by both Parties, unless agreed otherwise in writing. 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 28 days after the date of the ADR notice.

34.2 The commencement of mediation shall not prevent the parties commencing or continuing court proceedings in relation to the Dispute.

35. 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.

36. JURISDICTION

Each party irrevocably agrees that the courts of England 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 CONTRACT has been entered into on the date stated at the beginning of it.

SCHEDULE 1

Service Catalogue

The Frontline Service Catalogue is published on our website with password-controlled access. Here the version of each service description can be found and are actively maintained. The MSA covers each of these services for the duration defined within the Proposal or Quote and to cover the assets or customer employees defined in the SO, SoW, PID or subsequent CCN. These services can increase over time under the terms of this MSA and any reductions may be applied in line with the terms of this MSA also.

PART 1 – Managed Services:

The following is a list of Services defined with the Supplier Service Catalogue, the items selected are included within the terms of this contract:

Service or Reference	Included ☑ or ☒
Service Wrapper and Dependency Terms	☐
Advanced Real-Time Monitoring	☐
Managed Disaster Recovery	☐
Managed Hosting	☐
M365 Managed Desktop	☐
M365 Premium	☐
M365 Standard	☐
M365 Basic	☐
Managed Backup	☐
Managed Desktop	☐
Managed Desktop Lite	☐
Managed Firewall	☐
Managed Hypervisor	☐

Managed IBMi	☐
Managed Service Delivery	☐
Managed Server	☐
Managed Server Lite	☐
Managed Storage	☐
Managed Switch	☐
Managed VDI	☐
Managed Vulnerability Scanning	☐
Managed WiFi	☐
Project Management as a Service	☐

PART 2– Support Services:

Service or Reference	Included ☑ or ☒
Service Wrapper and Dependency Terms for SAP B1	☐
SAP Support	☐

All Service Descriptions are maintained and accessible via the following link https://www.frontline-consultancy.com/service_catalogue/ and all such services may be updated from time to time, but will always hold the latest version of each service within this restricted URL (as referenced on the Supplier invoice)

PART 3 – Bespoke Services:

SCHEDULE 2

[Proposal goes here, or link to Proposals / Quotes over the lifetime of the Services and or Contract]

Monthly Recurring Costs (MRC):

Non Recurring Costs (NRC):

Signed by [NAME OF CUSTOMER REPRESENTATIVE] for and on behalf of the Customer.

....

Signed by [NAME OF SUPPLIER REPRESENTATIVE] for and on behalf of the Supplier.]

....

SCHEDULE 3

Template Statement of Work

1. Works: [LIST OUT ALL THE WORKS TO BE PROVIDED UNDER THIS STATEMENT OF WORK. THE WORKS SHOULD BE FROM THE LIST AS DETAILED IN Schedule 1].

2. Customer's manager and Supplier's manager: [LIST OUT THE RELEVANT INDIVIDUALS].

3. Start date and term: [SPECIFY WHEN THE WORKS WILL COMMENCE, AND THE TERM OF THIS STATEMENT OF WORK].

4. Customer Materials: [LIST OUT THE CUSTOMER MATERIALS].

5. Customer's Equipment: [LIST OUT THE CUSTOMER'S EQUIPMENT].

6. Supplier's Equipment: [LIST OUT THE SUPPLIER'S EQUIPMENT].

7. [Service Levels: [INCLUDE ANY SERVICE LEVELS, IF APPLICABLE]].

8. Timetable: [SET OUT THE TIMETABLE FOR PERFORMING THE WORKS].

9. Milestones: [SET OUT ANY MILESTONES FOR THE WORKS].

10. Deliverables: [SET OUT ANY DELIVERABLES FOR THE WORKS].

11. Acceptance Criteria: [SET OUT ANY CRITERIA FOR ACCEPTING THE DELIVERABLES OR THE MILESTONES].

12. SOW Charges: [SET OUT THE CHARGES, SO CHARGES, MILESTONE PAYMENTS, PAYMENTS IN ADVANCE, PAYMENTS IN ARREARS AND OUT OF POCKET EXPENSES FOR THE WORKS].

13. Solutions Overview [annexed / N/A]

....

Signed by [NAME OF CUSTOMER REPRESENTATIVE] for and on behalf of the Customer.

....

Signed by [NAME OF SUPPLIER REPRESENTATIVE] for and on behalf of the Supplier.]

SCHEDULE 4

Reference Charges and payment terms

Fixed price: [PRE-AGREED PRICES FOR PARTICULAR SERVICES OR METHOD OF CALCULATING FIXED PRICE]

Time and materials:

- Daily rates: [DAILY RATES FOR MEMBERS OF THE SUPPLIER'S TEAM]
- Weekend/overtime rates: [WEEKEND/OVERTIME RATES OF MEMBERS OF THE SUPPLIER'S TEAM]

Additional charges: The following materials and services procured from third parties shall be invoiced to the Customer in addition to the Charges: [DETAILS OF THIRD PARTY MATERIALS AND SERVICES TO BE CHARGED IN ADDITION TO THE CHARGES]

Payment terms: [PAYMENT TERMS FOR PARTICULAR SERVICES]

SCHEDULE 5

Processing, personal data and data subjects

Processing by the Provider

1.1 Scope, nature and purpose of processing

To enable the Supplier to provide the Services to the Customer pursuant to the Contract and/or as requested by the Customer

1.2 Duration of the processing

In relation to the Services in relation to which the processing is carried out, for the duration of the Contract in relation to those Services.

Types of personal data

Depending on the nature of the Services the types of personal data will vary but may include name, address, and any other personal details as more particularly set out in the SDD/PID that will reference whose personal data is being processed by the Supplier in relation to the Services provided.

Categories of data subject

Depending on the nature of the Services provided this may include, employees, members, customers, suppliers as more particularly set out in the SDD/PID that will reference whose data the Supplier will be processing in relation to the Services

SCHEDULE 6 – Public Cloud Services

a) The Public Cloud Service Charges quoted by the Supplier are estimates only.

b) The actual Charges will depend on the Third Party cloud provider’s then current pricing (which may vary month by month) and Customer’s consumption.

c) The Cloud Services subscriptions shall be automatically suspended should the Supplier not receive payment on or before the due date stated on the invoice.

d) Any data stored on cloud platforms will be retained for ninety (90) days period following suspension/cancellation following which it will be permanently deleted. It is Customer’s responsibility to ensure it take regular back-ups of the data. The Customer may be charged during this period.

e) The applicable Third Party Provider cloud agreement (“**Cloud Agreement**”) as referenced below and as in force from time to time shall be incorporated into and form part of the Contract. In the event of any conflict between these Terms and the Cloud Agreement, the Cloud Agreement shall take precedence.

   a. Microsoft Azure
   b. AWS
   c. IBM Cloud

f) The Supplier will pass on any and all charges resulting from pricing variation, volatility or change as and when those changes occur. The Customer must ensure full payment to guarantee services. In most instances, Public Cloud services operate on either a pay-as-you-go (PAYG), fixed consumption or fixed term basis, each of these carry their own considerations for cost, price protection and monthly charge variation. By accepting the terms of the Public Cloud provider, the Customer accepts the fluctuations that these options carry and will pay to the Supplier the Service Charges and fluctuations as they occur in each invoice period.

Signed by [NAME OF DIRECTOR] for and on behalf of FRONTLINE CONSULTANCY AND BUSINESS SERVICES LIMITED	.... Director
Signed by [NAME OF DIRECTOR] for and on behalf of [NAME OF CUSTOMER]	.... Director