

Intelligent Decisioning Ltd

Terms and Conditions

We are:	Intelligent Decisioning Ltd (“ we ” or “ Supplier ”)
Company number:	03334833
Our registered office address is	1 Cranmer Street, Long Eaton, Nottingham NG10 1NJ
Our address for communications is:	Sherwood Park, Lake View Drive, Nottingham NG15 0DT
Our e-mail address is:	info@id-live.com
You are:	(“ you ” or “ Client ”)
Your registered office address is:	
Your e-mail address is:	

- (A) These Terms and Conditions between Supplier and Client are dated as of **xx/xx/xxxx** with effect from the Effective Date.
- (B) These Terms and Conditions, including any schedules, annexes and appendices are master terms and apply to any Statement of Work entered into between Supplier and Client and/or a member of the **Client** on or after the date hereof, and such Terms and Conditions along with any applicable Statement of Work shall be referred to collectively as this “**Agreement**”.
- (C) The Supplier has agreed to deliver to the Client the Services in accordance with this Agreement.
- (D) In consideration of the mutual promises and covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree to the terms and conditions set out in these Terms and Conditions with effect from the Effective Date.

1 DEFINITIONS AND INTERPRETATIONS

- 1.1 In this Agreement, unless the context otherwise requires, the following expressions have the following meanings:

"Acceptance"	means the satisfaction by the Supplier of the acceptance criteria process specified in Clause 9.
"Business Day"	means any day, other than Saturday, Sunday or public holiday in England and Wales.
"Business Hours"	means 9 a.m. to 5 p.m. London (United Kingdom) time.
"Commissioner"	the Information Commissioner (see Article 4(A3), UK GDPR and section 114, DPA 2018).
"Confidential Information"	means any information specified in Clause 18.1, but shall exclude any such information set out in Clause 18.2.
"Control"	has the meaning given in section 1124 of the Corporation Tax Act 2010, and "controls" , "controlled" and the expression "change of Control" shall be construed accordingly.
"Client's Equipment"	any equipment, including tools, systems, cabling or facilities, provided by the Client, its agents, subcontractors or consultants which is used directly or indirectly in the supply of the Services including any such items specified in a Statement of Work.
"Client's Materials"	all documents, information, items and materials in any form (whether owned by the Client or a third party), which are provided by the Client to the Supplier in connection with the Services including the items provided pursuant to Clause 5.
"Data Protection Legislation"	means all applicable data protection and privacy legislation in force from time to time in the UK including without limitation the UK GDPR; the Data Protection Act 2018 (and regulations made thereunder) (DPA 2018); and the Privacy and Electronic Communications Regulations 2003 (<i>SI 2003/2426</i>) as amended; and all other legislation and regulatory requirements in force from time to time which apply to a party relating to the use of Personal Data (including, without limitation, the privacy of electronic communications); and the guidance and codes of practice issued by the Commissioner or other relevant regulatory authority and which are applicable to a party.
"Effective Date"	means xx/xx/xxxxx
"Controller", "Data Controller", "Joint Controller" "Data Processor", "Data Subjects", "Personal Data"	has their respective meanings given to them in the Data Protection Legislation.

Breach”, “Processor”, “Processing”, “Sub-Processor” and “appropriate technical and organisational measures”	
“Object Code”	means an executable machine-readable form of the software based on the Source Code.
“Open-Source Software”	means any software licensed under any form of open-source licence meeting the Open Source Initiative's Open Source Definition (http://www.opensource.org/docs/definition.php) or any libraries or code licensed from time to time under the General Public Licence (as described by the Free Software Foundation and set out at http://www.gnu.org/licenses/gpl.html), or anything similar, included or used in, or in the development of, the system or software by Supplier, or with which the system or software is compiled or to which it is linked.
“Permitted Disclosees”	means agents, employees and sub-contractors of the Supplier.
“Personal Data”	has the meaning given to it in the Data Protection Legislation of which such categories of Personal Data are set out in: (a) Annex A to Schedule 2;
“Service Level Schedule”	(b) means the service levels set out in Schedule 1.
“Security Measures”	means the security measures set out in Schedule 4
“Source Code”	means computer programs or data in eye-readable form and in such form that it can be compiled or interpreted into equivalent Object Code, together with all technical information and documentation necessary for the use, reproduction, modification and enhancement of such computer programs.
“Standard Contractual Clauses”	means the standard contractual clauses approved by, including the international data transfer agreement (IDTA) and the international data transfer addendum, as applicable, issued by the Commissioner from time to time for the international transfer of Personal Data outside of the UK to Processors in a country or territory not covered by UK adequacy regulations.
“Support Agreement”	means the support agreement entered into between the Supplier and the Client (on or after the date of this Agreement), as may be amended from time to time, of which such support agreement shall be subject to the terms of this Agreement.
“Master Term”	This Agreement shall commence on the Effective Date and continue until termination in accordance with Clause 20 (<i>Duration and termination</i>).
“Third Party Software”	means any Open-Source Software and any software programs

	proprietary to third parties which are to be provided to the Client without modification, including but without limitation any such third party programs outlined in a Statement of Work.
"UK GDPR"	has the meaning given to it in section 3(10) (as supplemented by section 205(4)) of the DPA 2018.
"Warranty Period"	means either 30 days following Acceptance of the Services by the Client or the warranty period specified under the Statement of Work, whichever is longer.

1.2 In this Agreement, unless the context otherwise requires, the following rules of interpretation shall apply:

- 1.2.1 Any reference, express or implied, to a statute or statutory provision includes, unless the context requires otherwise, references to that statute or statutory provision as from time to time amended, modified, extended, re-enacted, consolidated and all statutory instruments, orders, directions and notices made pursuant to it, whether made before or after the date of this Agreement.
- 1.2.2 Words importing the singular shall include the plural and vice versa; words denoting persons shall include bodies' corporate and unincorporated associations of persons and vice versa.
- 1.2.3 Any phrase in these Terms and Conditions introduced by the term "include", "including", "in particular" or any similar expression will be construed as illustrating and will not limit the sense of the words preceding that term.
- 1.2.4 The headings in these Terms and Conditions do not affect its interpretation.
- 1.2.5 Any reference to a Clause or Schedule shall be a reference to a Clause of or Schedule to these Terms and Conditions.
- 1.2.6 The schedules and any annexes or appendices to these Terms and Conditions form part of these Terms and Conditions.
- 1.2.7 In the event of any conflict or inconsistency, these Terms and Conditions shall prevail over the Schedules and annexes hereto and any Statement of Work unless specifically provided otherwise in such Schedules and annexes or appendices or Statement of Work.

2 Statement of Work

2.1 Supplier shall deliver the Services and any applicable Deliverables detailed in a Statement of

Work in accordance with this Agreement.

2.2 Any Statement of Work shall include, as applicable:

- 2.2.1 a services description ("**Services**") including any applicable service levels;
- 2.2.2 a listing of all items to be delivered to you under this Agreement ("**Deliverables**");
- 2.2.3 a delivery schedule containing a delivery date for each Deliverable;
- 2.2.4 acceptance criteria;
- 2.2.5 classification of a party as Data Controller or Processor or Sub-Processor, as applicable and the population of the relevant Annex A information for the purposes of Schedule 2 as relevant.
- 2.2.6 payment terms, including invoicing schedule.

3 Payment

- 3.1 The total contract price and schedule of payments for the performance of Services under this Agreement shall be set forth in the Statement of Work. Any charges or fees payable under this Agreement are exclusive of value added tax, shall be paid at the rate and in the manner for the time being prescribed by law.
- 3.2 Each instalment as detailed in the Statement of Work shall be payable in accordance with the invoice schedule in the Statement of Work.
- 3.3 Where there are no details or provisions in the Statement of Work regarding the timeframes within which invoices shall be paid, then the payment of sums due under the Statement of Work shall be made to Supplier within 30 days of the receipt of a valid undisputed invoice (unless Supplier and Client mutually agree such other timeframe or otherwise specified in the Statement of Work).
- 3.4 If payment of any sum due under the Statement of Work to Supplier shall be delayed by the Client, other than in accordance with Clause 24 (*Dispute resolution*), the Supplier shall be entitled to charge interest at 2% per annum above the Bank of England's base rate from time to time, but at 2% a year for any period when the Bank of England's base rate is below 0%, on the amount of the delayed payment from the due date until payment in full is made by the Client.
- 3.5 Where a payment is disputed in good faith interest is only payable after the dispute is resolved, on sums found or agreed to be due, from 7 days after the dispute is resolved until payment. If the Client disputes any invoice: (a) the Client shall notify Supplier in writing as soon as reasonably practicable of the date of receipt of the invoice, specifying the reasons for disputing the invoice; (b) the Supplier and the Client shall follow the dispute resolution process in Clause 24 (*Dispute resolution*); (c) the Supplier shall provide all evidence as may be reasonably necessary to verify the disputed invoice; and (d) the Client shall pay all non-disputed amounts to the Supplier on the due date specified in this Agreement.

- 3.6 All invoices under this Agreement shall be sent to **email@addresshere.com**, or as otherwise advised by the Client from time to time.

4 Payment of developer's costs

- 4.1 You shall reimburse us for all reasonable out-of-pocket expenses incurred in performing services under this Agreement. We shall not incur any expenses without your prior approval.
- 4.2 For preapproved expenses, we shall submit an invoice with an itemised statement of expenses for claiming reimbursement. You shall pay us within 30 days from the date of each undisputed invoice.

5 Materials

- 5.1 You shall make available to us at your expense, the following materials, facilities and equipment:
- 5.1.1 None required under these Terms and Conditions; or
 - 5.1.2 Any materials, facilities and equipment specified in a Statement of Work.

6 Variations in project scope

- 6.1 If at any time you desire a change in our performance under this Agreement that will alter or amend the Statement of Work, you shall submit a written proposal specifying the desired changes.
- 6.2 We will evaluate each such proposal at its standard rates and charges.
- 6.3 We shall submit a written response to each such proposal within a maximum of 3 Business Days.
- 6.4 Our written response shall include any impact the proposed changes will have on the price, delivery dates or warranty provisions of this Agreement besides a statement of the availability of our personnel and resources.
- 6.5 The Statement of Work shall be amended in writing by mutual agreement of the parties to incorporate the desired changes and acknowledge any effect of such changes on the provisions of this Agreement.
- 6.6 The amended Statement of Work shall be signed by your authorized representative and us, whereupon we shall commence performance in accordance with it.

6.7 If the amended Statement of Work is not executed in line with provisions of 7.6 above, we shall not be obligated to perform any services, and you will not be obligated to make any payment, beyond those called for in the original Statement of Work.

6.8 Each Statement of Work amended and duly authorized in writing by the parties shall be deemed incorporated into and made part of this Agreement.

7 Time as essence

7.1 Time is the essence of this Agreement. We shall use all reasonable efforts to deliver the Services on schedule. However, we can extend the due date by giving written notice to you. The total of all such extensions shall not exceed 10% of days assigned for the work in the Statement of Work.

8 Force Majeure

8.1 Save as otherwise stated in this Agreement, and without prejudice to a party's duty to take all reasonable skill and care in performing their obligations under this Agreement, any delay or non-performance of any provision of this Agreement caused by conditions beyond the reasonable control of the performing party shall not constitute a breach of this Agreement, provided that the delayed party has taken reasonable measures to notify the other of the delay in writing. The delayed party's time for performance shall be deemed to be extended for a period equal to the duration of the conditions beyond its control.

8.2 Conditions or events beyond a party's reasonable control include, but are not limited to, natural disasters, acts of government after the date of this Agreement, power failure, fire, flood, labour action or disputes, riots, acts of war or terrorism, pandemics and epidemics. Failure of subcontractors and inability to obtain materials shall not be considered a condition beyond a party's reasonable control.

8.3 If either party is prevented from performance of its obligations for a continuous period in excess of three months, either party may terminate this Agreement with immediate effect upon service of a written notice to the other party.

8.4 Supplier warrants that it has and will continue to have in place a suitable business continuity plan that is to industry practice (the "**Continuity Plan**"), which makes provision for the prompt and efficient handling of any incident (including the types of events contemplated below) that may impair its ability to perform any of its obligations under this Agreement and which minimises the adverse effect on the Client. ID will periodically test and review its Continuity Plan.

9 Testing of software before acceptance

9.1 We shall deliver and install the Services and Deliverables and shall deliver all documentation

and other materials required to be provided in accordance with the delivery schedule.

- 9.2 You will inspect, test and evaluate it to determine whether the Services and Deliverables satisfy the acceptance criteria in accordance with procedures set forth in the Statement of Work.
- 9.3 If the Services or Deliverables do not satisfy the acceptance criteria, you will give us written notice stating reasons.
- 9.4 We shall correct the deficiencies.
- 9.5 You shall inspect, test and re-evaluate the Services or Deliverables.
- 9.6 If the Services or Deliverables still do not satisfy the acceptance criteria, you shall have the option of either:
 - 9.6.1 repeating the procedure set forth above, or
 - 9.6.2 terminating this Agreement pursuant to the conditions of this Agreement.

10 Maintenance of software

- 10.1 We shall provide the following error-correction and support services, subject to the terms set forth in the Statement of Work and the terms of the Support Agreement, for a minimum of 1 year after completion of the development work under this Agreement and/or the relevant Statement of Work, as applicable:
 - 10.1.1 Telephone hot-line support during our normal Business Days and Business Hours of business operation.
 - 10.1.2 Such support shall include consultation on the operation and utilization of the Services.
 - 10.1.3 You shall be responsible for all telephone equipment and communication charges related to such above support.
 - 10.1.4 Error correction services, consisting of our use of all reasonable efforts to design, code and implement programming changes to the Services, and modifications to the documentation, to correct reproducible errors therein so that the Services are brought into substantial conformance with the requirements of the Statement of Work.
 - 10.1.5 The error-correction and support services described above shall be subject to your promptly reporting any errors or related documentation to us in writing and not modifying the Services without our written consent.

11 Services Levels

- 11.1 The Supplier shall provide the Services to the Client in accordance with:
- 11.1.1 this Agreement and any defined Service Level Schedule in additional to the service levels set out in any Statement of Work;
 - 11.1.2 with all due diligence, skill and care and in accordance with good industry practice; and
 - 11.1.3 all applicable legislation, rules and regulations.

12 Ownership of Intellectual Property Rights

- 12.1 Subject to payment of all monies due to us in line with this Agreement, we will assign to you the entire right, title and interest, including all patents, copyrights, and intellectual property rights, in anything created or developed by us under this Agreement for you excluding any proprietary products identified in the Statement of Work.
- 12.2 We shall retain all copyright, patent, and intellectual property rights we may have in anything created or developed by us under this Agreement for you and identified in the Statement of Work as being our proprietary product.
- 12.3 In the case that the Statement of Work includes the supply of proprietary products for which the intellectual property rights belong to a third party, neither you nor we shall be able to claim any patents, copyrights, and intellectual property rights in such developments, other than the license that we grant you to use such proprietary products.
- 12.4 We shall execute and aid in the preparation of any documents necessary to secure such copyright, patent, or intellectual property rights at no charge to you.
- 12.5 Provided that all licence fees for Third Party Software identified in the Statement of Work have been fully paid to the appropriate body (which the Supplier warrants shall be passed on to the appropriate body if the Supplier has collected it from the Client) the licence shall authorise you to:
- 12.5.1 Install the Third Party Software on computer systems owned, leased or otherwise controlled by you.
 - 12.5.2 Utilize the Third Party Software for your internal purposes and copy the Third Party Software only as necessary to exercise the rights granted in these terms.

13 Ownership of background technology

- 13.1 You acknowledge that we own or hold a licence to use and sublicense various pre-existing development tools, routines, subroutines and programs, data and other materials that we may include in the Services.
- 13.2 This material shall be referred to as "Background Technology". Our Background Technology includes items identified to you in writing.
- 13.3 We retain all right, title and interest, including all copyright, patent and intellectual property rights in the Background Technology.
- 13.4 Subject to full payment of the fees due under this Agreement, we grant you a non-exclusive, perpetual worldwide licence to use the Background Technology and all updates and revisions.

14 Source Code

- 14.1 In the event that the provision of any Services involves developing and delivering any software, then the Client agrees that any such software shall be delivered to you in Object Code form only, unless expressly stated otherwise in the Statement of Work.

15 Warranties

- 15.1 Unless such other Warranty Period is otherwise specified in a Statement of Work for the Services provided under such Statement of Work, we warrant that for 90 days following Acceptance of the Services by you, the Services and system and software:
 - 15.1.1 will be free from programming errors and defects in workmanship; and
 - 15.1.2 will provide the functions and will substantially conform to the specifications in the Statement of Work when maintained and operated in accordance with our instructions.
- 15.2 If programming errors are discovered during the Warranty Period, we shall promptly remedy them at no additional expense to you.
- 15.3 This warranty shall be null and void if you are in default under these terms or if the non-conformance is due to:
 - 15.3.1 hardware failures or any causes other than the system or software itself;
 - 15.3.2 modification of the software operating systems by any party other than the Supplier or its representatives;
 - 15.3.3 misuse, errors or negligence of you, its employees or agents in operating the system

or software; and

15.3.4 any issue, failure or change to Third Party Software.

- 15.4 We own and have the right to license or convey title to the Services, including any Third Party Software, the third party intellectual property used therein, and documentation covered by these terms.
- 15.5 We will not grant any rights or licences to any intellectual property or technology that would conflict with our obligations under these terms.
- 15.6 We expressly warrant that no portion of the Services contains or will contain any protection feature designed to prevent its use.
- 15.7 We expressly warrant that no portion of the Services contains or will contain any computer virus, worm, software lock, trojan-horse, trap door, or any other codes or instructions that may be used to access, modify, delete, damage or disable your software or network.
- 15.8 We further warrant that we will not impair the operation of the Services.
- 15.1 We warrant that the Services and Deliverables shall be compatible with your hardware and software as set forth in the Statement of Work.
- 15.2 Unless expressly stated in the Statement of Work and covered by your estimates of data volumes, search methods and hardware constraints we do not offer estimates of speed or performance of the software nor do we offer any guidance about hardware specification appropriate for running the software.

16 Third Party Intellectual Property Claims

- 16.1 We warrant that we will not knowingly infringe on the copyright or trade secrets of any third party in performing services under these terms and any Statement of Work.
- 16.2 If any third party brings a lawsuit or proceeding against you based upon a claim that any of the Services or Deliverables breaches the third party's patent, copyright, trade secrets or intellectual property rights, and it is determined that such infringement has occurred, we shall indemnify and hold you harmless against any loss, damage, expense or cost, including reasonable legal or attorney fees, arising from the claim.
- 16.3 This indemnification obligation shall be effective only if:
 - 16.3.1 you have made all payments required by these terms;
 - 16.3.2 you have given prompt notice of the claim and permitted us to defend, and
 - 16.3.3 the claim does not result from your modification of the Services or Deliverables.

- 16.4 To reduce or mitigate damages, we may at our own expense replace the Services or Deliverables with a non-infringing product.

17 Limitation of liability

- 17.1 Subject to Clause 17.3, except for our indemnity and confidentiality obligations, our total liability under these terms for damages, costs and expenses, regardless of cause, shall not exceed three times the total amount of fees paid to us by you under these terms, whichever is greater.
- 17.2 We shall not be liable for any claim or demand made against you by any third party except to the extent such claim or demand relates to copyright, patent, trade secret, breach of confidentiality obligations, or intellectual proprietary rights.
- 17.3 For the avoidance of doubt, the limitations, exclusions of liability and liability cap in this Clause 17 (*Limitation of liability*) shall not apply to Clauses 16 (*Third Party Intellectual Property Claims*), 18 (*Confidentiality*) and 19 (*Data Protection*).
- 17.4 Nothing in this Agreement shall limit any party's liability for
- 17.4.1 death or personal injury caused by negligence;
 - 17.4.2 fraud or fraudulent misrepresentation;
 - 17.4.3 breach of the terms implied by section 2 of the Supply of Goods and Services Act 1982; and
 - 17.4.4 any other liability which cannot be limited by law.

18 Confidentiality

- 18.1 We are aware that in the course of the performance of these terms and Services, we will have access to and be entrusted with information in respect of your business and operation, dealings, transactions, and/or any and all other proprietary information belonging to you relating to your business or businesses and/or related affairs, all of which information (written, oral or otherwise) is or may be confidential, including, but not limited to:
- 18.1.1 the fact that discussions and negotiations are taking place concerning the purpose and Services under this Agreement and the status of those discussions and negotiations;
 - 18.1.2 the existence and terms of this Agreement;
 - 18.1.3 any information that would be regarded as confidential by a reasonable business person relating to:
 - (i) the business, affairs, customers, clients, suppliers, plans, intentions, or market opportunities of the Client or its Group, and

- (ii) the operations, processes, product information, know-how, designs, trade secrets or software of the Client or of its Group; and
 - (iii) any Personal Data; and
- 18.1.4 any information or analysis derived from the Confidential Information.

18.2 Confidential Information shall not include any information that:

- 18.2.1 is or becomes generally available to the public (other than as a result of its disclosure by the Supplier or its representatives in breach of this agreement), (except that any compilation of otherwise public information in a form not publicly known shall nevertheless be treated as Confidential Information); or
- 18.2.2 was lawfully in the possession of the Supplier before the information was disclosed to it by a disclosing party as evidenced by written records; or
- 18.2.3 the Parties agree in writing is not confidential or may be disclosed.

18.3 Accordingly, we hereby undertake for our self and every Permitted Disclosees whose services we may use both during and after completion of the work project relating to development of software:

- 18.3.1 that we will not divulge to any person whatever or otherwise make use of (and shall use our best efforts to prevent the publication or disclosure of) any trade secret or Confidential Information, except to its Permitted Disclosees strictly on a need to know basis for the performance of the Services;
- 18.3.2 that we will not remove from your premises or copy or allow anyone else to copy from any document, computer disk, tape or other tangible item which contains any Confidential Information except as may be necessary in the course of the Services for you; and
- 18.3.3 apply the same security measures and degree of care to the Confidential Information as the Supplier applies to its own confidential information, which the Supplier warrants as providing adequate protection from unauthorised disclosure, copying or use.
- 18.3.4 we will make all Permitted Disclosees aware of the confidentiality of the Confidential Information and take all such steps as shall from time to time be necessary to ensure compliance by them with these confidentiality provisions.

18.4 We may disclose Confidential Information only to the extent required by law, by any governmental or other regulatory authority or by a court or other authority of competent jurisdiction provided that, to the extent it is legally permitted to do so, we give you as much notice of such disclosure as possible and, where notice of disclosure is not prohibited and is given in accordance with this Clause 18.4, we take into account your reasonable requests in relation to the content of such disclosure.

18.5 At the request of the Client the Supplier shall promptly:

- 18.5.1 destroy or return to the Client all documents and materials (and any copies) containing, reflecting, incorporating, or based on the Confidential Information;
- 18.5.2 erase all of the Confidential Information from its computer systems; and
- 18.5.3 certify in writing to the Client that it has complied with the requirements of this clause, provided that the Supplier may retain documents and materials containing, reflecting, incorporating, or based on the Confidential Information to the extent required by law or any applicable governmental or regulatory authority, and to the extent reasonable to permit the Supplier to keep evidence that it has performed its obligations under this agreement. The provisions of this Agreement shall continue to apply to any such documents and materials retained by the Supplier, subject to Clause 20 (*Duration and termination*) and Clause 21 (*Obligations on termination or expiry and survival*).
- 18.5.4 If the Supplier develops or uses a product or a process which, in the reasonable opinion of the Client, might have involved the use of any of the Confidential Information, the Supplier shall, at the written request of the Client, supply to the Client information reasonably necessary to establish that the Confidential Information has not been used or disclosed in order to develop or use that product or process.

- 18.6 No party shall make, or permit any person to make, any public announcement concerning this Agreement without the prior written consent of the other party (such consent not to be unreasonably withheld or delayed) except as required by law or any governmental or regulatory authority (including, without limitation, any relevant securities exchange), or by any court or other authority of competent jurisdiction.

19 Data Protection

- 19.1 Both parties shall comply with all Data Protection Legislation.
- 19.2 The parties agree that:
 - 19.2.1 where the Supplier acts as a Processor on behalf of the **Client** in respect of the Processing of Personal Data and the **Client** acts as Controller of the Personal Data, then the parties shall comply with Schedule 2, which shall apply and govern any such processing by the Supplier; and
 - 19.2.2 where the **Client** processes Personal Data on behalf of another Controller, in accordance with the agreement entered into between the **Client** and that Controller, and the **Client** has sub-contracted some or all of this processing to the Supplier to provide the Services set out in the relevant Statement of Work, then the Supplier acts as sub-processor of the Personal Data and the Client and/or shall comply with Schedule 2, which shall apply and govern any such processing by the Supplier as

sub-processor.

20 Duration and termination

- 20.1 These Terms and Conditions shall commence on the Effective Date and shall continue until the earlier of (i) the stated term in all Statements of Work has expired or has otherwise been terminated in accordance with its terms or the terms of this Agreement, or (ii) earlier terminated by one party in accordance with Clauses 8.3, 9.6.2, 18.220.2, 20.3, 20.4, or 20.5 or Schedule 2.
- 20.2 Each party shall have the right to terminate this Agreement by written notice to the other if the other has materially breached any obligation herein and (if such breach is capable of remedy) such breach remains uncured for a period of 30 days after written notice of such breach is sent to the other party.
- 20.3 This Agreement, including the Support Agreement, may be terminated by you for your convenience upon 30 calendar days' prior written notice to us.
- 20.4 Without affecting any other right or remedy available to it, Client may terminate this Agreement with immediate effect by giving written notice to the Supplier if:
- 20.4.1 the Supplier suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or (being a company or limited liability partnership) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 (**IA 1986**) as if the words "it is proved to the satisfaction of the court" did not appear in sections 123(1)(e) or 123(2) of the IA 1986;
 - 20.4.2 the Supplier commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with any of its creditors other than (being a company) for the sole purpose of a scheme for a solvent amalgamation of that other party with one or more other companies or the solvent reconstruction of that other party;
 - 20.4.3 the Supplier applies to court for, or obtains, a moratorium under Part A1 of the IA 1986;
 - 20.4.4 a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of the Supplier (being a company, limited liability partnership or partnership);
 - 20.4.5 an application is made to court, or an order is made, for the appointment of an administrator, or a notice of intention to appoint an administrator is given or an administrator is appointed, over the Supplier (being a company, partnership or limited liability partnership);

- 20.4.6 the holder of a qualifying floating charge over the assets of the Supplier (being a company or limited liability partnership) has become entitled to appoint or has appointed an administrative receiver;
 - 20.4.7 a person becomes entitled to appoint a receiver over all or any of the assets of the Supplier or a receiver is appointed over all or any of the assets of the Supplier;
 - 20.4.8 a creditor or encumbrancer of the Supplier attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of the Supplier's assets and such attachment or process is not discharged within 14 calendar days;
 - 20.4.9 any event occurs, or proceeding is taken, with respect to the Supplier in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clause 20.4.1 to clause 20.4.8 (inclusive);
 - 20.4.10 the Supplier suspends or ceases, or threatens to suspend or cease, carrying on all or a substantial part of its business; or
 - 20.4.11 the Supplier's financial position deteriorates so far as to reasonably justify the opinion that its ability to give effect to the terms of this Agreement is in jeopardy.
- 20.5 Without affecting any other right or remedy available to it, the Client may terminate this agreement with immediate effect by giving written notice to the Supplier if:
- 20.5.1 the Supplier commits a breach of Clause 11.1.3, or Schedule 2 or any data protection provisions within a Statement of Work; or
 - 20.5.2 there is a change of Control of the Supplier.

21 Obligations on termination or expiry and survival

- 21.1 On termination or expiry of this Agreement:
- 21.1.1 all existing Statements of Work shall terminate automatically;
 - 21.1.2 all amounts accrued and owed to us under this Agreement prior to the effective termination date for completed work shall immediately become due and payable.
 - 21.1.3 the Supplier shall immediately deliver to the Client all Deliverables whether or not then complete, and return all Client Materials and the Client's Equipment. If the Supplier fails to do so, then the Client may enter the Supplier's premises and take possession of them. Until they have been delivered or returned, the Supplier shall be solely responsible for their safe keeping and will not use them for any purpose not connected with this agreement; and
 - 21.1.4 if applicable, the Supplier shall, if so requested by the Client, provide all assistance reasonably required by the Client to facilitate the smooth transition of the Services to the Client or any replacement supplier appointed by the Client.

- 21.2 Upon any early termination of this Agreement or any Statement of Work each in accordance with its terms (save where such termination is as a result of termination by the Supplier under Clause 20.2) then the Supplier shall pay to the Client a pro rata refund of any charges the Client has pre-paid (including, for the avoidance of doubt, any Services which includes maintenance and support days which have been pre-paid for and remain unused) in respect of any remaining period after such termination comes into effect.
- 21.3 Termination of this Agreement, for whatever reason, shall not affect any accrued rights or liabilities of any party that have accrued up to the date of termination or expiry, nor affect any of its provisions that expressly or by implication are intended to come into force or to continue to remain in full force and effect after this Agreement has come to an end.

22 Relationship of parties

- 22.1 Nothing contained herein will be construed as creating any agency, partnership, joint venture or other form of joint enterprise between the parties. In Supplier's capacity as an independent contractor, we agree and represent, and you in your capacity as Client agree, as follows:
- 22.1.1 We have the right to perform services for others during the Master Term of this Agreement subject to the condition that the same will not lead to breach of the terms of the instant Agreement.
- 22.1.2 We have the sole right to control and direct the means, manner and method by which the Services required by this Agreement will be performed.
- 22.1.3 Subject to paragraph 7 of Schedule 2, we have the right to perform the Services required by this Agreement at any place or location and at such times as we may determine.
- 22.1.4 The Services required by this Agreement shall be performed by us, or our staff, and you shall not be required to hire, supervise or pay any assistants to help us.
- 22.1.5 We are responsible for paying all ordinary and necessary expenses of our staff.
- 22.1.6 Neither we nor our staff shall be required to devote full-time to the performance of the Services required by this Agreement unless a Statement of Work says otherwise.
- 22.1.7 You shall not provide insurance coverage of any kind for us or our staff.

23 Solicitation of employees

- 23.1 Each party agrees that neither party shall knowingly hire or solicit the other party's employees with whom either party came into contact as a result of engagement of our Services during performance of this Agreement and for a period of 6 months after termination of this Agreement

without that party's written consent. It will not be a breach of this provision if that party can document that the other party's employee(s) contacted that party on their own initiative without any direct or indirect solicitation by you, or responds to a general advertisement for employment or recruitment initiative open to the public without any direct or indirect solicitation or encouragement by that party.

24 Dispute resolution and escalation

- 24.1 In the event of a dispute arising out of or in connection with this Agreement the parties undertake to attempt to settle the dispute by engaging in good faith to try and resolve the dispute without resorting to proceedings.
- 24.2 Negotiation will be between the designated representatives of the Client and the Supplier and will be held within seven (7) Business Days of a written request from one party to the other. This request must set out full details of the dispute.
- 24.3 If the dispute is not resolved as a result of such meeting, a further meeting shall be arranged to be attended by the designated representatives of the Client and the Supplier together with other representatives from each party, as appropriate. This meeting shall be held within ten (10) Business Days of a written request from one party to the other. If the dispute still cannot be resolved, the parties can agree to refer the dispute to mediation in accordance with the Centre for Dispute Resolution Mediation Procedure as follows:
 - 24.3.1 the mediation shall be conducted by a single mediator who shall be appointed by agreement in writing between the parties or, if the parties are unable to agree on the identity of the mediator within five (5) Business Days after the date of the agreement to refer to mediation, or if the mediator nominated by the parties for appointment is or becomes unable or unwilling to act, the mediator shall be appointed by the Centre for Dispute Resolution on the application of the Supplier or the Client;
 - 24.3.2 the mediation shall be conducted in London and in the English language; and
 - 24.3.3 save for the purpose of implementing and/or enforcing a written legally binding settlement agreement or as otherwise required by law, the mediation shall be conducted without prejudice to the rights of the parties in any future proceedings; and
- 24.4 The costs of the mediation, including the fees and expenses of the mediator (but excluding the parties' own costs, which shall be borne by the Party incurring those costs), shall be borne equally between the parties, unless otherwise agreed in writing in the settlement agreement.

- 24.5 If following Clause 24.2, mediation is not successful in resolving the entire dispute, any outstanding issues will be submitted to the exclusive jurisdiction of Courts of England and Wales.

25 Entire agreement

- 25.1 This Agreement, including the Statement of Work and the Support Agreement, contains the entire agreement between the parties and supersedes all previous agreements and understandings between the parties. Each party acknowledges that, in entering into this agreement, it does not rely on any representation, warranty or other term not forming part of this agreement.

26 Modifications and amendments

- 26.1 Unless where expressly provided in this Agreement, modifications and amendments to this Agreement, including any Schedule or annex or appendix hereto, shall be enforceable only if they are in writing and are signed by authorised representatives of both parties.

27 Assignment

- 27.1 Subject to Clause 27.2, neither party may assign, subcontract or otherwise transfer this Agreement or any of its rights and obligations under it, whether in whole or in part, without the prior written consent of the other (not to be unreasonably withheld or delayed).
- 27.2 The Client may assign its rights under this Agreement to any entity in its Group on written notice to the Supplier.

28 Severability

- 28.1 The provisions of this Agreement shall be severable in the event that any of the provisions are held by a court of competent jurisdiction to be invalid, void or unenforceable and the remaining provisions shall remain enforceable to the fullest extent permitted by law.

29 No waiver

- 29.1 Failure to exercise, or any delay in exercising, any right or remedy provided under this Agreement or by law shall not constitute a waiver of that or any other right or remedy, nor shall it preclude or restrict any further exercise of that or any other right or remedy.
- 29.2 No single or partial exercise of any right or remedy provided under this Agreement or by law shall preclude or restrict the further exercise of that or any other right or remedy.

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

30 Counterparts and Electronic execution

- 30.1 This Agreement may be executed in any number of counterparts each of which shall be deemed an original but all of which together shall constitute one and the same instrument. Delivery of an executed counterpart of a signature page to this Agreement by facsimile or in electronic format (for example, ".pdf" or ".tif") whether by email or other electronic communication shall be effective as delivery of a manually executed counterpart of this Agreement.
- 30.2 Each party agrees that any party may sign this Agreement by electronic signature (whatever form the electronic signature takes) and that this method of signature is as conclusive of its intention to be bound by this Agreement as if signed by the respective party's manuscript signature.

31 Third party rights

- 31.1 Subject to Clause 31.2, and unless it expressly states otherwise, this Agreement does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any terms of this Agreement.
- 31.2 The parties may terminate, rescind or vary this Agreement without the consent of any third party and any person who is not a party to this Agreement.

32 Notices and service

- 32.1 Subject to Clause 32.2, any notice or other information required or authorised by this Agreement to be given by either party to the other may be given by hand or sent by first class pre-paid post, or electronic means to the other party at the address or email address at the beginning of this Agreement or such other address or email address last provided for that type of communication.
- 32.2 Any notice or other communication given to a party under or in connection with Schedule 2, must be sent to the following data privacy contacts:

32.2.1 **For the Client:** email@client.com

32.2.2 **For the Supplier:** privacy@id-live.com

- 32.3 Any notice or other information given by post shall be deemed to have been given on the second business day after it was posted; and proof that the envelope containing any such notice or information was properly addressed, pre-paid and posted, or that it has not been so returned to the sender, shall be sufficient evidence that it has been duly given.
- 32.4 Any notice or other information sent by electronic means shall be deemed to have duly sent on the date of transmission, provided that the sender does not receive an e-mail delivery failure message.
- 32.5 Service of any legal proceedings concerning or arising out of this Agreement shall be affected by causing the same to be delivered to the party to be served at his main place of business or his registered office, or to such other address as may from time to time be notified in writing by the party concerned.

33 Governing law and jurisdiction

- 33.1 This Agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England and Wales.
- 33.2 The parties irrevocably agree that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with this Agreement or its subject matter or formation (including non-contractual disputes or claims).

The Client has thoroughly read and understood these Terms and Conditions and the Client agrees to be bound by them.

The parties have executed these Terms and Conditions as of the date specified above, with effect from the Effective Date.

Signed for and on behalf of Client :	Position:	Date:
Signed for and on behalf of Supplier :	Position:	Date:
Tony Pounder Director		

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SCHEDULE 1

Service Level Schedule

The scope of technical support and maintenance, including service levels shall be as set out in the Support Agreement.

SCHEDULE 2

Data Processing Schedule (Controller to Processor)

1. Definitions and Interpretation

The following definitions and rules of interpretation apply in this Schedule.

1.1 Definitions:

Business Purposes: the Services to be provided by the Supplier to the Client as described in the Statement of Work and any additional purpose specifically identified in Annex A.

Records: has the meaning given to it in Clause 12.

1.2 The Annexes form part of this Schedule and will have effect as if set out in full in the body of this Schedule. Any reference to this Schedule includes the Annexes.

1.3 A reference to writing or written includes email.

1.4 In the case of conflict or ambiguity between:

- (a) any provision contained in the body of this Schedule 2 and any provision contained in the Annexes, the provision in the body of this Schedule 2 will prevail;
- (b) any of the provisions of this Schedule 2 and the provisions of the Sub-contract, the provisions of this Schedule 2 will prevail.

1.5 Unless specified otherwise or if the context otherwise requires, a reference to a clause or Clause, annex or Annex in this Schedule 2 shall be a reference to a clause of or annex to this Schedule 2.

2. Personal data types and processing purposes

2.1 The Client and the Supplier agree and acknowledge that for the purpose of the Data Protection Legislation:

- (a) the Client is the Controller and the Supplier is the Processor.
- (b) the Client retains control of the Personal Data and remains responsible for its compliance obligations under the Data Protection Legislation, including but not limited to, providing any required notices and obtaining any required consents, and for the written processing instructions it gives to the Supplier.
- (c) Each Statement of Work shall include information required, substantially in the form set out in ANNEX B to this Schedule 2 to describe the nature and purpose of the processing, the duration and the Personal Data categories and Data Subject types, in respect of which the Supplier may process the Personal Data to fulfil the Business Purposes.

3. Supplier's obligations

- 3.1 The Supplier will only process the Personal Data to the extent, and in such a manner, as is necessary for the performance of its obligations in this Agreement in accordance with the Client's written instructions. The Provider will not process the Personal Data for any other purpose or in a way that does not comply with this Agreement or the Data Protection Legislation. The Supplier must promptly notify the Client if, in its opinion, the Client's instructions do not comply with the Data Protection Legislation.
- 3.2 The Supplier must comply promptly with any Client written instructions requiring the Supplier to amend, transfer, delete or otherwise process the Personal Data, or to stop, mitigate or remedy any unauthorised processing.
- 3.3 The Supplier will maintain the confidentiality of the Personal Data and will not disclose the Personal Data to third-parties unless the Client or this Agreement specifically authorises the disclosure, or as required by domestic law, court or regulator (including the Commissioner). If a domestic law, court or regulator (including the Commissioner) requires the Supplier to process or disclose the Personal Data to a third-party, the Supplier must first inform the Client of such legal or regulatory requirement and give the Client an opportunity to object or challenge the requirement, unless the domestic law prohibits the giving of such notice.
- 3.4 The Supplier will reasonably assist the Client, at no additional cost to the Client, with meeting the Client's compliance obligations under the Data Protection Legislation, taking into account the nature of the Supplier's processing and the information available to the Supplier, including in relation to Data Subject rights, data protection impact assessments and reporting to and consulting with the Commissioner under the Data Protection Legislation.
- 3.5 The Supplier must notify the Client promptly of any changes to the Data Protection Legislation that may reasonably be interpreted as adversely affecting the Supplier's performance of this Agreement.

4. Supplier's employees

- 4.1 The Supplier will ensure that all of its employees:
 - (a) are informed of the confidential nature of the Personal Data and are bound by written confidentiality obligations and use restrictions in respect of the Personal Data;
 - (b) have undertaken training on the Data Protection Legislation and how it relates to their handling of the Personal Data and how it applies to their particular duties; and
 - (c) are aware both of the Supplier's duties and their personal duties and obligations under the Data Protection Legislation and this Agreement.
- 4.2 The Supplier will take reasonable steps to ensure the reliability, integrity and trustworthiness of and conduct background checks consistent with applicable domestic law on all of the Supplier's employees with access to the Personal Data.

5. Security

- 5.1 The Supplier must at all times implement appropriate technical and organisational measures against accidental, unauthorised or unlawful processing, access, copying, modification, reproduction, display or

distribution of the Personal Data, and against accidental or unlawful loss, destruction, alteration, disclosure or damage of Personal Data including, but not limited to, the security measures set out in Schedule 4 The Supplier must document those measures in writing and periodically review them at least annually to ensure they remain current and complete.

- 5.2 The Supplier must implement such measures to ensure a level of security appropriate to the risk involved, including as appropriate:
- (a) the pseudonymisation and encryption of personal data;
 - (b) the ability to ensure the ongoing confidentiality, integrity, availability and resilience of processing systems and services;
 - (c) the ability to restore the availability and access to personal data in a timely manner in the event of a physical or technical incident; and
 - (d) a process for regularly testing, assessing and evaluating the effectiveness of the security measures.

6. Personal data breach

- 6.1 The Supplier will within 24 hours and in any event without undue delay notify the Client in writing if it becomes aware of:
- (a) the loss, unintended destruction or damage, corruption, or unusability of part or all of the Personal Data. The Supplier will restore such Personal Data at its own expense as soon as possible.
 - (b) any accidental, unauthorised or unlawful processing of the Personal Data; or
 - (c) any Personal Data Breach.
- 6.2 Where the Supplier becomes aware of (a), (b) and/or (c) above, it will, without undue delay, also provide the Client with the following written information:
- (a) description of the nature of (a), (b) and/or (c), including the categories of in-scope Personal Data and approximate number of both Data Subjects and the Personal Data records concerned;
 - (b) the likely consequences; and
 - (c) a description of the measures taken or proposed to be taken to address (a), (b) and/or (c), including measures to mitigate its possible adverse effects.
- 6.3 Immediately following any accidental, unauthorised or unlawful Personal Data processing or Personal Data Breach, the parties will co-ordinate with each other to investigate the matter. Further, the Supplier will reasonably co-operate with the Client at no additional cost to the Client, in the Client's handling of the matter, including but not limited to:
- (a) assisting with any investigation;
 - (b) providing the Client with physical access to any facilities and operations affected;
 - (c) facilitating interviews with the Supplier's employees, former employees and others involved in the matter including, but not limited to, its officers and directors;

- (d) making available all relevant records, logs, files, data reporting and other materials required to comply with all Data Protection Legislation or as otherwise reasonably required by the Client; and
- (e) taking reasonable and prompt steps to mitigate the effects and to minimise any damage resulting from the Personal Data Breach or accidental, unauthorised or unlawful Personal Data processing.

6.4 The Supplier will not inform any third-party of any accidental, unauthorised or unlawful processing of all or part of the Personal Data and/or a Personal Data Breach without first obtaining the Client's written consent, except when required to do so by domestic law.

6.5 The Supplier agrees that the Client has the sole right to determine:

- (a) whether to provide notice of the accidental, unauthorised or unlawful processing and/or the Personal Data Breach to any Data Subjects, the Commissioner, other in-scope regulators, law enforcement agencies or others, as required by law or regulation or in the Client's discretion, including the contents and delivery method of the notice; and
- (b) whether to offer any type of remedy to affected Data Subjects, including the nature and extent of such remedy.

6.6 The Supplier will cover all reasonable expenses associated with the performance of the obligations under clause 6.1 to clause 6.3 unless the matter arose from the Client's specific written instructions, negligence, wilful default or breach of this Agreement, in which case the Client will cover all reasonable expenses.

6.7 The Supplier will also reimburse the Client for actual reasonable expenses that the Client incurs when responding to an incident of accidental, unauthorised or unlawful processing and/or a Personal Data Breach to the extent that the Supplier caused such, including all costs of notice and any remedy as set out in Clause 6.5.

7. Cross-border transfers of personal data

7.1 The Supplier (and any subcontractor) must not transfer or otherwise process the Personal Data outside the UK without obtaining the Client's prior written consent.

8. Subcontractors

8.1 Subject to clauses 8.2 and 8.3, the Supplier may not authorise any third party or subcontractor to process the Personal Data.

8.2 The Supplier may only authorise a subcontractor to process the Personal Data if:

- 8.2.1 the Client provides written consent prior to the appointment of each subcontractor;
- 8.2.2 the Supplier enters into a written contract with the subcontractor that contains terms substantially the same as those set out in this Schedule 2, in particular, in relation to requiring appropriate technical and organisation data security measures, and, upon the Client's written request, provides the Client with copies of the relevant excerpts from such contracts;

- 8.2.3 the Supplier maintains control over all of the Personal Data it entrusts to the subcontractor;
 - 8.2.4 the subcontractor's contract terminates automatically on termination of this Agreement for any reason; and
 - 8.2.5 the subcontractor has entered into Standard Contractual Clauses with the Supplier where such subcontractor is located outside the UK and the Supplier shall confirm to the Client that it has done so.
- 8.3 Other than those subcontractors as set out in ANNEX B, the Supplier may not authorise any other third-party or subcontractor to process the Personal Data. Those subcontractors approved as at the commencement of this Agreement are as set out in ANNEX B. The Supplier must list all approved subcontractors in Annex B and include any subcontractor's name and location and the contact information for the person responsible for privacy and data protection compliance.
- 8.4 Where the subcontractor fails to fulfil its obligations under the written agreement with the Supplier, which such written agreement shall contain terms substantially the same as those set out in this Agreement, the Supplier remains fully liable to the Client for the subcontractor's performance of its agreement obligations.
- 8.5 The Parties agree that the Supplier will be deemed by them to control legally any Personal Data controlled practically by or in the possession of its subcontractors.
- 8.6 The subcontractor's contract shall terminate automatically on termination of this Agreement for any reason.
- 8.7 On the Client's written request, the Supplier will audit a subcontractor's compliance with its obligations regarding the Personal Data and provide the Client with the audit results. Where the Client concludes reasonably that the subcontractor is in material default of its obligations regarding the Personal Data, the Client may in writing instruct the Supplier to instruct the subcontractor to remedy such deficiencies within 30 calendar days.

9. Complaints, data subject requests and third-party rights

- 9.1 The Supplier must, at no additional cost to the Client, take such technical and organisational measures as may be appropriate, and promptly provide such information to the Client as the Client may reasonably require, to enable the Client to comply with:
- (a) the rights of Data Subjects under the Data Protection Legislation, including, but not limited to, subject access rights, the rights to rectify, port and erase personal data, object to the processing and automated processing of personal data, and restrict the processing of personal data; and
 - (b) information or assessment notices served on the Client by the Commissioner under the Data Protection Legislation.
- 9.2 The Supplier must notify the Client immediately in writing if it receives any complaint, notice or communication that relates directly or indirectly to the processing of the Personal Data or to either party's compliance with the Data Protection Legislation.

- 9.3 The Supplier must notify the Client promptly (and in any event within 5 Business Days) if it receives a request from a Data Subject for access to their Personal Data or to exercise any of their other rights under the Data Protection Legislation.
- 9.4 The Supplier will give the Client, at no additional cost to the Client, its full co-operation and assistance in responding to any complaint, notice, communication or Data Subject request.
- 9.5 The Supplier must not disclose the Personal Data to any Data Subject or to a third-party other than in accordance with the Client's written instructions, or as required by domestic law.

10. Term and termination

- 10.1 This Schedule will remain in full force and effect so long as:
- (a) this Agreement remains in effect; or
 - (b) the Supplier retains any of the Personal Data related to this Agreement in its possession or control (**Term**).
- 10.2 Any provision of this Schedule that expressly or by implication should come into or continue in force on or after termination of this Agreement in order to protect the Personal Data will remain in full force and effect.
- 10.3 The Supplier's failure to comply with the terms of this Schedule is a material breach of this Agreement. In such event, the Client may terminate this Agreement effective immediately on written notice to the Supplier without further liability or obligation of the Client.
- 10.4 If a change in any Data Protection Legislation prevents either party from fulfilling all or part of its Agreement obligations, the parties may agree to suspend the processing of the Personal Data until that processing complies with the new requirements. If the parties are unable to bring the Personal Data processing into compliance with the Data Protection Legislation within 90 calendar days, either party may terminate this Agreement with immediate effect on written notice to the other party.

11. Data return and destruction

- 11.1 At the Client's request, the Supplier will give the Client, or a third-party nominated in writing by the Client, a copy of or access to all or part of the Personal Data in its possession or control in the format and on the media reasonably specified by the Client.
- 11.2 Subject to clause 11.3, on termination of this Agreement for any reason or expiry of its term, the Supplier will securely delete or destroy or, if directed in writing by the Client, return and not retain, all or any of the Personal Data related to this Agreement in its possession or control.
- 11.3 If any law, regulation, or government or regulatory body requires the Supplier to retain any documents, materials or Personal Data that the Supplier would otherwise be required to return or destroy, it will notify the Client in writing of that retention requirement, giving details of the documents, materials or Personal Data that it must retain, the legal basis for such retention, and establishing a specific timeline for deletion or destruction once the retention requirement ends.

- 11.4 The Supplier will certify in writing to the Client that it has deleted or destroyed the Personal Data within 7 Business Days after it completes the deletion or destruction.

12. Records

- 12.1 The Supplier will keep detailed, accurate and up-to-date written records regarding any processing of the Personal Data, including but not limited to, the access, control and security of the Personal Data, approved subcontractors, the processing purposes, categories of processing, and a general description of the technical and organisational security measures referred to in Clause 5.1 (**Records**).
- 12.2 The Supplier will ensure that the Records are sufficient to enable the Client to verify the Supplier's compliance with its obligations under this Agreement and the Data Protection Legislation and the Supplier will provide the Client with copies of the Records upon request.
- 12.3 The Client and the Supplier must review the information listed in the Annexes to this Agreement at least annually to confirm its current accuracy and update it when required to reflect current practices.

13. Audit

- 13.1 The Supplier will permit the Client and its third-party representatives to audit the Supplier's compliance with its Agreement obligations, on at least 30 calendar days' notice, during the Term. The Supplier will give the Client and its third-party representatives all necessary assistance to conduct such audits at no additional cost to the Client. The assistance may include, but is not limited to:
- (a) physical access to, remote electronic access to, and copies of the Records and any other information held at the Supplier's premises or on systems storing the Personal Data;
 - (b) access to and meetings with any of the Supplier's personnel reasonably necessary to provide all explanations and perform the audit effectively; and
 - (c) inspection of all Records and the infrastructure, electronic data or systems, facilities, equipment or application software used to process the Personal Data.
- 13.2 The notice requirements in Clause 13.1 will not apply if the Client reasonably believes that a Personal Data Breach has occurred or is occurring, or the Supplier is in material breach of any of its obligations under this Agreement or any of the Data Protection Legislation.
- 13.3 If a Personal Data Breach occurs or is occurring, or the Supplier becomes aware of a breach of any of its obligations under this Agreement or any of the Data Protection Legislation, the Supplier will:
- (a) promptly conduct its own audit to determine the cause;
 - (b) produce a written report that includes detailed plans to remedy any deficiencies identified by the audit;
 - (c) provide the Client with a copy of the written audit report; and
 - (d) remedy any deficiencies identified by the audit within 30 calendar days.

14. Warranties

- 14.1 The Supplier warrants and represents that:

- (a) its employees, subcontractors, agents and any other person or persons accessing the Personal Data on its behalf are reliable and trustworthy and have received the required training on the Data Protection Legislation;
- (b) it and anyone operating on its behalf will process the Personal Data in compliance with the Data Protection Legislation and other laws, enactments, regulations, orders, standards and other similar instruments;
- (c) it has no reason to believe that the Data Protection Legislation prevents it from providing any of this Agreement's contracted services; and
- (d) considering the current technology environment and implementation costs, it will take appropriate technical and organisational measures to prevent the accidental, unauthorised or unlawful processing of Personal Data and the loss or damage to, the Personal Data, and ensure a level of security appropriate to:
 - (i) the harm that might result from such accidental, unauthorised or unlawful processing and loss or damage;
 - (ii) the nature of the Personal Data protected; and
 - (iii) comply with all applicable Data Protection Legislation and its information and security policies, including the security measures required in Clause 5.1.

14.2 The Client warrants and represents that the Supplier's expected use of the Personal Data for the performance of its obligations under this Agreement and as specifically instructed by the Client will comply with the Data Protection Legislation.

15. Indemnification

15.1 The Supplier agrees to indemnify, keep indemnified and defend at its own expense the Client against all costs, claims, damages or expenses incurred by the Client or for which the Client may become liable due to any failure by the Supplier or its employees, subcontractors or agents to comply with any of its obligations under this Agreement and/or the Data Protection Legislation.

15.2 Any limitation of liability set forth in this Agreement will not apply to this Schedule's indemnity or reimbursement obligations.

ANNEX A – ADDITIONAL BUSINESS PURPOSES

None.

ANNEX B – DESCRIPTION OF PROCESSING

Subject matter of the processing	The processing of personal data to the extent necessary for the provision of the Services by the Supplier.
Duration of the processing	The term of this Statement of Work.

Nature of the processing	The processing of personal data to the extent necessary for the provision of the Services by the Supplier.
Purpose of the processing	The processing of personal data to the extent necessary for the provision of the Services by the Supplier.
Personal data types	Contact details of customer only (no customers customer information)
Categories of data subjects	Customer employee
Obligations and rights of the controller	As set out in the Agreement.
Appointed Sub-Processors	N/A

SCHEDULE 4

Security Measures

The Supplier will maintain ISO 27001 certification (certificate number 288302018) during the Master Term.

The following security measures apply to this Agreement, any Services and any processing.

The Supplier has in place systems and controls to ensure its access controls (including to online and paper-based information and physical access), network security, data and information security, security operations and physical security comply with ISO 27001 standards, and in connection with this the Supplier maintains a number of policies as set out below, which the Client acknowledges it has received, as such policies may be amended from time to time.

The Supplier shall provide the Client updated policies as soon as reasonably practicable following any material change and renewal (or replacement) of such policies.

The Supplier has in place and maintains the following policies relating to information and security measures:

1. Access Control Policy
2. Data Protection Policy
3. Information Exchange Policy
4. Information Sensitivity Policy
5. ISMS Policy Statement of Intent
6. Security Incident Reporting Policy
7. Security Policy
8. USB Memory Stick Policy