

APPENDIX A – TERMS & CONDITIONS OF SUPPLY

CONDITIONS FOR THE SUPPLY OF SERVICES

1. Interpretation

1.1 In these Conditions:-

“Absoft” means Absoft Limited, a company registered in Scotland number SC129581 and having its registered office at Units B3/B4 Davidson House, Campus 1, Aberdeen Innovation Park, Balgownie Road, Bridge of Don, Aberdeen, AB22 8GT;

“Affiliate” means an entity that directly or indirectly controls, is controlled by, or is under common control with another entity;

“Commencement Date” means the date of commencement for supply of the Consultancy Services as specified in the Proposal;

“Conditions” means these standard terms and conditions for the supply of services;

“Confidential Information” means all information obtained by one party from the other pursuant to the Contract which is expressly marked as confidential or which is manifestly of a confidential nature or which is confirmed in writing to be confidential within 7 days of its disclosure;

“Consultancy Services” means the services specified in the Proposal which Absoft has agreed to perform or supply;

“Contract” means the contract between Absoft and the Customer constituted in accordance with the provisions of Condition 2.1 below;

“Customer” means the person, company, firm or business named in the Proposal;

“Cyber-Attack” means a deliberate attempt by any person and/or hacker to damage, destroy or steal any data from the Customer or Absoft;

“Cyber-Insurance” means an insurance product used to protect businesses and/or individual users from internet-based risks and/or more generally from risks relating to information technology infrastructure and activities;

“Group” means in relation to a company, that company, any subsidiary, any holding company from time to time of that company, and any subsidiary from time to time of a holding company of that company. Each company in a Group is a **member of its Group**;

“IPR” means any patents, copyright, database right, registered designs, unregistered designs, trademarks, technical information or know how or any other similar industrial or intellectual property rights in the UK and/or elsewhere;

“Proposal” means the proposal document setting out the details of the Customer and the Services or any written order submitted by the Customer which has been accepted in writing by Absoft;

“Service Tools” means any software tools or software utilities provided to the Customer by Absoft to provide the Consultancy Services under these Conditions as well as custom or bespoke deliverables as part of the “Consultancy Services” made available to the customer during the term of the contract;

“Software” any third party software applications which Absoft agrees to provide as part of the Consultancy Services;

“Third Party Services” means any software or services provided to the Customer by Absoft on behalf of a third party provider;

“Working Days” means the days that Absoft will perform the Consultancy Services as detailed in the Proposal; and

“Work Site” has the meaning given to it in Condition 10.1.

- 1.2 The headings in these Conditions are for convenience only and shall not affect their interpretation.
- 1.3 A reference to a particular law is a reference to it as it is in force for the time being taking account of any amendment, extension, or re-enactment and includes any subordinate legislation for the time being in force made under it.
- 1.4 Unless the context otherwise requires, a reference to one gender shall include the reference to the other gender.
- 1.5 Unless the context otherwise requires, words in the singular include the plural and, in the plural, include the singular.

2. Basis of supply of consultancy services (contract formation)

- 2.1 Absoft shall supply the Consultancy Services to the Customer in accordance with the Proposal, subject always to these Conditions, which shall govern the Contract to the exclusion of any other terms and conditions of the Customer. In the event of any conflict between the terms and conditions contained in these Conditions and the terms of the Proposal, the terms and conditions contained in these Conditions shall prevail unless the Proposal specifically refers to the variation of the terms and conditions contained in these Conditions and refers to the Condition(s) which are being varied.
- 2.2 The text and information contained in the Proposal is the property of Absoft and may not be disclosed or used in whole or in part by the Customer otherwise than for the purposes of the performance of the Contract. Without limitation, the Customer may not refer the information contained in the Proposal (or work specification) (or its underlying ideas or proposals) to any third party for competitive quotations.

3. Orders and scope of services

- 3.1 Where an order is placed by the Customer, the Customer shall be responsible to Absoft for ensuring the accuracy of the terms of such order (including an applicable description, specification or scope of services), and for giving Absoft any necessary information relating to the Consultancy Services within a sufficient time to enable Absoft to perform the Consultancy Services in accordance with the Proposal. The Customer shall co-operate with Absoft in all matters relating to the Consultancy Services.

4. Duration and manner of performance

- 4.1 Absoft shall provide the Consultancy Services in accordance with the terms of the Contract.
- 4.2 Absoft shall commence the Consultancy Services on the agreed Commencement Date and shall continue to provide the Consultancy Services for the period or number of Working Days specified in the Proposal or until earlier cancellation, suspension or termination of the Contract in accordance with Condition 7, 9 or 11 of these Conditions.
- 4.3 If Absoft considers it necessary to use the services of a third party in addition to any detailed within the Proposal, Absoft shall contact the Customer prior to any engagement of such third party to discuss the cost implication and any contractual variation.

5. Customer Obligations

- 5.1 The Customer shall obtain and shall maintain all necessary licences, consents and permissions necessary for Absoft, its contractors and agents to perform their obligations under the Contract, including without limit, the Consultancy Services.
- 5.2 All Software and Third Party Services provided under the Consultancy Services are provided subject to the terms of the third party licensor/owner of the Software/ provider of the Third Party Services. The Customer shall comply with all such third party terms in relation to the Software and the Third Party Services, and the Customer shall indemnify and hold Absoft harmless against any loss or damage which it may suffer or incur as a result of the Customer's breach of such third party terms howsoever arising.

6. Price of the Consultancy Services

- 6.1 The price of the Consultancy Services ("Consultancy Charge") shall be as detailed in the Proposal.
- 6.2 Any Consultancy Services performed outside of Working Days will be charged at 150% (one-hundred-and-fifty per cent) of the prevailing rate defined in the Proposal.

- 6.3 Unless otherwise provided in the Proposal, Absoft shall be entitled to charge the Customer at cost for any out of pocket expenses reasonably incurred in the provision of the Consultancy Services.
- 6.4 Absoft reserves the right following acceptance of the Proposal by the Customer to increase the price of Consultancy Services, in so far as such increase relates to any increase in the cost to Absoft of providing the Consultancy Services as a result of any change in the Consultancy Services which is requested by the Customer, or any delay caused by the Customer or failure of the Customer to provide Absoft with adequate information or instructions including, without limit, where the Customer provides Absoft with inaccurate, incomplete or misleading information given by the Customer in Absoft's initial customer disclosure exercise.
- 6.5 The rates, sums and prices detailed in the Proposal may be adjusted by Absoft giving notice in writing to the Customer.

7. Terms of payments

- 7.1 Absoft will invoice the Customer in Pounds (£) Sterling and the Customer shall be bound to make payment to Absoft in the same currency.
- 7.2 All fees payable under this Contract are exclusive of all relevant taxes which shall be paid by the Customer at the rate and in the manner for the time being prescribed by law.
- 7.3 The fee rates specified in the Proposal may be reviewed by Absoft on an annual basis and adjusted in accordance with Absoft's standard rates. Such rates will not be increased over those of the previous year by a sum exceeding 2% over the then current published Consumer Price Index without the Customer's prior consent. Absoft is responsible for the monitoring of its account with the Customer via the Customer's nominated Procure to Pay Platform and keeping its information therein up to date and accurate, including but not limited to all product, price and other company information.
- 7.4 Unless otherwise stated in the Proposal, Absoft will invoice the Customer on a time incurred basis monthly in arrears for project related work and monthly in advance for hosting, technical managed service and functional managed service, with payment terms of 30 days from receipt of invoice.
- 7.5 If the Customer fails to make any payment of any undisputed invoices on the due date then, without prejudice to any other right or remedy available to Absoft, Absoft shall be entitled at its sole discretion to:-
- 7.5.1 cancel the Contract or suspend any further performance of the Contract in accordance with clause 12.2.4; and
 - 7.5.2 claim from the Customer any additional expenses reasonably incurred by Absoft directly in connection with such cancellation or suspension; and

- 7.5.3 charge the Customer interest (both before and after any decree or judgement) on the amount unpaid, at the rate of five per centum per annum above Bank of Scotland plc Base Rate from time to time from the date payment is due until payment is made in full.
- 7.6 Unless otherwise provided for in the Proposal, the hosting contract will take the form of a 3-year reserved instance for the machines, however monthly resource consumption will cause the monthly invoice to fluctuate. The Customer will be billed the monthly estimated amount and a true-up will be carried out bi-annually. This clause 7.6 shall apply only in the event that the Customer requires Absoft to arrange the hosting contract.
- 8. Performance**
- 8.1 Absoft shall exercise all reasonable skill, care, professionalism, technical expertise and judgement in the performance of its duties pursuant to the Contract.
- 8.2 Absoft shall use its reasonable endeavours to provide the Consultancy Services within the time period specified in the Proposal and shall at all times keep the Customer promptly informed (in writing if so requested) of any variation to the timescales detailed in the Proposal.
- 8.3 Maintenance work will normally be carried out at times agreed between the parties. Absoft may interrupt the Consultancy Services outside normal UK business hours for maintenance provided that it has given the Customer reasonable notice of such maintenance. Absoft shall at all times endeavour to keep any service interruptions to a minimum.
- 8.4 Absoft shall not be liable for any delays, delivery failures or any other loss or damage resulting from or in connection with the transfer of data over communications networks and facilities, including the internet, and the Customer acknowledges that the Consultancy Services may be subject to limitations, delays and other problems inherent in the use of such communication networks and facilities.
- 8.5 From time to time Absoft may make minor changes to the supply of the Consultancy Services, Software and/or any Third Party Services to (i) reflect changes in relevant laws and regulatory requirements; and/or (ii) to implement minor technical adjustments and improvements, for example to address a security threat; and/or (iii) make changes to, or the provider of, the Software and/or the Third Party Services as requested by the Customer or notified to Absoft by the Customer. These changes will not usually materially affect the Consultancy Services, the Customer's use of the Software and/or the Third Party Services. There may be some circumstances in which Absoft may have to suspend the provision of the Consultancy Services (including the supply of Software and/or Third Party Services) to the Customer for the reasons listed in this Condition. If Absoft has to suspend any Services or Third Party Services for longer than 24 hours an adjustment will be made to the Consultancy Charge so that the Customer does not pay for any Consultancy

Services or any Third Party Services (as the case may be) while they are suspended. The Customer may contact Absoft to terminate the Contract for any Consultancy Services, Software and/or Third Party Services if the same is suspended by Absoft for more than 72 hours and Absoft will refund such part of the Consultancy Charge paid in advance for such Consultancy Services, Software and/or Third Party Services suspended after the Customer ends the Contract.

- 8.6 Performance related to the hosting of the Customer's SAP system in Microsoft Azure will be in accordance with the terms of the relevant Microsoft agreement from time to time, a copy of which will be made available to the Customer on request. The Customer shall indemnify and hold Absoft harmless against any loss or damage which it may suffer or incur as a result of the Customer's breach of such third party terms howsoever arising.

9. Warranties & liabilities & force majeure

- 9.1 Save as expressly provided under the Contract (including in the Proposal or in any Schedule) no representation or warranty of any kind is given by Absoft in relation to the Consultancy Services and all such representations or warranties, whether express or implied, are hereby, to the maximum extent permitted by law, excluded and extinguished.
- 9.2 Where Absoft has failed to perform the Consultancy Services in accordance with its obligations under the Contract and such failure is reported to Absoft by the Customer within 1 month of completion of the Consultancy Services, Absoft shall be liable to re-perform the Consultancy Services or such part of the Consultancy Services which is defective.
- 9.3 Subject to Condition 9.6, Absoft shall not be liable for any special, indirect, incidental, consequential or exemplary loss or damage, including loss of profit, business, business opportunity, contracts or goodwill or increased costs of working or business interruption, whether or not notice of the likelihood of such damage is given to Absoft and whether arising, without limitation, through breach of contract, negligence, strict liability in delict, warranty, or breach of statutory duty, howsoever arising, which the Customer may sustain in connection with the Contract.
- 9.4 Subject to Condition 9.6:
- (i) Absoft shall not be held liable under Condition 9.2 where any defects in the performance of the Consultancy Services arise from any work scope, specification, drawing or other material or information or instructions supplied by the Customer which are incomplete, incorrect, inaccurate or illegible or where some other fault of the Customer is established;
 - (ii) If Absoft's performance of its obligations under the Contract is prevented or delayed by any act or omission of the Customer, Absoft shall not be liable for any costs, charges or losses sustained or incurred by the Customer that

arise directly or indirectly from or is in connection with such prevention or delay;

- (iii) Absoft shall not be liable for any claims, losses, liabilities, expenses or damages that arise directly or indirectly in respect of start up or shut down of the virtual machines or where automation otherwise fails or does not go according to plan (subject to it being caused by or contributed to by the machine host or the Customer);
- (iv) Absoft shall not be liable for any claims, losses, liabilities, expenses or damages arising from negligence on the part of any person other than Absoft;
- (v) Absoft shall not be liable for any claims, losses, liabilities, expenses or damages arising from any loss, theft or damage resulting from a Cyber-Attack on the Customer's or Absoft's network, system and/ or Consultancy Services, and
- (vi) Absoft shall not be liable for any claims, losses, liabilities, expenses or damages due to factors outside Absoft's reasonable control including without limitation, acts of God, natural disaster, acts of civil or military authority, war, acts of terrorism, riots, government action, fires, strikes, floods, epidemics, pandemics, quarantine restrictions, delays in transportation, or transportation embargoes, or a network or device failure external to Absoft.

9.5 Notwithstanding any other term of the Contract, time shall not be of the essence of the Contract.

9.6 The Customer shall be responsible for and shall save, indemnify, defend and hold Absoft or any member of its Group harmless from and against all claims, losses, damages, costs (including legal costs) expenses and liabilities in respect of:

- (a) loss of or damage to property of the Customer whether owned, hired, leased or otherwise provided by the Customer arising from or relating to or in connection with the performance or non-performance of the Contract;
- (b) personal injury including death or disease to any person employed by the Customer or any member of its Group arising from, relating to or in connection with the performance or non-performance of the Contract;
- (c) subject to any other express provisions of the Contract, personal injury including death or disease or loss of or damage to the property of any third party to the extent that any such injury, loss or damage is caused by the negligence or breach of duty (whether statutory or otherwise) of the Customer or any member of its Group. For the purposes of this

Condition 9.6 (c) "third party" shall mean any party which is not Absoft, the Customer or a member their group.

- 9.7 Absoft shall be responsible for and shall save, indemnify, defend and hold harmless the Customer or any member of its Group from and against all claims, losses, damages, costs (including legal costs) expenses and liabilities in respect of:
- (a) loss of or damage to property of Absoft or any member of its Group;
 - (i) owned by Absoft or any member of its Group, or
 - (ii) leased or otherwise obtained under arrangements with financial institutions by Absoft or any member of its Group,which is located at the Work Site arising from, relating to or in connection with the performance or non-performance of the Contract;
 - (b) personal injury including death or disease to any person employed by Absoft or any member of its Group arising from, relating to or in connection with the performance or non-performance of the Contract; and
 - (c) subject to any other express provisions of the Contract, personal injury including death or disease or loss of or damage to the property of any third party to the extent that any such injury, loss or damage is caused by the negligence or breach of duty (whether statutory or otherwise) of Absoft or any member of its Group. For the purposes of this Clause "third party" shall mean any party which is not the Customer, Absoft or a member of their group.
- 9.8 Subject to Condition 9.7 , Absoft's total liability to the Customer in respect of all other losses arising under or in connection with the Contract, whether in contract, negligence, breach of statutory duty or otherwise, shall in no circumstances exceed the greater of (i) the total amount paid by the Customer to Absoft for the Consultancy Services under the applicable Proposal; and (ii) £5,000,000].
- 9.9 Absoft strongly recommends that each Customer acquires/maintains Cyber-Insurance at an appropriate level for their business. Absoft is not an agent to the Customer for any purpose related to insurance but can provide contact details for insurance brokers should the Customer request such information.
- 9.10 The Customer acknowledges that Absoft offers a range of service levels to customers and a range of service levels are available from Third Party

Services). Absoft are happy to discuss the different service levels with customers but it is the Customer's decision as to what service level to procure. The Customer hereby confirms and accepts that it has fully satisfied itself that the services chosen shall be suitable for them.

- 9.11 Neither party shall be in breach of this Contract nor liable for delay in performing, or failure to perform, any of its obligations under this Contract (other than a payment obligation) if such delay or failure results from events, circumstances or causes beyond its reasonable control including without limitation, acts of God, natural disaster, acts of civil or military authority, war, acts of terrorism, riots, government action, fires, strikes, floods, epidemics, pandemics, quarantine restrictions, delays in transportation, or transportation embargoes, or a network or device failure external to Absoft ('Force Majeure Event'), provided always that the party affected by the Force Majeure Event promptly notifies the other and uses all reasonable endeavours to mitigate the effect of the Force Majeure Event on the performance of its obligations. In such circumstances, the affected party shall be entitled to a reasonable extension of the time for performing such obligations, provided that if the period of delay or non-performance continues for two weeks, the party not affected may, notwithstanding the other provisions of the Contract, terminate the Contract by giving seven days' written notice to the other party.

10. Access to Customer's Premises

- 10.1 The Customer will ensure that Absoft is granted such access to the Customer's premises or other applicable site (the "**Work Site**") as shall be necessary for the proper performance of the Consultancy Services. Additionally the Customer will:
- 10.1.1 ensure Absoft's personnel have a safe place of work at the Work Site and that Absoft's personnel are made fully aware of any health, fire and safety regulations or policies as applying to the Work Site and to any property, tools, materials or equipment (howsoever supplied) being used at or otherwise located on, the Work Site;
 - 10.1.2 ensure that appropriate insurance cover is arranged (whether directly by the Customer or by any relevant third party) and is in force to provide cover for Absoft's personnel when working at the Work Site ;
 - 10.1.3 provide Absoft upon request with a broker's letter confirming the insurance coverage referred to in Condition 10.1.2
- 10.2 Absoft may seek assurance that the Customer has appropriate Health and Safety policies in place.
- 10.2 Absoft will ensure that Absoft's personnel, while on site at any of the Customer's locations, observe the health, fire, safety and security regulations

and general working practices applicable thereto as intimated to Absoft by the Customer.

- 10.3 The Customer warrants that Absoft's personnel will not be required by the Customer to work in a location where the Customer's personnel have not worked before, or which has not been approved by the Customer following a Health and Safety Inspection.
- 10.4 In case of any medical or political emergency or natural disaster (force majeure) the Customer will treat any employee of Absoft as its own (whether in the UK or abroad) and provide to them the same information, aid, advice, security and transport home as it provides to its own employees. The Customer will inform Absoft at every stage of this process on the status of the situation, and the means that are being taken to ensure the safety and safe return of Absoft's personnel.
- 10.5 The Customer will ensure that Absoft is granted such access to the Customer's personnel as shall be necessary for the proper performance of the Consultancy Services.

11. Confidentiality

- 11.1 Each party shall treat as confidential all Confidential Information and shall not divulge such Confidential Information to any person (except to such party's own employees and advisors (and those of their Affiliates) and then only to those employees and advisors (and those of their Affiliates) who need to know the same or except as may be required for the purpose of performance of the Consultancy Services) without the other party's prior written consent provided that this Condition shall not extend to information which:
- (i) was rightfully in the possession of such party prior to the commencement of the negotiations leading to the Contract;
 - (ii) is already public knowledge or becomes so at a future date (otherwise than as a result of a breach of this Condition); or
 - (iii) such party is required to disclose by any applicable law or by any governmental or regulatory authority or by the order or ruling of a court or administrative body of competent jurisdiction.
- 11.2 Each party shall ensure that its employees (and Affiliates where Confidential Information is disclosed to Affiliates) are aware of and comply with the provisions of this Condition. If Absoft shall appoint any sub-contractor/ Third Party Services then Absoft may disclose Confidential Information to such sub-contractor/ Third Party Services as may be necessary for the purpose of the Consultancy Services and Absoft shall use its reasonable endeavours to ensure that any warranties or undertakings granted by such third party providers in relation to their Confidential Information are assigned to the Customer. The foregoing obligations as to confidentiality shall survive any termination of the Contract.

12. Intellectual property

- 12.1 For the avoidance of doubt, all background information and IPR belonging to or otherwise under the control of Absoft or the Customer ("Background IPR") and existing before the date of the Contract, shall remain the property of the party introducing such Background IPR.
- 12.2 Absoft hereby assigns to the Customer (where applicable by present assignment of future rights) with full title guarantee, the IPR and all other rights in the products of the Consultancy Services, but excluding Absoft's Background IPR and excluding the IPR and all other rights in the products, tools and services detailed in Condition 12.5.
- 12.3 Absoft warrants that the Consultancy Services (excluding the Software and Third Party Services) shall not infringe the IPR of any third party, and Absoft shall indemnify the Customer in respect of all actions, claims, proceedings, demands, losses, expenses, damages and/or costs, of whatever nature incurred or arising from infringement or alleged infringement of any such third party IPR arising out of or in connection with the performance of the obligations of Absoft under the Contract except that Absoft shall have no liability for any infringement that is based upon or arises out of:
- 12.3.1 compliance with Customer's instructions, specifications or designs;
- 12.3.2 combinations with other equipment, software or materials not supplied by Absoft.
- 12.4 The Customer shall indemnify Absoft in respect of all actions, claims, proceedings, demands, losses, expenses, damages and/or costs, of whatever nature, arising out of, any alleged infringement of IPR arising out of or in connection with the performance of the obligations of Customer under the Contract or the use by Absoft or instructions, specifications, designs, materials or equipment supplied by Customer.
- 12.5 Absoft shall not assign to the Customer and the Customer shall not own the IPR and all other rights in any Service Tools. The Customer shall only have a licence to use the Service Tools for the duration of the Contract.

13. Term and Termination

- 13.1 The Contract shall commence on the Commencement Date and shall continue, unless terminated earlier in accordance with this Condition 13, for the initial term stated in the Proposal ("**Initial Term**") when subject to neither party giving 3 months notice prior to the end of the Initial Term it shall automatically continue. Either party may give written notice to the other, not later than 3 months before an anniversary of the Commencement Date falling after the Initial Term to terminate the Contract on any such anniversary.

- 13.2 Either party shall be entitled to terminate the Contract at any time for convenience and without liability by giving thirty days' written notice to the other party.
- 13.2 Either party shall be entitled to terminate the Contract immediately at any time if: -
- 13.2.1 the other party makes any voluntary arrangement with its creditors or becomes subject to any administration order or (being an individual or firm) becomes bankrupt or (being a company) goes into liquidation (otherwise than for the purposes of amalgamation or reconstruction), including, in any case any similar or analogous event in any other jurisdiction; or
 - 13.2.2 a receiver is appointed, over any of the property or assets of the other party; or
 - 13.2.3 the other party ceases, or threatens to cease to carry on business; or
 - 13.2.4 the other party commits any breach of these Conditions and (if capable of remedy) fails to remedy the breach within such reasonable period as may be specified in a written notice served for that purpose; or
 - 13.2.5 they reasonably apprehend that any of the events mentioned in Conditions 13.2.1 – 13.2.3 above are about to occur in relation to the other party and notifies the other party accordingly.
- 13.3 If Condition 13.2 applies and if the Consultancy Services or any part of the Consultancy Services have been supplied but not paid for, the Consultancy Charge or the relevant part of the Consultancy Charge shall become immediately due and payable. In addition, where suspension or termination occurs part way through performance of the Consultancy Services, Absoft shall be entitled to charge the Customer for any costs and expenses reasonably incurred by Absoft prior to such suspension or termination.
- 13.4 The termination of this Contract shall not affect the duties and obligations under Conditions 9, 10 and 11 which shall continue in full force without limit of time.
- 13.5 Termination shall not affect any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination.
- 13.6 [Early termination of the contract will result in a 20% termination fee for Microsoft Azure hosting services for the remainder of the contract.]

13.7 Any handover or transitional work required prior to, on or following termination of this Contract shall be charged at Absoft's current standard rates set out in the Proposal.

13.8 On termination of this Contract, the Customer shall immediately cease using custom or bespoke deliverables provided as part of the Consultancy Services ("**Deliverables**") including without limit the Service Tools ("**Deliverables**") and where possible shall immediately return any such Deliverables to Absoft and/or where possible delete any Deliverables from its computer system. The Customer agrees that such Deliverables are only being made available to it during the term of the Contract.

14 Data protection

14.1 Absoft shall, to the extent the Consultancy Services involve the transmission or processing of Personal Data (as defined below):

- (a) comply with the Data Protection Schedule attached hereto;
- (b) maintain any valid and up-to-date registrations or notifications required under the Data Protection Legislation;
- (c) only Process such Personal Data: (A) for the purpose of providing the Consultancy Services to the Customer; or (B) as otherwise expressly authorised by the Customer;
- (d) not process such Personal Data outside the European Economic Area without the Customer's prior written consent;
- (e) where the Personal Data is to be processed outside the EEA in a country not deemed Adequate, the Standard Contractual Clauses (Processors), Privacy Shield or another European Commission approved transfer mechanism shall be entered into between the Parties (and/or any relevant Group Companies (as required by the Customer) and Absoft (and, where applicable, any relevant sub-processor) before such export;
- (f) promptly notify the Customer if the subject of the Personal Data makes a written request to have access to that Personal Data or makes any complaint or request relating to the Customer's obligations under the Data Protection Legislation; and
- (g) ensure that only such of its employees who may be required by it to assist it in meeting its obligations under the Contract shall have access to the Personal Data and those employees undergo training in data protection and in the care and handling of it.

14.2 For the purpose of this clause 14:

- 14.2.1 **“Data Protection Legislation”** means the EU Data Protection Directive 95/46/EC and the Directive on Privacy and Electronic Communications 2002/58/EC and any national data protection laws and regulations enacted under those directives or otherwise (including the Data Protection Act 2018 and Privacy and Electronic Communications Regulations 2003), and any successor laws and regulations as amended from time to time. **“Process”, “Personal Data”** and **“Data Controller”** shall have meanings as set out in the Data Protection Legislation), and
- 14.2.2 **“Adequate”** means whether a country provides an adequate level of protection by reason of its domestic law or of the international commitments it has entered into as determined by the European Commission under Article 25(6) of Directive 95/46/EC.

15. Absoft’s Status / Non-Solicitation

- 15.1 For the removal of doubt, it is expressly agreed that, in performing its duties hereunder, the relationship of Absoft with the Customer is that of an independent contractor, and that no contract of employment is hereby established between the Customer and Absoft.
- 15.2 The Customer shall not directly or indirectly solicit or entice away (or attempt to solicit or entice away) from Absoft any of the Absoft’s employees or contractors engaged in relation to the Contract during the duration of the Contract or for a further period of twelve months after the completion of the Contract, otherwise than as a result of normal recruiting procedures which are not targeted at any particular person. In the event that the Customer commits any breach of the above covenant and contributes to a member of Absoft’s team leaving, Absoft may invoice the Customer a sum equivalent to one year’s average Absoft remuneration of that employee or contractor (plus VAT) and the Customer shall pay such invoice within thirty days of receipt.
- 15.3 The parties agree that the aforementioned payment is a genuine pre-estimate of loss, being compensation required for recruiting and retraining replacement contractors. The Customer agrees not to claim that such compensation is a penalty on them.

16. Entire Agreement

- 16.1 The Contract expresses the entire agreement between Absoft and the Customer in relation to the Consultancy Services and supersedes all prior oral and written understandings and agreements pertaining to the provision of the Consultancy Services by Absoft to the Customer in terms of the Contract.

- 16.2 Absoft and the Customer shall not be bound by any variation of the Contract in any manner whatsoever unless the variation is in writing which makes specific reference to the Contract and the proposed variation thereof and is signed on behalf of both Absoft and the Customer. Absoft shall not be bound by any terms or conditions set out in any other order form, documents or correspondence of the Customer.

17. Assignment

- 17.1 Save as provided for under Condition 4.3 and Condition 17.2, neither party shall assign, transfer, sub-contract or in any other matter make over to any third party the benefit and/or burden of this Agreement without prior written consent of the other.
- 17.2 Absoft may use Third Party Services and Software to perform all or any part of the Consultancy Services.
- 17.3 The Contract shall be binding upon the successors and assignees of the parties and the name of a party appearing herein or in the Proposal shall be deemed to include the names of its successors and assignees provided always that nothing shall permit any assignment by either party except as expressly provided.

18. General

- 18.1 Any notice required or permitted to be given by either party to the other under the Contract shall be in writing addressed to that other party at its registered office or such other address as may at the relevant time have been notified pursuant to this provision to the party giving the notice. Any such notice may be delivered by hand or sent by first class pre-paid post and shall be deemed to have been served if by hand when delivered or if by first class post 48 hours after posting.
- 18.2 If any provision of these Conditions is held by any competent authority to be invalid or unenforceable in whole or part the validity of the other provisions of these Conditions and the remainder of the provision in question shall not be affected thereby.
- 18.3 This Contract shall not be taken as creating or evidencing any agency or partnership between Absoft and the Customer.
- 18.4 No relaxation, delay or waiver by Absoft of its rights in respect of any breach of obligation of the Customer pursuant to the Contract shall constitute a waiver of any other rights in respect of any prior or subsequent breach or obligation.
- 18.5 The Contract shall be governed by Scots Law and the parties submit to the exclusive jurisdiction of the Scottish courts.

Agreed and accepted for and on behalf of:

Absoft Limited

Signature:

Signature:

Name:

Name:

Position:

Position:

Date:

Date: