

Section 1

Framework Agreement

Between **Gravitas Recruitment Group Limited** a company incorporated in England and Wales [Company number: 06959984] whose registered office is at 5th Floor 10 Devonshire Square London EC2M 4YP [the "**Company**"] and the Client.

Client	[●] [the " Client "]
Company number:	[●]
Registered office:	[●]

Background:

- (A) The Company is a company that provides [●] consultancy services on an independent basis utilising the services of Personnel that work on a subcontracted, statement of work, basis.
- (B) The Client wishes to appoint the Company to deliver Deliverables and/or Services on one or more projects as set out in Statement of Work contracts agreed and issued pursuant to the terms of this Framework Agreement.

It is agreed as follows:

We agree to be bound by this Framework Agreement [the terms of which are set out in Section 3 and Section 2] and any Statement of Work [the terms of which are set out in Schedule 7] agreed by the parties and issued hereunder.

Signed for and on behalf of the Company	Signed for and on behalf of the Client
By:	By:
Name:	Name:
Title:	Title:
Date:	Date:

Section 2

Charging Principles

Rate Card

Unless otherwise agreed in a Statement of Work the following rates shall apply to the Services provided by the Company pursuant to this Agreement including for Out of Scope Services and any Definitions Stage Services and any stand by costs [under clause 11 of the Framework Agreement] of the Company following delays resulting from any failure by the Client to perform the Client Dependencies:

[●]

Increases to the Charges

The Company reserves the right, by giving written notice to the Client at any time, to increase the Charges to reflect any increase in the cost to the Company which is due to any factor beyond the control of the Company such as without limitation:

- changes in applicable laws, any foreign exchange fluctuation, currency regulation, increased fuel charges, alteration of duties, significant increase in the direct or indirect costs of labour, failure by the Client to perform any of its obligations]; and/or
- any change in the Services which is requested by the Client, or any delay caused by any incorrect or misleading or negligent instructions of the Client or failure of the Client to give the Company adequate and accurate information or instructions.

The Charges shall in any event be increased on each anniversary of the Services Commencement Date by a percentage not exceeding the percentage increase in the Retail Prices Index over the preceding twelve month period.

If prior to any anniversary of the Services Commencement Date, the Retail Prices Index has not been published and is unlikely to be published in the foreseeable future, then any replacement Retail Prices Index published by the Office of National Statistics will be binding on the parties, or in its absence the parties shall meet in an endeavour to agree upon an appropriate amendment to or replacement of the Retail Prices Index, and if within 3 months, no such agreement has been reached then, at the request of either party the matter shall be resolved in accordance with clause 41 of the Framework Agreement.

Section 3

Terms of Framework Agreement

1. Definitions and interpretation

1.1 In this Agreement, unless the context otherwise requires, the following definitions shall apply:

"Agreement" means this framework agreement for the purchase of services [including any schedule or appendix to it and any incorporated document].

"Authorised Representative" means, in relation to a party, the employee or officer of that party who is designated by that party from time to time as its representative, and of whom the other party has been notified in writing as being the other party's initial point of contact for all matters arising out of, or in connection with, this Agreement.

"Business Day" means a day other than a Saturday, a Sunday, a public or bank holiday in the Territory.

"Change Order" means a document used to record the parties' agreement to a change to the scope of execution of a Statement of Work, which is substantially in the form of the template set out at **Error! Reference source not found. [Change Order]**.

"Change Procedure" means the principles and procedure set out in clause 12.

"Charges" means the fees and expenses payable by the Client to the Company for the Services, as set out in the Statement of Work[s].

"Client Background IPR" means Intellectual Property Rights owned by or licensed to the Client prior to the Effective Date including any information the Client provides to the Company for the purposes of performing its obligations under this Agreement.

"Client Dependency" means the obligations and responsibilities of the Client as detailed as a Client dependency in clause 11.1 and any Statement of Work.

"Client Personnel" means Personnel of the Client.

"Company Background IPR" means Intellectual Property Rights owned by or licensed to the Company prior to the Effective Date including any information the Company provides to the Client for the purposes of performing its obligations under this Agreement.

"Company Personnel" means Personnel of the Company.

"Confidential Information" means all information which is disclosed by one party to the other whether before or after the Effective Date, and or by the Client to the Company or any Personnel which is designated in writing as confidential or would appear to a reasonable person to be confidential and which relates to a party's business including its products, operations, processes, plans or intentions, developments, trade secrets, know how, market opportunities, marketing, personnel, suppliers and Clients, Personal Data [as defined in **Error! Reference source not found. [Data protection and security]**], ideas and concepts that the Company presents, pitches or suggests to the Client during the Term, any information identified as Confidential Information in a Statement of Work, all information relating to the Client's data, business models, plans, personnel and suppliers and all information derived from any of the above together with the existence and provisions of this Agreement and the negotiations relating to it.

"Consultant" means those Consultant[s] named in a Statement of Work or as otherwise agreed by the parties from time to time.

"Control" means the ability to control or direct, directly or indirectly, the board, executive body, decision making process or management of an entity by virtue of ownership, right of appointment, right to control election or appointment, voting rights, the ability to control the exercise of voting rights, management

agreement or any other agreement and **"Controls"**, **"Controlled"** and **"Controlling"** shall be construed accordingly.

"Data Protection Legislation" means any applicable laws and regulations in any relevant jurisdiction relating to the use or processing of personal data including: i) EU Regulation 2016/679 as it forms part of the law of England and Wales by virtue of section 3 of the European Union (Withdrawal) Act 2018 [the **"UK GDPR"**]; ii) the Data Protection Act 2018 [**"DPA"**]; and iii) the Privacy and Electronic Communications (EC Directive) Regulations 2003; in each case, as updated, amended or replaced from time to time.

"Definition Stage Services" means any consultancy services to be provided by the Supplier on the basis contemplated in clause 4.1 which include understanding the project and designing a project brief.

"Delay Payment" means the sum[s] of money identified as such in a Statement of Work.

"Deliverable" means any document, plan or other product which is included in the Services or which the Company is obliged to provide to the Client in the course of providing the Services under any Statement of Work and includes all drafts and working papers created for the purpose of producing the same.

"Delivery Date" means the date on which the Goods are to be delivered and/or the Services are to be provided, as appropriate, as detailed in a Statement of Work.

"Delivery Location" means [to the extent any visits to Client will be required, it being accepted that the Services will in large part and in some cases entirely be performed remotely) the location at which the Goods and/or the Services are to be delivered as detailed in a Statement of Work.

"Dispute" means any dispute, difference or question of interpretation arising out of or in connection with this Agreement [including any dispute regarding pre-contractual negotiations, the existence, validity or termination of this Agreement or the consequences of non-existence or invalidity of this Agreement) whether contractual or non-contractual.

"Dispute Resolution Procedure" means the process set out in clause 37 (Dispute resolution).

"Effective Date" means the earlier of the date of last signature of Section 1 of this Agreement and the date on which the first Statement of Work is agreed by the parties and commenced pursuant to this Framework Agreement.

"Force Majeure Event" means an event which is beyond the reasonable control of the party affected and which has the effect that that party is prevented from performing its obligations under this Agreement including, but not limited to: acts of God, expropriation or confiscation of facilities, any form of Government intervention or action, war, hostilities, rebellion, terrorist activity, local or national emergency, sabotage or riots, and floods, fires, explosions or other catastrophe, global or national epidemics, pandemics, outbreak or other crisis. Force Majeure does not include:

- [a] failure to adequately to test any equipment supplied by a third party or other service component prior to installation, or any consequence of any such failure or;
- [b] strikes or other industrial action; or
- [c] failure to secure materials or resources;

"Good Industry Practice" means the exercise of the skill, diligence, prudence, foresight and judgment which would be expected from a suitably skilled and experienced person engaged in the same type of work under the same or similar circumstances, applying the best standards currently generally applied in the relevant industry.

"Group Company" means, in relation to any company, any other person or entity that directly or indirectly Controls, is Controlled by, or is under common Control with such company.

"Goods" means any goods, products or materials supplied by the Company pursuant to this Agreement in whatever media including any Goods referred to expressly in any Statement of Work, any New Materials, and any software, data, diagrams, reports and specifications.

"Intellectual Property Rights" means any patent, copyright [including copyright in software], decryption right, trade mark, service mark or trade name, right in software, right in design, utility model, right in databases [including the right to prevent the extraction or reutilisation of information from a database], topography right, image right, moral right, right in an invention, right relating to passing off, domain name and all similar or equivalent rights in each case whether registered or not and including all applications [or rights to apply] for, or renewal or extension of, such rights which exist now or which will exist in the future in any country in the world.

"Laws" means any applicable law, statute, bye-law, regulation, order, regulatory policy [including any requirement or notice of any Regulatory Authority], guidance or industry code of practice, rule of court, delegated or subordinate legislation in force from time to time.

"Longstop Date" means the longstop date identified in relation to completion of any Key Milestone in a Statement of Work or Project Plan.

"Losses" means any demand, contribution, claim, action, proceeding, liability, loss, damages, costs, compensation, settlements, expenses and/or professional costs and/or charges, tax, national insurance contributions [to the extent permitted by law] and charges and any related penalties, fines or interest whatsoever whether founded in statute, contract, tort or otherwise made or brought against or incurred [including without limitation all losses, liabilities and costs incurred as a result of defending or settling any claims].

"Milestone" means any act, event or achievement which is specified to be a milestone in any Statement of Work or Project Plan.

"Milestone Date" means the date for completion or achievement of a Milestone, as set out in a Statement of Work or Project Plan.

"New Materials" means all materials [including any software, documentation, user guides, works or other item] conceived, prepared, created or designed by the Company, or commissioned by the Company from third parties, pursuant to this Agreement or arising out of or in consequence of the provision of the Services.

"Personnel" mean the employees, agents and Subcontractor personnel of a party including [in the case of the Company] any Consultant.

"Project Plan" means any project plan, timetable or implementation plan which is set out in a Statement of Work or which is required to be prepared and agreed in accordance with a Statement of Work, and which forms part of a Statement of Work.

"Rate Card" means the rate card referenced in **Error! Reference source not found.** (*Charging Principles*).

"Records" means detailed records of all activities carried out and costs incurred in connection with the provision of the Goods and the Services, and any other records as are expressly required to be kept by the Company under this Agreement.

"Regulatory Authority" means all governmental, statutory or regulatory bodies and any other competent authorities in any jurisdiction having responsibility for the regulation or governance of any of the activities of the Client or the Company, including data protection authorities and law enforcement agencies.

"Retention Period" means at least 12 months after the expiry or earlier termination of this Agreement.

"Services" means the services to be provided by the Company to the Client, including any Deliverables, as set out in a Statement of Work.

"Service Levels" means the service levels for performance of any Services set out in a Statement of Work.

"Service Failure" means a failure to meet one or more of the Service Levels and/or any other failure to provide the Services in accordance with this Agreement.

"Service Remedies" has the meaning given in paragraph **Error! Reference source not found. of Error! Reference source not found.** *[Service Levels and Service Remedies]*.

"Services Commencement Date" means the commencement date for the provision of the Services as specified in a Statement of Work, or if no date is specified, the date on which the Statement of Work is signed by both parties.

"Statement of Work" or "SOW" means an agreement between the parties with respect to the terms applicable to the provision of specific Services by the Company, agreed in accordance with clause 4, which is substantially in the form of the template set out at Schedule 7 Statement of Work] or any other form of work brief provided to the Company in writing by the Client including in the form of a purchase order [whether electronic or otherwise].

"Subcontractor" means any consultant, contractor, agency or supplier [including any Group Company] engaged by the Company in connection with this Agreement for the supply of all or any part of the Goods or Services.

"Systems" means computer programs, databases, the tangible media on which they are recorded and their supporting documentation, including input and output format, narrative descriptions, source code, object code, operating instructions and user manuals.

"Territory" has the meaning given in the relevant Statement of Work.

"Third Party Supplier" means a supplier to the Client other than the Company.

1.2 In this Agreement, unless the context otherwise requires:

- [a] words in the singular include the plural and vice versa and words in one gender include any other gender;
- [b] a reference to a statute or statutory provision includes:
 - [i] any subordinate legislation [as defined in Section 21[1], Interpretation Act 1978] made under it;
 - [ii] any statute or statutory provision which modifies, consolidates, re-enacts or supersedes it whether such statute or statutory provision comes into force before or after the date of this Agreement;
- [c] a reference to:
 - [i] any party includes its successors in title and permitted assigns;
 - [ii] words importing persons shall include any individual, firm, body corporate, association or partnership, government or state [whether or not having a separate legal personality];
 - [iii] a clause, schedule or paragraph is a reference to the clause, schedule, or paragraph of, or to, this Agreement. References to a paragraph made in a schedule to this Agreement shall, unless otherwise specified, be deemed to be a reference to a paragraph of that schedule;

- [d] the table of contents and headings are for reference only and shall not affect the interpretation of this Agreement;
- [e] the schedules and appendices form part of this Agreement and shall have the same effect as if contained in the body of this Agreement;
- [f] the words **"including"**, **"include"**, **"for example"**, **"in particular"** and words of similar effect shall not be deemed to limit the general effect of the words which precede them and **"including"**, **"include"** and **"for example"** shall be deemed to have the words **"but not limited to"** following them; and
- [g] if there is any conflict, ambiguity or inconsistency between the parts of this Agreement, the following order of precedence shall apply:
 - [i] any terms expressly identified in a Statement of Work as taking precedence over the provisions of the main body of this Agreement; then
 - [ii] the clauses in the main body of this Agreement; then
 - [iii] the schedules; then
 - [iv] all other terms of a Statement of Work.

2. **Term**

- 2.1 This Agreement shall come into force on the Effective Date and shall continue in force unless terminated in accordance with its terms, or by operation of law.
- 2.2 Each Statement of Work shall come into force on the relevant Services Commencement Date and shall continue in force for the Term specified in such Statement of Work unless and until terminated in accordance with its terms.

3. **Appointment**

- 3.1 The Client appoints the Company from the Effective Date to provide the Services, as agreed between the Company and the Client or a Client Group Company from time to time in a Statement of Work in accordance with the provisions of this Agreement.
- 3.2 This Agreement and each Statement of Work shall apply to and shall govern the relationship between the Client and the Company in relation to the provision of the Services under that Statement of Work to the exclusion of all other terms and conditions that either party may seek to impose or incorporate, or that may be implied by trade, custom, practice or in the course of dealing.
- 3.3 The Company shall be entitled to subcontract the performance of its obligations under this Agreement and/or the Services to any of its Group Companies.

4. **Statements of Work**

- 4.1 The Client may, prior to issuing a Statement of Work invite the Company to help scope the project to which the Statement of Work will relate with a view to the Company understanding the project requirements and parameters to enable the Company to design a detailed project brief. Services relating to this stage are "Definition Stage Services".
- 4.2 If the project proceeds, the Client will issue to the Company one or more Statement of Work contracts which reflect the details set out in the relevant project design brief as agreed by the parties.

- 4.3 The Company shall be entitled to charge for the Definition Stage Services on the time spent charge rate set out in the Rate Card in **Error! Reference source not found..** For the avoidance of doubt, The Company shall be entitled to charge for Definition Stage Services regardless of whether the project to which they relate proceeds or not.
- 4.4 The Client and the Client Group Companies shall be entitled from time to time to request in writing the provision of Services from the Company.
- 4.5 The Company, and the Client or a Client Group Company shall be the signatories to a Statement of Work. Each Statement of Work shall incorporate the terms of this Agreement, save as expressly varied in such Statement of Work [by express cross reference to the relevant term of this Agreement], and each Statement of Work shall constitute a separate contract between the signatories to the relevant Statement of Work.
- 4.6 Each reference to "this Agreement" in this Framework Agreement as incorporated into a Statement of Work in accordance with clause 4.5 shall be read as referring to the Statement of Work into which these terms are incorporated, as the context requires, and all references in this Framework Agreement to "Client" shall be deemed to be references to the signing Client entity. In the event that the provision of the Goods or the Services in any Territory requires that additional or different terms or requirements are added to those set out in this Framework Agreement, such terms or requirements shall be set out in a Statement of Work, as agreed in accordance with clause 4.5.
- 4.7 Each Statement of Work shall be agreed in the following manner:
- [a] the Client or any Client Group Company shall request the Company to prepare a draft Statement of Work for certain services required by the Client or the relevant Client Group Company;
 - [b] within 5 Business Days of the Client's request, the Company shall notify the Client of any additional information it reasonably requires in order to prepare a Statement of Work;
 - [c] within 10 Business Days of receipt of the required information from the Client, the Company shall provide the Client with the draft Statement of Work requested;
 - [d] the Company and the Client shall discuss and agree that draft Statement of Work; and
 - [e] an Authorised Representative of each party shall sign the draft Statement of Work when it is agreed.
- 4.8 Once a Statement of Work has been agreed and signed no amendment shall be made to it except in accordance with clause 12 (*Change Procedure*).
- 5. Provision of the Goods**
- 5.1 To the extent Goods are supplied under a Statement of Work the provision of **Error! Reference source not found.** [Goods] shall apply.
- 6. Provision of the Services**
- 6.1 The Company shall commence performance of the Services on the relevant Services Commencement Date and shall perform the Services and deliver the Deliverables at the times required by the Project Plan. If there is no Project Plan and the relevant Statement of Work does not contain any requirement as to the time for performance of the Services or delivery of the Deliverables, the Company shall perform such Services within a reasonable time taking into account the Client's requirements.
- 6.2 The Company shall allocate sufficient resources [including Personnel] to the Services to ensure it is able to comply with its obligations under this Agreement.

7. **Milestones**

- 7.1 The Company shall meet each Milestone by the relevant Milestone Date. If the Company does not achieve a Key Milestone by the Key Milestone Date, the Client reserves its right to delay or retain payment pending delivery and/completion of the outstanding work to the terms agreed in the SOW.

8. **Service Levels**

- 8.1 The Company shall provide the Services to meet the Service Levels, and the parties shall comply with **Error! Reference source not found.** (*Service Levels and Services Remedies*).
- 8.2 Clause 8.3 and **Error! Reference source not found.** (*Service Levels and Services Remedies*) set out how the Service Levels shall be monitored and reported, and the consequences for failing to meet the Service Levels including the payment of (if applicable).
- 8.3 In respect of each Service Failure, the Company shall:
- [a] investigate, and use best endeavours to identify, the underlying causes of the Service Failure and provide such details as may be reasonably required by the Client to understand such causes and how they are to be remedied;
 - [b] take such reasonable action as may be necessary to remedy the Service Failure or provide a work around where such Service Failure has been caused by the Company; and
 - [c] advise the Client of the status of remedial efforts being undertaken with respect to the underlying cause of the Service Failure, and keep the Client so advised including enabling the Client to test that such remedial efforts have rectified the Service Failure.
- 8.4 The Client shall, pending completion of the Services and/or remediation of any defective work, be entitled to retain an amount equivalent to the Retention Fee from the Charges. The Company shall rectify any Service delivery failure in its own time and at its own expense.
- 8.5 Unless otherwise provided in the SOW, Retention Fee shall become due to the Company on the date the Company, exercising its reasonable discretion, considers that the Services have been completed and notified the Client accordingly, save where the Client immediately informs the Company in reply of the reasons why it does not consider the Services to have been completed and requesting remedy. Where such written details have been provided the process in clause 8.3(b) shall recommence.
- 8.6 Any Dispute as to what is satisfactory or defective shall be resolved in accordance with the Dispute Resolution Procedure **in** clause 37 or such other process as the parties may from time to time agree. For the avoidance of doubt payment by the Client for the Services and confirmation by the Client that the Services have been performed satisfactorily shall together be evidence that the Services have been completed.

9. **Company's obligations**

- 9.1 The Company shall perform its obligations under this Agreement:
- [a] in accordance with this Agreement, including any Service Levels and all descriptions and specifications provided to, and agreed, the Client;
 - [b] in accordance with Good Industry Practice and the Client's specification;
 - [c] promptly and with all due skill, care and diligence;
 - [d] using appropriately skilled, experienced, qualified and trained Personnel including the Consultants where applicable;

- [e] at such locations specified by the Client in writing as may be necessary for the due performance of the Services;
 - [f] in co-operation with all relevant Third Party Suppliers.
- 9.2 The Company shall at all times comply with the lawful and reasonable requests of the Client from time to time in relation to the Services provided that those requests are not inconsistent with this Agreement and do not relate to how the work should be done [and provided further that if any such request constitutes a request for a Change they shall be subject to the Change Procedure].
- 9.3 The Company warrants that by entering into and performing its obligations under this Agreement it will not be in breach of any obligation which it owes to any third party.
- 9.4 The Company shall procure that any Consultants enter the undertakings detailed in Schedule 6.
- 9.5 The Company shall generally determine the method of performance of the Services but in doing so it shall co-operate with the Client in working towards meeting the agreed milestones or deliverables and targets.
- 9.6 The Company shall [and shall procure that its Subcontractors] account to the appropriate authorities for all tax [including, where applicable], sales tax [such as VAT or non-UK equivalents of the same], and social security payable in respect of sums paid by the Company to its Consultants in connection with their performance of the Services.
- 10. Personnel**
- 10.1 The Company shall, insofar as it is lawful, vet Consultants in accordance with such checks as may be specified in the SOW. The Client agrees that save to the extent expressly agreed otherwise the Company shall be entitled to charge the fees specified in the SOW or [in the absence of any statement relating to fees) reasonable fees for carrying out these checks. If there is a delay in providing the Services as a result of the time taken for the checks to be completed, the Client agrees to either continue to allow the Consultant to perform the Services or accepts that there will be a delay of the Delivery Date.
- 10.2 The Company shall at all times be responsible for the engagement of the Company Personnel and shall be entitled to decide who to assign to perform the Services provided that it shall take into account any reasonable representations from the Client as to the capabilities of any such Personnel.
- 10.3 Subject to compliance with clause 10.1, the Company shall be entitled from time to time to replace any Consultant and any other Company Personnel with any suitably qualified, skilled and experienced replacement[s]. The Company shall inform the Client as soon as possible of any plans to make such changes and take into account any reasonable representations the Client may make in relation to planned changes.
- 10.4 The Company shall use all reasonable endeavours to ensure that any replacement for any Consultant is engaged and available to perform their role as soon as reasonably practicable. The Company shall not be entitled to charge for any time spent training or handing over the Services to replacement Personnel.
- 10.5 The Company shall indemnify and keep indemnified the Client against any and all Losses whatsoever and howsoever incurred resulting or arising from any of the following:
- [a] The Company's and/or the Consultants' negligent acts or omissions and/or wilful misconduct;
 - [b] The Company's failure to comply with its obligations under clause 9; and
 - [c] any Consultant claiming, or being deemed, to be an employee, agency worker or worker of the Client save to the extent the Loss would not have arisen but for breach by the Client of clause 11.7].

- 10.6 The Company shall procure that each Company Personnel shall, prior to starting work on the Services, sign and give the undertakings set out in **Error! Reference source not found..**
11. **The Client's obligations**
- 11.1 The Client shall, perform [or procure the performance of] the Client Dependencies in accordance with this Agreement which shall include:
- [a] access for Company Personnel to Client premises to the extent reasonably required for the performance of the Services;
 - [b] provision of appropriate and fully functioning physical environment to the extent reasonably required for performing the Services;
 - [c] provision of appropriate and fully functioning technical environment and client systems to the extent reasonably required for performing the Services;
 - [d] reasonable co-operation of Client Personnel and personnel of Third Party Suppliers whose services are relevant to the Services; and
 - [e] prompt making and communication to the Company of decisions about relevant aspects of the Services or any project to which the Services relate.
- 11.2 Where the Client is in breach of clause 11.1 **["Dependency Breach"]**:
- [a] the Company shall not be in breach of any of its obligations to provide the Services to the extent that such breach is the direct result of the Dependency Breach **["Dependent Obligations"]**;
 - [b] the Client shall pay the Company its reasonable costs in terms of stand-by costs of keeping available project Personnel who have been assigned to the Services such costs to be charged at the rates set out in the Rate Card;
 - [c] the Client shall pay the Company its reasonable additional costs directly incurred re-performing the relevant Dependent Obligation in every case to the extent that such costs are the direct result of the Dependency Breach; and
 - [d] the Company shall be entitled to an additional period to perform the Dependent Obligation as set out in this clause 11.2[d]. The additional period [if any] shall be that period which the Company can prove is necessary as a direct result of the Dependency Breach to allow the Company to perform the Dependent Obligation taking into account only the direct effects of the Dependency Breach and not to be greater in any event than the delay actually caused to the Company.
- 11.3 The Company shall:
- [a] inform the Client in writing as soon as reasonably practicable after the Company becomes aware of a Dependency Breach in any event before the date on which the relevant Dependent Obligation was due to be performed setting out the Dependent Obligation concerned [provided that the Company may make more than one notification for a single Dependency Breach identifying different Dependent Obligations at different times] and providing reasonable details of the Dependency Breach and Dependent Obligation;
 - [b] use all reasonable endeavours to perform all Dependent Obligations notwithstanding any Dependency Breach; and
 - [c] act reasonably to mitigate the amounts payable under clause 11.2[b] and 11.21c];
 - [d] agree to provide such documentary evidence as the Client may reasonably require to verify such amounts and all other facts that the Company is obliged to prove under this clause; and

- [e) do all things reasonable [including by the application of additional resources] to minimise any additional period under clause 11.2[d].
- 11.4 The Company acknowledges and agrees that:
- [a) it will not be able to rely on a Dependency Breach as a reason for any failure by the Company to perform any Dependent Obligation:
- [i) if the Dependency Breach did not have a material adverse effect on the Company's ability to perform the Dependent Obligation;
- [ii) if such Dependent Obligation was not expressly identified under clause 11.3[a]; or
- [iii) to the extent that the Dependency Breach was itself caused by a breach by the Company of any of its obligations under this Agreement.
- 11.5 The Client shall ensure that it has and is responsible for providing, obtaining and maintaining in force all information, rights, permissions, authorisations, consents, personnel, expertise, equipment and other resources necessary to enable the Company to access relevant sites and systems as required to fulfil its obligations under this Agreement.
- 11.6 The Client shall, throughout the Term, make available appropriate personnel to liaise with the Company and the relevant Company Personnel.
- 11.7 The Client shall not and shall not seek to control, supervise or direct Company Personnel in relation to how they perform the Services.
- 11.8 The Client warrants that all information provided to the Company by or on behalf of the Client to enable the Company to perform the Services and calculate the Charges is, and remains, detailed and accurate.
- 11.9 If the information provided to the Company prior to the Services Commencement Date is incorrect on the Services Commencement Date, the Company shall:
- [a) be entitled on 10 business days' notice to the Client to vary the specifications and/or the Charges for the Services and the Company in such manner as it shall reasonably require in order to ensure that its net profit in relation to the Agreement is what it would have been had such information been correct; and
- [b) until such variation takes effect have no liability for any costs, expenses, claims, losses or demands arising directly or indirectly from the Client's failure to comply with clause 11.
12. **Change Procedure**
- 12.1 Due to the nature of the Services to be performed the parties accept that it may be necessary to alter or adjust the scope of Services. Either party may propose changes to the scope or execution of a Statement of Work, but no proposed changes shall come into effect until a relevant Change Order has been signed by both parties. Each Change Order shall set out the proposed changes and the effect those changes shall have on:
- [a) the Services;
- [b) the Charges;
- [c] the Project Plan or other timetable; and
- [d) any of the other terms of the relevant Statement of Work.

- 12.2 Within one week of receipt of the request the receiving party shall provide a written response. Neither party shall unreasonably withhold its consent to a change requested by the other.
- 12.3 In responding to a change request, the Company will advise the Client whether the change is practicable and, if so, any related changes it would wish to make to the Charges, the scope of Services and other terms and conditions of this Agreement.
- 12.4 Pending written agreement to implement changes, the Company shall be entitled to treat any Out of Scope Services as additional consultancy services, chargeable on a time spent basis in accordance with the rates set out in the Rate Card.
- 12.5 If the parties:
- [a] agree to a Change Order, they shall sign it and that Change Order shall amend the relevant Statement of Work; or
 - [b] are unable to agree a Change Order, either party may require the disagreement to be dealt with in accordance with the Dispute Resolution Procedure set out in clause 37.
13. **Warranties**
- 13.1 Each party warrants on an on-going basis that:
- [a] it has full power and authority to execute, deliver and perform its obligations under this Agreement pursuant to its terms;
 - [b] this Agreement is executed by its duly authorised representative; and
 - [c] there are no currently in force or binding agreements with third parties the terms of which would prevent it from entering into this Agreement or would materially impede the performance by it of its obligations under this Agreement.
14. **Liability**
- 14.1 Nothing in this Agreement shall exclude or limit:
- [a] either party's liability for death or personal injury caused by its negligence;
 - [b] either party's liability for fraud or fraudulent misrepresentation;
 - [c] either party's liability that cannot, as a matter of law, be limited or excluded.
- 14.2 Subject to clause 14.1, the Company's total liability to the Client in respect of all events arising in each calendar year, whether in contract, tort [including negligence], for breach of statutory duty or otherwise, arising out of or in connection with this Agreement shall be limited to the lesser of:
- [a] £1 million; and
 - [b] an amount equivalent to 100 per cent of the Charges invoiced and and/or payable under the Statement of Work [to which the event relates] in the calendar year in which the event giving rise to the liability occurred.
- 14.3 Neither party shall be liable to the other party for any loss of profits, business, goodwill, indirect, consequential or special loss arising out of, or in connection with, this Agreement.

15. Ownership of Intellectual Property Rights

- 15.1 All Client Background IPR shall remain vested in the Client or its licensors and there shall be no assignment of any Client Background IPR to the Company. The Client has granted the Company a licence to use such Client Background IPR solely to the extent required for the Company's performance of its obligations under this Agreement.
- 15.2 Subject to clause 15.3, all Intellectual Property Rights in any Deliverables, and in any materials which are created by or on behalf of the Company as a result of the provision of the Services and which are produced for, on behalf of or at the request of, the Client pursuant to this Agreement including a Statement of Work shall vest in the Client on payment by the Client to the Company for the relevant Goods or Deliverables. If by operation of law such Intellectual Property Rights do not automatically vest in the Client at such moment then the Company hereby [from such moment] assigns or otherwise shall assign to the Client [including by way of an assignment of future Intellectual Property Rights], in each case at no cost to the Client, with full title guarantee and free from all charges, liens, licences and other encumbrances all such Intellectual Property Rights together with the right to sue for and obtain full and effective relief [including damages] in respect of any infringement of such Intellectual Property Rights by a third party.
- 15.3 Where any Goods, Deliverables and any other materials which are otherwise created by or on behalf of the Company as a result of the performance of this Agreement are supplied with or have embedded in them Company Background IPR then the Company shall retain ownership of such Company Background IPR, but hereby grants [on payment by the Client to the Company for the relevant Goods or Deliverables] to the Client a non-exclusive, perpetual [unless agreed otherwise in a Statement of Work], irrevocable, royalty-free licence to use such Company Background IPR in any way whatsoever to facilitate and/or enable full use of the Goods, Deliverables or other materials and, for this purpose, to sub-license such Company Background IPR to third parties.
- 15.4 The Company shall keep in its care materials entrusted to the Company by the Client [the "Property"]. the Company shall mark or otherwise identify the Property as being the property of the Client and shall be responsible for its safekeeping.
- 15.5 The Company shall not be entitled to destroy any Property without the Client's prior written consent. the Company shall be entitled to return the Property to the Client by delivery to the Client's registered office.

16. Intellectual Property Rights indemnity

- 16.1 Each Party shall indemnify and hold the other Party harmless from all Losses awarded against, or suffered, incurred or paid as a result of or in connection with any alleged or actual infringement of any third party's Intellectual Property Rights or other rights arising out of: [a] where the Company is the indemnifying party, the receipt, use or supply of the Goods/Services, or Deliverables; or [b] where the Client is the indemnifying party, the use of the Client's Systems.
- 16.2 Each party shall notify the other in writing if an IPR Claim is made.
- 16.3 If an IPR Claim is made against the Client, the Client shall:
- [a] allow the Company to conduct all negotiations and proceedings and give the Company reasonable assistance, each at the Company's cost, regarding the IPR Claim; and
 - [b] make no adverse admission relating to the IPR Claim without first notifying the Company of its intention to do so.
- 16.4 In the event of an IPR Claim, the Company shall be entitled at its own expense and option either to:
- [a] procure the right for the Client to continue using the Goods and/or Services or the infringing part; or

- [bl make such alterations, modifications or adjustments to the Goods and/or Services or that infringing part so that it becomes non-infringing without incurring a material diminution in performance, capacity or functionality; or
- [cl replace the Goods and/or Services or that infringing part with non-infringing substitutes provided that such substitutes do not entail a material diminution in performance, capacity or functionality of the Goods and/or Services [and the provisions of this indemnity shall apply equally to any such substitutes] reimbursing the Client or such Client Group Companies their reasonable costs associated with such substitution.]

17. Charges

17.1 In consideration of the provision of the Services by the Company, the Client shall pay the Charges detailed in the relevant Statement of Work. The Charges shall be for not less than any agreed Minimum Fee.

17.2 Where Services are provided on a **time and materials** basis:

- [al the Charges shall be calculated in accordance with the daily fee rates set out in the Rate Card and there shall be no increase in those rates during the term of the applicable Statement of Work;
- [bl the Company's standard daily fee rates for each individual person are calculated on the basis of a business day of not less than 8 hours;
- [cl the Company shall ensure that every individual whom it engages on the Services completes time spent on the Services, and the Company shall use such records to calculate the charges covered by each monthly invoice referred to in clause 17.2[d]; and
- [dl the Company shall invoice every four weeks in arrears for its charges for time, expenses and materials for the four weeks concerned.

17.3 Where Services are provided for a **fixed price**, the total price for the Services shall be the amount set out in the relevant Statement of Work, subject to clause 17.4. Where payment is against achievement of Milestones, payment shall be paid to the Company in instalments, against the Milestones set out in the relevant Statement of Work.

17.4 Unless otherwise stated in a Statement of Work:

- [al the Charges constitute the only charges payable by the Client under this Agreement and in respect of the Services;
- [bl the Charges shall be inclusive of all costs and expenses of the Company and the Company Personnel;
- [cl the Charges shall be inclusive of all packaging, packing, shipping, loading, carriage, customs, insurance and delivery costs and any duties, imposts, levies or taxes other than VAT;
- [dl the Charges are exclusive of VAT which shall be added to the Charges at the rate and in the manner prescribed by law; and
- [el the Company shall be entitled to adjust the Charges to take account of any inflation, change in exchange rate, change to interest rate or any other factor or element which might otherwise increase the cost to the Company or the Subcontractors of the performance of the Company's obligations.

17.5 Each invoice shall specify the Statement of Work reference, date of invoice and be marked for the attention of the relevant Authorised Representative.

- 17.6 Unless expressly stated otherwise in this Agreement or a Statement of Work, the Client shall make payment of the Charges within 14 days of the date of invoice.
- 17.7 All sums to be paid, and all payments, under this Agreement shall be in the currency set out in the relevant Statement of Work. All payments shall be made by electronic transfer to the bank account nominated by the Company from time to time.
- 17.8 If the Client fails to pay any amount due under this Agreement, the Company may charge interest on the overdue amount, from the due date up to the date of actual payment, after as well as before judgment, accruing on a daily basis, at the rate of 2% per annum above the base rate for the time being of the Bank of England. The parties agree that the right to claim interest under this clause 17.8 is a substantial remedy for late payment and is in substitution for any statutory or other right to claim interest and/or other remedy for late payment under the Late Payment of Commercial Debts (Interest) Act 1998.
- 17.9 If the Client has a bona fide Dispute in respect of the whole or any part of any invoice then the Client shall notify the Company of the nature of such Dispute in writing within 14 days of date of the invoice, giving all relevant details of the disputed invoice. If the Client so notifies the Company that it disputes the whole or any part of the sums payable under any invoice, then, provided that the Company credits the disputed invoice in full to the Client and then issues two invoices, one in respect of the disputed amount and the other in respect of the undisputed amount, the Client shall pay the invoice for the undisputed amount and the parties shall use commercially reasonable endeavours to resolve the Dispute for the other amount in accordance with the Dispute Resolution Procedure. Upon resolution of the Dispute in respect of the remainder of the original invoice, the Client shall pay any amounts determined or agreed to be payable to the Company within 14 days. Pending resolution of the Dispute, the Company shall continue to provide the Goods and Services in accordance with this Agreement up until the date falling 40 days after the Dispute is raised at which point the Company may, if the Dispute has not been resolved, cease to provide the Services. Ownership and custody of material and data
- 18. Insurance**
- 18.1 The Company shall at its own cost be responsible for taking out and maintaining in force, during the Term and to cover liabilities arising for a period of 6 years following the completion or termination of the SOW, policies of insurance covering the liabilities which may be incurred by the Company arising out of the acts or omissions of the Company in connection with this Agreement. Such policies shall include the following levels of cover [save to the extent agreed otherwise in the Statement of Work for example where the Services are to be performed in the United States of America):
- [a] employer's liability insurance for a minimum amount of cover of £5 million on a single event or series of related events in a single calendar year;
 - [b] professional indemnity insurance for a minimum amount of cover of £1 million on a single event or series of related events in a single calendar year;
 - [c] public liability insurance for a minimum amount of cover of £5 million on a single event or series of related events in a single calendar year.
- 18.2 The Company shall provide the Client with such evidence as the Client may reasonably require of its insurance terms.
- 18.3 Such insurance shall be with a reputable insurer specialising in insuring small independent contractor businesses. The Client shall be entitled to withhold any payments due to the Company until satisfactory proof of insurance cover has been supplied to the Client by the Company.
- 19. Confidentiality**
- 19.1 Each party receiving Confidential Information [""Recipient""] from the other [""Disclosing Party""] shall keep that information confidential and shall:

- [a] use the Disclosing Party's Confidential Information solely for the purposes of performing its obligations or exercising its rights under this Agreement;
 - [b] keep the Disclosing Party's Confidential Information secure and take no lesser security measures and degree of care to protect the Disclosing Party's Confidential Information than the Recipient applies to its own confidential information and in any event no lesser than that which a reasonable person or business would take in protecting its own confidential information;
 - [c] not disclose the Disclosing Party's Confidential Information to any third party except with the prior written consent of the Disclosing Party or as permitted by this clause 19.
- 19.2 Notwithstanding clause 19.1, the Recipient may disclose the Disclosing Party's Confidential Information to its directors and employees, and any subcontractors or other third parties which are directly involved in, and strictly need to know such Confidential Information for the purpose of, enabling the Recipient to perform its obligations or exercise its rights under this Agreement. The Recipient shall ensure that all such directors, employees, subcontractors and third parties are aware of the confidential nature of the information and the Recipient shall impose upon them, and procure compliance with, confidentiality obligations which are substantially the same as those which are set out in this clause 19 except that disclosure by such subcontractors or other third parties shall be prohibited.
- 19.3 The Recipient shall immediately inform the Disclosing Party in writing if the Recipient becomes aware that any Confidential Information has been disclosed to any unauthorised third party.
- 19.4 The obligations of confidentiality set out in this clause 19 shall not apply:
- [a] where the Disclosing Party has given its specific prior written consent to the disclosure;
 - [b] to Confidential Information which has entered the public domain, other than as a result of a breach of this clause 19;
 - [c] where the Recipient can show that the information was obtained, free from any restrictions as to its use or disclosure, from a third party who was free to divulge it; and
 - [d] where the information was developed by, or for, the Recipient independently of any information received under this Agreement and by persons who had no access to, or knowledge of, that information.
- 19.5 The Recipient shall not be in breach of this clause 19 where it is required to disclose the Disclosing Party's Confidential Information by a court or regulatory authority of competent jurisdiction. Where the Recipient is so required to make such a disclosure, it shall, where practicable and/or permissible, consult with the Disclosing Party as to the terms, content or timing of the disclosure, and shall use reasonable endeavours to limit the scope of the required disclosure and to maintain the confidentiality of the disclosed Confidential Information to the extent possible.
- 19.6 To the extent that the Disclosing Party's Confidential Information is no longer required by the Recipient to enable the Recipient to perform its obligations or exercise its rights under this Agreement, the Recipient shall [and shall procure that its directors, employees, subcontractors and other relevant third parties shall] either return to the Disclosing Party immediately upon demand such Confidential Information together with any copies, notes, analyses or records of such Confidential Information and any documents and other material [including all electronically generated or stored data] containing, reflecting or deriving from the Confidential Information which are in its possession or under its control, or [at the Disclosing Party's option] destroy it.
- 19.7 Each party shall not, and shall procure that no Group Companies shall, make any statement to any third party, in any media, which is reasonably likely to bring either party into material disrepute or materially diminish the reputation or good name of either party.

- 19.8 The parties acknowledge that damages may not be an adequate remedy for a breach of this clause 19 or the confidentiality undertakings entered into by their directors, employees, subcontractors and other third parties pursuant to clause 19.2. Each party shall be entitled to seek any legal or equitable relief from any court of competent jurisdiction, including injunctive relief or specific performance, upon the breach [or reasonably anticipated breach] of any part of this clause 19 or of the confidentiality undertakings which the Recipient is required to obtain for the purposes of disclosure pursuant to clause 19.2.
- 19.9 The duties of confidentiality set out in this clause 19 shall apply mutatis mutandis in respect of any Confidential Information the Client may disclose to the Company and/or any Company Personnel.
20. **Termination**
- 20.1 Either party may, without prejudice to its other rights or remedies, terminate this Agreement with immediate effect by written notice to the other party if one or more of the following events occur:
- [a] the other party commits a material breach [being a single event or a series of events which together amount to a material breach] of the Statement of Work and [if such a breach is remediable] fails to remedy that breach within 14 days of that party being notified in writing of the breach;
 - [b] the other party repeatedly breaches such Statement of Work 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 this Agreement;
 - [c] the other party suspends, or threatens to suspend, payment of its debts, is unable to pay its debts as they fall due, admits inability to pay its debts or [being a company] is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 or [being a natural person] is deemed either unable to pay its debts or as having no reasonable prospect of so doing, in either case, within the meaning of section 268 of the Insolvency Act 1986 or [being a partnership] has any partner to whom any of the foregoing apply;
 - [d] 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, its creditors other than for the sole purpose of a scheme for a solvent amalgamation of that other party with one or more other companies, or the solvent reconstruction of that other party;
 - [e] a petition is filed, a notice is given, a resolution is passed, or an order is made, for or on connection with the winding up of that other party other than for the sole purpose of a scheme for a solvent amalgamation of that other party with one or more other companies, or the solvent reconstruction of that other party;
 - [f] an application is made to court, or an order is made, for the appointment of an administrator, a notice of intention to appoint an administrator is given, or an administrator is appointed over the other party;
 - [g] a floating charge holder over the assets of that other party has become entitled to appoint, or has appointed, an administrative receiver;
 - [h] a person becomes entitled to appoint a receiver over the assets of the other party, or a receiver is appointed over the assets of the other party;
 - [i] 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 its assets and such attachment or process is not discharged within 14 days;

- [j] 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 20.1[c] to clause 20.1[i] [inclusive];
- [k] the other party suspends or ceases, or threatens to suspend or cease, to carry on all or a substantial part of its business;
- [l] as otherwise provided in the Statement of Work;
- [m] the other has committed any serious or persistent breach of any of its obligations under this Agreement;
- [n] the first party reasonably believes that the other has not observed any condition of confidentiality applicable to it [or, in the case of the Company, to the Consultant] from time to time;
- [o] for any reason the Company proves unsatisfactory in the reasonable opinion of the Client, one week's notice having been given to the Company of the possibility of termination for this reason;
- [p] the Client have reasonable grounds to believe that any of the Consultants has committed an act or omission of dishonesty, fraud, incompetence or negligence; or is convicted of any indictable criminal offence;
- [q] the Company has reasonable grounds to believe that the Client will not honour its payment obligations to the Company under the Framework Agreement; or
- [r] in accordance with clause 28.4.

20.2 The Company shall be entitled terminate any SOW with immediate effect by written notice to the Client if:

- [a] it has grounds to believe that the circumstances under which the Consultancy Services are provided and/or the nature of the SOW have changed such that the Client does, or intends to, supervise, direct or control the manner in which the Consultancy Services are performed by the Company Personnel; and/or
- [b] the scope of Consultancy Services has materially changed and, notwithstanding a request by the Company to agree a Change in accordance with clause 20, the Client is unwilling to agree such change.

20.3 Either party shall be entitled to terminate this Agreement without cause by providing to the other party not less than 3 calendar months' notice in writing. In such event the parties will enter into good faith discussions to ascertain and agree any revisions to the Services [including any handover to a new consultant] during the notice period.

21. **Effect of termination**

21.1 All rights and obligations of the parties shall cease to have effect immediately upon termination or expiry of this Agreement, save that termination or expiry shall not prejudice or affect:

- [a] any right of action or remedy which shall have accrued or shall thereafter accrue to either party; or
- [b] the continued existence and validity of the rights and obligations of the parties under those clauses expressly stated to survive or implicitly surviving termination.

21.2 Unless agreed otherwise in the Statement of Work, upon any termination of this Agreement the licences of Company Background IPR shall continue and title to physical deliverables [other than software] shall pass to the Client.

21.3 In the event that this Agreement is terminated, the Company shall within 10 Business Days of receipt of a written request from the Client and at the option of the Client:

- [a] deliver to the Client all Goods and Deliverables [whether complete or not] in existence and any other material, documents or equipment in its possession or under its control that belong to the Client;
- [b] return all or any Confidential Information in its possession together with all copies thereof; and
- [c] destroy all or any Confidential Information in its possession by shredding or incineration of all documents and other material in its possession, custody or control and/or irretrievably delete the same if stored on electronic or magnetic media and certify to the Client that this has been done.

21.4 On expiry or termination of this Agreement the Company shall, [provided that all outstanding invoices and all work up to date and all other sums to which the Company may be entitled to be paid under this Agreement have been paid for in full by the Client) , co-operate with, and provide all assistance to, the Client and any third party nominated by the Client, as the Client may request to enable an orderly and efficient transfer of the performance of the Services [or part of them] to the Client or a third party [as applicable) without interruption or adverse effect including in transferring, subject to the approval of third parties where required, all reservations, contracts and arrangements for third party services, media and other materials yet to be used in relation to the Goods and/or the Services.

22. TUPE

The parties agree that each party shall comply with the provisions of **Error! Reference source not found.** (*Employees*).

23. Non-solicitation

23.1 For the purposes of this clause 23:

- [a] a **"Deemed Introduction"** will occur where the Client, any member of the Client Group Company or any client of the Client with whom a Consultant had material contact within the 12 months prior to any engagement [whether direct or indirect] of that Consultant by such client [a **"Client Contact"**]. or any third party (including any client of the Client or any employment business or other person) to whom the Client introduces that Consultant (a **"Client Third Party Contact"**). directly or indirectly:
 - [i] employs or otherwise engages that Consultant to carry out the Services or services similar to or related to the Services; or
 - [ii] otherwise makes arrangements so that the Consultant provides services which are similar, identical or related to the Services for either the Client, any Client Group Company, a Client Contact or a Client Third Party Contact.
- [b] **"Restricted Period"** means the period during and within 12 calendar months from the date on which the relevant Consultant(s) last worked on the Services with the Company for the Client.
- [c] **"Transfer Fee"** means 25% of all payments, bonuses, commission, profit sharing, London **weighting** allowance, benefits in kind and any other payment payable in relation to an engagement following a the Deemed Introduction, and whether payable to the Consultant in question or to a third party (including, without limitation, a limited company connected with the Consultant). in respect of or referable to the first year of such engagement, or which would have been paid if the engagement had continued for a year.

23.2 If a Deemed Introduction occurs within the Restricted Period the Client shall as consideration for the Deemed Introduction pay a Transfer Fee. The parties agree that that sum, paid by way of liquidated

damages, would represent a fair estimate of the cost of recruiting a suitable replacement for that Consultant.

23.3 During the term of this Agreement the Company shall not solicit [to work for it] any employee, worker or subcontractor of the Client involved in receiving the Services.

24. **Data protection and security**

24.1 Each party shall comply with the provisions of **Error! Reference source not found.** *[Data protection and security]*.

25. **Anti-corruption**

25.1 Each party shall in relation to this Agreement:

- [a] comply with all applicable Laws relating to anti-bribery and anti-corruption including the Bribery Act 2010 and the Criminal Finances Act 2017 [the **""Relevant Requirements""**];
- [b] not engage in any activity, practice or conduct which would constitute an offence under sections 1, 2 or 6 of the Bribery Act 2010 or sections 45 or 46 of the Criminal Finances Act 2017;
- [c] have and shall maintain in place throughout the Term its own policies and procedures, including adequate [or in the case of anti-facilitation of tax evasion, proportionate] procedures under the Bribery Act 2010 and the Criminal Finances Act 2017, to ensure compliance with the Relevant Requirements, and shall enforce them where appropriate;
- [d] promptly report to the other party any request or demand for any undue financial or other advantage of any kind received by it in connection with the performance of this Agreement [including a request or demand to facilitate tax evasion];
- [e] immediately notify the other party [in writing] if a foreign public official becomes an officer or employee of it or acquires a direct or indirect interest in it and warrant that it has no foreign public officials as direct or indirect owners, officers or employees at the Effective Date]; and
- [f] on reasonable request of the other party [which shall be no more than once every 12 month period following the Effective Date] certify to the other party in writing signed by one of its officers, compliance with this clause 25.1 by it and all persons associated with it under clause 25.2. Each party shall provide such supporting evidence of compliance as the other parties may reasonably request.

25.2 Each party shall ensure that any person associated with it who is performing obligations in connection with this Agreement or any Statement of Work does so only on the basis of a written contract which imposes on and secures from such person terms equivalent to those imposed on that party in this clause 25 [""Relevant Terms"].

25.3 Breach of this clause 25 shall be deemed a material breach of this Agreement.

25.4 For the purpose of this clause 25, the following meanings shall apply:

- [a] adequate procedures shall be determined in accordance with section 7[2] of the Bribery Act 2010 [and any guidance issued under section 9 of that Act];
- [b] proportionate procedures shall be determined in accordance with sections 45[2] and 46[3] of the Criminal Finances Act 2017 [and any guidance issued under section 47 of that Act];
- [c] foreign public official shall be determined in accordance with sections 6[5] and 6[6] of the Bribery Act 2010 [and any guidance issued under section 9 of that Act];

[d] for the purposes of anti-bribery, whether a person is associated with another person shall be determined in accordance with section 8 of the Bribery Act 2010 [and any guidance issued under section 9 of that Act]; and

[e] for the purposes of anti-facilitation of tax evasion, whether a person acts in the capacity of a person who is associated with another person shall be determined in accordance with section 44(4) of the Criminal Finances Act 2017 [and any guidance issued under section 47 of that Act).

26. **Modern Slavery Act**

26.1 The Company shall, and shall ensure that the Company Personnel shall:

[a] comply with all applicable Laws relating to modern slavery and human trafficking including the Modern Slavery Act 2015 [""MSA""];

[b] take reasonable steps to ensure that slavery and human trafficking [as such phrase is defined in the Modern Slavery Act 2015] is not taking place in any of its supply chains or in any part of its own business.

26.2 The Company warrants that it:

[a] has not been convicted of any offence involving slavery and human trafficking;

[b] is not aware of any circumstances within its supply chain that could give rise to an investigation relating to any offence or alleged offence in connection with slavery and human trafficking.

27. **Record keeping and audit**

27.1 The Company shall keep the Records at its principal place of business in the territory in which the Client is incorporated during the Term and for the Retention Period.

27.2 The Company shall ensure that any software, hardware and any documentation, including maintenance documentation, required to retrieve and read any Records stored in non-print media [including electronic, optical or magnetic media ("Retrieval Systems")] are retained until the expiry of the Retention Period.

27.3 The Company agrees that the Client may request such documentation from the Company during normal business hours on reasonable notice as it may reasonably require to verify the Company's compliance with the terms of this Agreement. The Company shall provide the Client with all reasonable co-operation and shall allow the Client to have access to and take copies of the Company's Records or documentation. The Client shall pay the reasonable costs of the Company relating to compliance with this clause.

28. **Force majeure**

28.1 Subject to the exceptions set out in clause 28.2, neither party shall be liable to the other for delay or non-performance of its obligations under this Agreement to the extent that this is due to a Force Majeure Event.

28.2 A party cannot claim relief from liability where the Force Majeure Event is caused by its [or its subcontractor's] failure to take reasonable precautions against the relevant Force Majeure Event, or is caused by its agents, employees, subcontractors or suppliers.

28.3 Subject to clause 28.4, as soon as reasonably possible following the end of the Force Majeure Event, the affected party shall notify the other and this Agreement shall continue to be performed on the terms existing immediately before the occurrence of the Force Majeure Event, unless agreed otherwise by the parties.

28.4 If any Force Majeure Event prevents the Company from fulfilling its obligations under this Agreement for a continuous period of more than 30 days either party may terminate this Agreement with immediate effect with written notice to the other party.

29. Assignment

- 29.1 Except as expressly set out in this Agreement, this Agreement shall not be assignable by any party without the prior written consent of the other. In addition, a party to this Agreement may not hold the benefit of the Agreement or any rights under it on trust for any third party or parties without the prior written consent of the other.
- 29.2 The Company may assign the benefit of this Agreement to a reputable financial institution for the purposes of invoice discounting arrangements or the like in the normal course of its business.

30. Entire agreement

- 30.1 This Agreement [including the FA and any Rate Card or other rates agreed by the parties in connection with the SOW] constitutes the entire agreement and understanding of the parties with respect to the subject matter of this Agreement and supersedes any prior agreements, representations, understandings or arrangements between the parties [oral or written] in relation to such subject matter. Each party acknowledges that:
- [a] upon entering into this Agreement, it does not rely, and has not relied, upon any representation [whether negligent or innocent], statement or warranty made or agreed to by any person [whether a party to this Agreement or not] except those expressly set out in this Agreement; and
- [b] the only remedy available in respect of any misrepresentation or untrue statement made to it shall be a claim for damages for breach of contract under this Agreement.
- 30.2 Nothing in this clause 30 shall limit or exclude any liability for fraud.

31. Invalidity

- 31.1 To the extent that any provision of this Agreement is found by any court or competent authority to be invalid, unlawful or unenforceable in any jurisdiction, that provision shall be deemed not to be a part of this Agreement, it shall not affect the enforceability of the remainder of this Agreement nor shall it affect the validity, lawfulness or enforceability of that provision in any other jurisdiction.

32. Third party rights

- 32.1 Except as provided in the remainder of this clause 32, a person who is not a party to this Agreement shall have no right under the Contracts [Rights of Third Parties] Act 1999 or otherwise to enforce any term of this Agreement.
- 32.2 The Client may itself, on behalf of a Client Group Company, enforce any term of this Agreement which is expressly or impliedly intended to benefit the Client and/or a Client Group Company. The Client shall be entitled to recover Losses on behalf of a Client Group Company as if the relevant Losses had been suffered by the Client itself under this Agreement, subject to the provisions of this Agreement.
- 32.3 The Company shall only commence proceedings related to payments due for Services or Deliverables or Goods under this Agreement against the Client. The Client confirms that it shall be liable to the Company in respect of breaches of this Agreement by any Client Group Company [to the extent that any such Client Group Company would have been liable to the Company] and in this regard shall have available to it all of the same rights and defences that would have been available to such Client Group Company.
- 32.4 The parties acknowledge that the Consultant has a third party right under the FA to enforce the terms of clause 18 of the FA as if they were the "Company" under that Agreement.

33. Notices

- 33.1 Any notice given by one party to another under this Agreement shall be in writing, delivered by hand, via email or by prepaid first class or special delivery post to the address given at the start of this Agreement

and in all cases marked for the attention of the Authorised Representative of the relevant party, with a copy to that party's company secretary.

- 33.2 Notices delivered by hand shall be given on the day of receipt [unless received after 5.00pm in which case they shall be given on the next Business Day]. Notices sent by prepaid first class post or special delivery shall be deemed to have been given two Business Days after the date of posting. Notices given via email shall be deemed to have been given at the time of despatch [unless received after 5.00pm in which case they shall be given on the next Business Day].

- 33.3 Either party may vary its address and/or contact for notices by giving notice to the other party. The notice must expressly state that the new address is the address for notices and/or the new contact is the contact to whose attention all future notices should be brought, as the case may be.

34. **Further assurance**

Each party shall execute such documents and take such steps as the other party may reasonably require to fulfil the provisions of and to give to each party the full benefit of this Agreement.

35. **No partnership**

Nothing in this Agreement is intended to or shall operate to create a partnership or joint venture between the parties, or to authorise either party to act as agent for the other and neither party shall have authority to act in the name of or on behalf of the other, or to enter into any commitment or make any representation or warranty or otherwise bind the other in any way.

36. **Counterparts**

This Agreement may be executed in any number of counterparts and by the parties in separate counterparts. Each counterpart, when executed, shall be an original of this Agreement and all counterparts shall together constitute one instrument.

37. **Dispute resolution**

- 37.1 A party shall not commence court proceedings [except proceedings seeking interlocutory relief] in respect of a dispute arising out of this Agreement unless it has complied with this clause 37.

- 37.2 A party claiming that a Dispute has arisen in relation to this Agreement shall notify the Authorised Representative of the other party to the Dispute, giving details of the Dispute, who shall attempt to resolve the Dispute. This may include inviting other parties working on the project to give their views.

- 37.3 If the parties' Authorised Representatives are unable to resolve the Dispute within 5 Business Days [or such longer period as agreed between the parties] from the date of the notice setting out the nature of the Dispute under clause 37.2 is served then, either party may request a meeting within a further 5 Business Days between senior personnel [as notified by each party to the other for this purpose] who shall have power to resolve the Dispute.

- 37.4 In the event that the Dispute is not resolved by the process as set out in clauses 37.2 and 37.3, the parties shall attempt to settle the Dispute by mediation in accordance with the Centre for Dispute Resolution ["CEDR"] Model Mediation Procedure [the "Model Procedure"]. To initiate mediation, a party must give notice in writing ["ADR Notice"] to the other party requesting mediation in accordance with this clause. A copy of this request should be sent to CEDR. If there is any point on the conduct of the mediation [including the nomination of the mediator] upon which the parties cannot agree within 14 days from the date of the ADR Notice, CEDR shall, at the request of either party, decide that point for the parties, having consulted with them.

- 37.5 Notwithstanding the provisions of this clause 37, either party may commence or take proceedings or seek remedies before the courts or any other competent authority for interim, interlocutory or injunctive remedies in relation to this Agreement.

38. **Governing law and jurisdiction**

- 38.1 This Agreement and any dispute or claim [whether contractual or non-contractual] arising out of or in connection with it, its subject matter or formation shall be governed by and construed in accordance with the law of England and Wales.
- 38.2 Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim [whether contractual or non-contractual] arising out of or in connection with this Agreement, its subject matter or formation.