



DATED: XX-XX-XXXX

REFERENCE: MSA-SCO-XXX-XXX

FRAMEWORK SERVICES AGREEMENT FOR SUPPLIERS

BETWEEN

SMART CO CONSULTING LTD ("SMART CO")

AND

COMPANY NAME ("SUPPLIER")

This agreement is dated XX.XX.XXXX

Parties

Smart Co Consulting Limited, a company incorporated and registered in England and Wales (registered number 05906221) whose registered office is at 2 – 6 Boundary Row, London SE1 8HP (Registered in England and Wales (**Smart Co**).

COMPANY NAME, a company incorporated and registered in England and Wales with company number XXXXXX, whose registered office is at **COMPANY ADDRESS** (**Supplier**).

Upon receipt of a new associate assignment, all associates will be required to complete the standard SmartCo compliance and onboarding process via the Access Screening system. Once an associate has accessed the system, they will be asked to provide the following mandatory documents (regardless of geographic location and assignment duration) in order to complete their onboarding process.

BACKGROUND

- A.** Supplier is a specialist provider of consultancy & IT implementation services.
- B.** The Customer wishes to obtain, and Supplier wishes to provide the Services as detailed in this agreement.
- C.** This agreement sets out the process by which Smart Co appoints Supplier to provide the Services pursuant to a Statement of Work (SoW) and the terms and conditions that will apply to the supply of such Services by Supplier.

1. Interpretation

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

Affiliate: any entity that directly or indirectly controls, is controlled by, or is under common control with another entity.

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

Business Day: a day, other than a Saturday, Sunday or public holiday in England, when banks in London are open for business.

Change Order: means the document to implement changes to a SoW as defined in the Change Control section of this Agreement.

“Consultant” means any consultant, contractor or personnel of the Supplier who is performing the Works;

Control: shall be as defined in section 1124 of the Corporation Tax Act 2010, and the expression change of Control shall be construed accordingly.

Controller, processor, data subject, personal data, personal data breach, processing and appropriate technical measures: as defined in the Data Protection Legislation.

Customer: any customer of Smart Co to whom Smart Co may be providing services which make use of the Supplier’s Services and/or the Works and/or any Deliverables under this Agreement in whole or in part;

Data Protection Legislation: the UK Data Protection Legislation and any applicable European Union or other jurisdiction’s legislation relating to personal data and all other legislation and regulatory requirements in force from time to time which apply to a party relating to the use of personal data (including, without limitation, the privacy of electronic communications); and the guidance and codes of practice issued by the relevant data protection or supervisory authority and applicable to a party.

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

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

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

Mandatory Policies: Smart Co and Customer business policies and codes as may be attached In Schedule 3 or otherwise notified to Supplier from time to time by Smart Co or the Customer. If no policies are explicitly stated in Schedule 4 at time of execution of this Agreement, they shall only be applicable as directly notified to Supplier.

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

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

Services: any services which Supplier may perform for Smart Co, where so agreed
Services Worksheet means the worksheet used to detail the particular Services which have been completed/provided by Supplier during the period indicated therein and which shall be charged to Smart Co in accordance with the Charges and provisions of this Agreement and applicable SoWs.

SoW Charges: the sums payable for the Works as set out in a Statement of Work.

Statement of Work: a detailed plan, agreed in accordance with clause 0, describing the services to be provided by Supplier, the timetable for their performance and the related matters listed in the template statement of work set out in Schedule 1.

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

UK Data Protection Legislation: all applicable data protection and privacy legislation in force from time to time in the UK including the General Data Protection Regulation ((EU) 2016/679); the Data Protection Act 2018; the Privacy and Electronic Communications Directive 2002/58/EC (as updated by Directive 2009/136/EC) and the Privacy and Electronic Communications Regulations 2003 (SI 2003/2426) as amended.

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

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

1.2 A person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).

1.3 The Schedules form part of this agreement and shall have effect as if set out in full in the body of this agreement. Any reference to this agreement includes the Schedules.

1.4 This agreement shall be binding on, and ensure to the benefit of, the parties to this agreement and their respective personal representatives, successors and permitted assigns, and references to any party shall include that party's personal representatives, successors and permitted assigns.

1.5 A reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time and all subordinate legislation thereto.

1.6 Unless the context otherwise requires, any reference to European Union law that is directly applicable or directly effective in the UK at any time is a reference to it as it applies in England and Wales from time to time including as retained, amended, extended, re-enacted or otherwise given effect from time to time

1.7 A reference to writing or written includes fax and email.

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

2. Commencement, duration, nature of agreement

2.1 This agreement shall commence on **XX-XX-XXXX** and continue unless terminated in accordance with this Agreement.

2.2 Either party may terminate this agreement for convenience by giving to the other written notice. Such notice shall terminate this agreement one calendar month thereafter, or upon completion of all Statements of Work entered into before the termination date, whichever is the later.

2.3 Smart Co may procure any of the Services by agreeing a Statement of Work with Supplier. Supplier shall provide the Works from the date specified in the relevant Statement of Work.

3. Statements of Work

3.1 Each Statement of Work shall be agreed in the following manner:

- (a) Smart Co shall ask Supplier to provide any or all of the Services and shall provide Supplier with a draft Statement of Work for the Services requested;
- (b) Supplier shall, as soon as reasonably practicable either:
 - (i) inform Smart Co that it declines to provide the requested Services; or
 - (ii) discuss and agree the terms of the Statement of Work; and
- (c) both parties shall sign the draft Statement of Work when it is agreed.

3.2 Unless otherwise agreed, the SoW Charges shall be as stated in the Statement of Work.

3.3 Once a Statement of Work has been agreed and/or Supplier has commenced the Works, (whichever is the sooner) these terms shall take effect and no amendment shall be made except in accordance with the Change Control or Variation sections of this Agreement.

3.4 Each Statement of Work shall be part of this agreement and shall not form a separate contract to it.

- 3.5 A Statement of Work shall expire automatically upon the stated end date unless sooner terminated by either party issuing to the other written notice of termination with the minimum period of notice specified therein, or otherwise in accordance with the provisions of this Agreement.
- 3.6 The Supplier shall not be restricted in any way from providing services to other clients throughout the duration of a Statement of Work, subject always to the requirements of confidentiality and data protection under this Agreement, compliance with any applicable policies and laws, and ensuring that it does not create any conflict of interest with its provision of Services for Smart Co.
- 3.7 Nothing in this Agreement shall constitute a partnership, agency or employment relationship between the parties or any representatives or personnel of the parties or shall authorise either party to assume or attempt to assume any obligation in the name of or on behalf of the other.
- 3.8 The Supplier asserts, and it is the intention of the parties, that the Supplier is an independent contractor company in business on its own account. Nothing in this Agreement shall render any of its Consultants as an employee, worker, agent or partner of Smart Co or its Customers.
- 3.9 All obligations of the parties are stated within this Agreement only. Neither party wishes to imply any mutuality of obligation between the Supplier or any Consultant and Smart Co, or between the Supplier or any Consultant and a Customer, either in the course of or between performing any Statements of Work.
- 3.10 Except as explicitly agreed in a Statement of Work, upon its expiry neither party shall have any automatic right to extension or continuation or a further Statement of Work without explicit written agreement of the other.
- 3.11 If a Primary Consultant is named in a Statement of Work, the Supplier shall have the right to substitute such Consultant with any other consultant ("Substitute") of suitable skill, experience, qualification and certification provided always that Smart Co shall have the right to reject a proposed substitute on reasonable and lawful grounds if it is not reasonably satisfied that the Substitute Consultant possesses the necessary skills, experience and qualifications required. Nothing within this clause affects Smart Co's rights of termination under this agreement, nor alters the Supplier's requirements to perform Works with suitable skill and care and to meet all Smart Co and Customer requirements and specifications.
- 3.12 The Supplier shall indemnify Smart Co for any losses, expenses, claims, liabilities and damages incurred by Smart Co in the event that the Contractor fails to commence, continue or complete an Assignment for any reason.

4. TUPE on Entry

If TUPE is applicable in relation to the Works under a Statement of Work, Supplier shall be liable to Smart Co for any related costs or claims in respect of Supplier's workers.

5. Supplier's responsibilities

5.1 Supplier shall provide the Works with due skill and care and deliver the Deliverables in accordance with a Statement of Work in all material respects.

5.2 Supplier shall meet any Milestones specified in a Statement of Work with time being of the essence.

5.3 Supplier shall appoint managers and operational performers at its own discretion in respect of the Works to be performed under each Statement of Work, such persons as may be identified in the Statement of Work. Such managers shall have authority to contractually bind Supplier on all matters relating to the relevant Works (including by signing Change Orders). Supplier shall use reasonable endeavours to ensure that the same person acts as Supplier's manager throughout the term of the relevant Statement of Work but may replace that person from time to time where at its discretion it deems it reasonably necessary in the interests of Supplier's business.

5.4 Supplier shall observe all health and safety, data and physical security, or any other formal requirements that apply at any Smart Co or Customer premises which have been communicated to it under this Agreement. The Supplier shall ensure that any Consultant or other Supplier personnel attending Smart Co or Customer sites are fully briefed on and observe all site policies and site rules to maintain a safe working environment for itself and others. Supplier agrees to indemnify and keep indemnified Smart Co from and against all loss or liability suffered or incurred as a result of any claim for injury or damage to person or property suffered due to breach by the Supplier of this clause.

5.5 The Supplier will at all times act as its own independent business. Subject to the Works meeting any required technical specifications and timeframes, the Supplier is being engaged to use its own experience and expertise to determine its own working methods and technical manner of performance of the Works.

5.6 The Supplier warrants that it will not allow any Consultant to participate in any employee/worker performance or behavioural reviews or other Smart Co or any Customer internal HR processes for their own employees; its Consultants will not be integrated into Smart Co's or any Customer's organisation or adopt their internal methods of working, including the use of email address or facility; phone, voicemail or company extension

number, inclusion on directories, access to internet, intranets and other personnel communications tools.

5.7 The Supplier shall indemnify Smart Co against all loss damage awards and associated reasonable legal fees incurred by Smart Co resulting from any liability (including but not limited to awards, tax values, charges, fines, interest, penalties and reasonable legal costs) incurred by Smart Co to a Customer or any competent authority in any applicable jurisdiction in respect of:

- (i) any PAYE income tax, National Insurance Contributions or other such tax or social security liability relating to the Supplier or a Consultant; and
- (ii) any claim of employment status or employment rights by a Consultant against Smart Co or a Customer

5.8 The Supplier warrants and represents the following on behalf of itself and any Consultant(s):

- a) it has full capacity and authority and all necessary licences, permits and consents to enter into and to perform this Agreement
- b) it has the necessary skill and qualifications to perform the Works and it shall discharge its obligations hereunder with all due skill, care and diligence to be reasonably expected of an experienced professional Supplier specialising in the type of Supplier Services;
- c) by entering into and performing its obligations under this Agreement it will not be in breach of any obligation owed to any third party;
- d) to co-operate with Smart Co, comply with communicated technical instructions and adhere to the technical specifications and standards of work, practice and quality control in performing the Works;
- e) to adhere to all Smart Co and Customer rules, regulations and policies regarding Health and Safety, security, the use of non-Supplier resources, and any other relevant site and services policies; and all applicable legislation and regulation in any relevant jurisdiction in force from time to time;
- f) no Works shall violate or infringe any intellectual property rights of any party or third party;
- g) to rectify and remedy at its own time and expense any work which is faulty, non-conforming or not properly performed;
- h) prior to commencement of a Statement of Work, not to disclose to any commercial organisation, any details relating to the Assignment;
- i) not to sub-contract (in whole or in part) to any third party any of the services which it is required to perform hereunder without the prior written consent of Smart Co;
- j) All Consultants are legally entitled to live and work in the United Kingdom and/ or such other relevant jurisdiction required for the performance of its obligations under an Assignment;
- k) the Supplier is and shall remain during an Assignment, a company incorporated under the laws of England & Wales and registered at Companies House, unless services are being performed wholly outside the UK, in which case it shall be formally registered

and compliant with the rules and regulation of the relevant jurisdiction(s) of performance of the Assignment;

- l) the Supplier is not a Managed Service Company or Managed Service Company Provider as defined under the Finance Act and it shall satisfy all tax and social security obligations applicable to under any relevant jurisdiction in respect of payments made to it by Smart Co pursuant to this Agreement;
- m) any computer equipment and associated software which it uses to perform Works is free from any virus;
- n) to notify Smart Co immediately in writing if the Supplier becomes insolvent, dissolved or subject to a winding up petition or any other formal insolvency related event;
- o) upon expiry or termination of a Statement of Work for whatever reason, to effect the return of all Materials and property of whatever nature belonging to Smart Co or a Customer.
- p) to comply with all lawful reasonable requests of Smart Co
- q) to provide Smart Co on demand any reports relating to the Works in the format specified by Smart Co;

5.9 Smart Co and its Customers retain right of refusal at any of their sites to any Supplier personnel who fail to meet any lawful site health and safety, security clearance or background requirements.

5.10 Smart Co requires consistency and continuity of services performed. Should the Supplier substitute any primary Consultant or otherwise change any of its personnel involved in delivering Services, the Supplier shall be responsible for preventing any delays and ensuring that all training, certification or handover activity is managed at its own cost and time without any corresponding charge or delay to Smart Co.

6. Smart Co's obligations

6.1 Smart Co shall:

- (a) appoint a manager in respect of the Works to be performed under each Statement of Work, such person as may be identified in the Statement of Work. That person shall have authority to contractually bind the Customer on all matters relating to the relevant Works (including by signing Change Orders);
- (b) provide, for Supplier, its agents, subcontractors, consultants and employees, in a timely manner, access to sites as required for performance of the Works;
- (c) inform Supplier of any health and safety and security requirements that apply at any Customer which have been notified by the Customer to Smart Co.

6.2 If Supplier's performance of its obligations under this agreement is prevented or delayed by any act or omission of Smart Co, without prejudice to any other right or remedy it may have, Supplier shall be allowed an extension of time to perform its obligations equal to the resulting delay caused by Smart Co.

7. Fees for Introductions and Solicitation

7.1 As an independent business entering into this commercial agreement with Smart Co, the Supplier agrees to pay the below as reasonable fees for the protection of Smart Co's legitimate commercial interests.

7.2 The fee payable by the Supplier to Smart Co for the Supplier or a Consultant entering into an arrangement for contractual supply of services to or employment, during the existence of this Agreement or within 6 months of its termination;

- a) with the Customer, a customer of the Customer, or any potential customer to whom the Supplier was introduced by Smart Co; or
- b) with any employee, consultant or personnel of Smart Co with whom the Supplier had interacted under this Agreement

shall be calculated as 30% (unless otherwise agreed in writing by Smart Co) applied to the projected annualised contract or employment remuneration. The Supplier shall notify Smart Co immediately of the full details of any engagement which results in a fee liability under this clause and if it fails to do so Smart Co may invoice the Supplier based upon reasonable estimates. All such fees shall be payable by return.

8. Change control

Either party may propose changes to the scope or execution of the Works in accordance with the Schedule 2 change control provisions, but no proposed changes shall come into effect until a relevant Change Order in the form provided in Schedule 2 has been signed by both parties.

9. Charges and payment

9.1 In consideration of the provision of the Works by Supplier and subject to the terms of this Agreement and any invoicing and payment scheduling and information communicated to the Supplier, Smart Co shall pay the SoW Charges to the Supplier for corresponding work duly performed

9.2 The Statement of Work shall detail whether the Charges are on a

- (a) time and materials basis, or
- (b) fixed price and deliverables basis; or
- (c) subscription or any other basis.

9.3 The SoW Charges are all inclusive, including but not limited to the following, which shall only be additionally chargeable if explicitly stated in a Statement of Work or otherwise agreed in writing in advance:

- (a) the cost of hotel, subsistence, travelling and any other ancillary expenses reasonably incurred by the individuals whom Supplier engages in connection with the Works; and
- (b) the cost to Supplier of any materials or services procured by Supplier from third parties for the provision of the Works.

9.4 Supplier shall complete and submit correct and timely Services Worksheets recording time/ Services / Deliverables/ Milestones, as applicable, in respect of the Works performed and present them in writing to Smart Co prior to invoicing the Charges. If Smart Co has any queries or dispute with a Services Worksheet it shall use all reasonable endeavours to notify Supplier within 10 working days of submission. Smart Co shall not be obliged to make any payment for services claimed by the Supplier unless and until a correct Services Worksheet is submitted by the Supplier and duly authorised by Smart Co and any applicable Customer.

9.5 If Supplier's Services fail to meet the minimum standards or specifications or timeframes under a Statement of Work, when notifying the Supplier under 9.4 above, Smart Co may at its absolute discretion instruct the Supplier to a) remedy the failure within a stated acceptable period of time or; b) discount the Charges or; c) issue service credits against future Charges; or d) offset the corresponding value against any other sums or liability owed by Smart Co to the Supplier. In all such cases Smart Co shall be entitled to terminate any Statement of Work with immediate effect.

9.6 Supplier shall invoice Smart Co for the SoW Charges at the intervals specified, or on the achievement of the Milestones indicated, in the Statement of Work. If no intervals or milestones are so specified, Supplier shall invoice Smart Co at the end of each month for Works performed during that month.

9.7 Unless otherwise specified in a Statement of Work, Smart Co shall pay each invoice submitted to it by Supplier within 30 days of receipt to a bank account in the Supplier's name, in the Supplier's jurisdiction of performance, nominated in writing by the Supplier.

9.8 All sums payable to Supplier under this agreement: are exclusive of VAT.

9.9 This Clause is without prejudice to any right to claim under the law, or any such right under this Agreement. Smart Co may, without prejudice to any other rights it may have, set off any liability of the Supplier to Smart Co against any liability of Smart Co to the Supplier.

enactments

9.10 If Smart Co receives an invoice which it reasonably believes includes a sum which is not valid and properly due, Smart Co shall notify Supplier in writing as soon as reasonably practicable; the parties shall act reasonably together in achieving resolution of any disputed amounts.

9.11 Unless otherwise expressly agreed in writing by the parties:

- a) payment in respect of Services Worksheets received later than 21 days after completion of the Services for which payment is claimed will only become payable if and when Smart Co has received any related payments from a Customer.
- b) Services Worksheets that are not received by Smart Co within 60 days from completion of the Services shall be deemed null and void and no payment shall be due to Supplier in respect of corresponding services or expenses.

9.12 Smart Co shall be entitled to withhold part or full payment of any invoice rendered by the Supplier in the event that:

- (a) the Supplier has failed to provide satisfactory proof of Consultant ID or Supplier bank details in the UK (or other jurisdiction where the Works will be physically performed);
- (b) the Supplier has failed to return signed copies of this Agreement and any Schedule;
- (c) the Supplier fails to provide Services to a satisfactory standard as required by the Client;
- (d) the Supplier is unable to complete the Works for any reason and does not abide by the minimum notice provisions stipulated in the Statement of Work; and
- (e) Smart Co incurs liability under any applicable jurisdiction for the payment of any tax or social security charge in respect of payments to the Supplier.

9.13 The Supplier shall account to any competent authority under any applicable jurisdiction for all income taxes, social security obligations, sales or withholding tax and any other taxes, liabilities, charges and duties for which the Supplier is liable.

9.14 The Supplier shall not be entitled to claim payment for any periods where Services are not performed, irrespective of reason. Smart Co shall have the right to terminate forthwith this Agreement or Schedule in the event that an unauthorised period of no Services exceeds 4 working days under a Statement of Work, without incurring any liability to the Supplier.

9.15 Where invoicing requirements are subject to a valid purchase order or equivalent documentation, payments to the Supplier shall be dependent upon the prior receipt or confirmation by Smart Co of the relevant documentation or authorisations.

10. Intellectual property rights

10.1 In relation to the Works and Deliverables:

- (a) The Supplier acknowledges that the legal and equitable interests in all Intellectual Property Rights in the work resulting from the Supplier Services and Deliverables shall automatically belong to and vest in Smart Co to the fullest extent permitted by law. To the extent that they do not vest in Smart Co automatically, the Supplier holds them on trust for Smart Co and shall assign them to Smart Co upon request.
- (b) To the extent that legal title or the equitable interest in any Intellectual Property Rights or Supplier inventions does not vest in Smart Co by virtue of the above, the Supplier agrees,

immediately upon creation of such rights and inventions, to offer to Smart Co in writing a right of first refusal to acquire them for £1.

10.2 The Supplier agrees:

- a) to give Smart Co full written details of all Supplier inventions during a Statement of Work promptly upon their creation;
- b) at Smart Co's request and in any event on termination of this Agreement or a Statement of Work, to give to Smart Co all originals and copies of correspondence, documents, papers and records on all media which record or relate to any of the Intellectual Property Rights;
- c) not to attempt to register any Intellectual Property Rights nor patent any Supplier invention unless requested to do so by Smart Co; and
- d) to keep confidential each Supplier invention unless Smart Co has consented in writing to its disclosure by the Supplier.

10.3 The Supplier waives (and the Supplier shall procure that any Consultant shall waive) all its present and future moral rights which arise under the Copyright Designs and Patents Act 1988, and all similar rights in other jurisdictions, and agrees not to support, maintain or permit any claim for infringement of moral rights in such copyright works.

10.4 The Supplier acknowledges that, except as provided by law, no further remuneration or compensation other than that provided for in this Agreement is or may become due to the Supplier in respect of its compliance with this section. This clause is without prejudice to the Supplier's rights under the Patents Act 1977.

10.5 The Supplier undertakes to use all reasonable endeavours to execute all documents and do all acts both during and after its engagement by Smart Co as may, in the opinion of Smart Co or a Customer, be necessary or desirable to vest the Intellectual Property Rights in Smart Co or the Customer, to register them in the name of either and to protect and maintain them. Such documents may, at Smart Co's request, include waivers of all and any statutory moral rights relating to any copyright works which form part of the Intellectual Property Rights. Smart Co agrees to reimburse the Supplier's reasonable expenses of complying with this clause.

10.6 The Supplier agrees to give all necessary assistance to Smart Co and its Customers to enable them to enforce its Intellectual Property Rights against third parties, to defend claims for infringement of third party Intellectual Property Rights and to apply for registration of Intellectual Property Rights, where appropriate throughout the world, and for the full term of those rights.

10.7 The Supplier hereby irrevocably appoints Smart Co to be its attorney to execute and do any such instrument or thing and generally to use its name for the purpose of giving Smart Co or its nominee the benefit of this section. The Supplier acknowledges in

favour of a third party that a certificate in writing signed by any Director of Smart Co that any instrument or act falls within the authority conferred by this clause shall be conclusive evidence that such is the case.

- 10.8 The Supplier shall indemnify Smart Co on a continuing basis against all claims, demands, actions, costs, expenses (including but not limited to full legal costs), losses and damages suffered by Smart Co arising from or incurred by reason of any infringement or alleged infringement (including but not limited to the defence of such alleged infringement) in the United Kingdom of any Intellectual Property Right in connection with this Agreement and the Assignment.
- 10.9 The Supplier warrants that the receipt and use in the performance of this agreement by Supplier, its agents, subcontractors or consultants of the Customer Materials shall not infringe the rights, including any Intellectual Property Rights, of any third party

11. Freedom of Information Act (FOIA)

Supplier acknowledges that Smart Co and its Customers may be subject to the requirements of the FOIA and the Environmental Information Regulations and shall assist and cooperate with Smart Co fully to enable compliance with Information disclosure obligations.

12. Confidentiality, Data Protection and Property

- 12.1 Each party shall keep the other party's Confidential Information confidential and shall not:
- a) use such Confidential Information except for the purpose of performing its obligations under this Agreement ("Permitted Purpose"); or
 - b) disclose such Confidential Information in whole or in part to any third party, except as expressly permitted by this clause.
- 12.2 A party may disclose the other party's Confidential Information to those of its representatives or employees who need to know such Confidential Information for the Assignment, provided that:
- a) it informs such representatives or employees of the confidential nature of the Confidential Information prior to disclosure; and
 - b) at all times, it is responsible for such representatives' or employees' compliance with the confidentiality obligations set out in this clause section.
- 12.3 A party may disclose Confidential Information to the extent required by law, by any court, governmental or regulatory authority or by a court or other authority of competent jurisdiction provided that, to the extent legally possible, it gives the other party as much notice of the disclosure and takes into account the reasonable requests of the other party.

12.4 Smart Co reserves all rights in its Confidential Information. No rights or obligations in respect of a party's Confidential Information other than those expressly stated in this Agreement are granted to the other or to any Consultant, or to be implied from this Agreement.

12.5 On termination of any Statement of Work or this Agreement, the Supplier shall:

- a) return to Smart Co or the Client (as applicable) all documents and materials (and any copies) containing, reflecting, incorporating or based on Smart Co or the Client's Confidential Information
- b) erase all Confidential Information from its computer systems (to the extent possible); and
- c) certify in writing to Smart Co that it has complied with the requirements of this clause, provided that a recipient party may retain documents and materials containing, reflecting, incorporating or based on any Confidential Information to the extent required by law or any applicable governmental or regulatory authority. The provisions of this clause shall continue to apply to any such documents and materials retained by a recipient party.

12.6 The provisions of this section shall survive for a period of six years from termination of this Agreement or any Assignment

12.7 Each party shall comply with its own obligations under Data Protection Legislation and shall together enter into a separate data sharing agreement for the treatment of data under this Agreement.

13. Liability & Insurance

13.1 The Supplier is liable for and agrees to indemnify Smart Co and the Client against all loss, damage, injury and all related costs, claims, awards or other expenses resulting from:

- a) any breach of this Agreement or of law;
- b) any act or omission (whether negligent, reckless intentional or otherwise) of itself, its Consultants (including any Substitute), and its employees, servants and agents and subcontractors during an Assignment;

13.2 Supplier has obtained insurance cover in respect of its own legal liability for professional indemnity and negligence to the minimum level of £1,000,000 per event. It is the Supplier's responsibility to effect and maintain adequate insurances in respect of Employer's Liability, Public Liability, and Professional Indemnity (and any other insurances required by law or considered commercially considered commercially appropriate) for the purposes of any Statement of Work undertaken and its liabilities hereunder in respect of itself and its Consultants. The minimum cover types and levels required for a Statement of Work may be stipulated therein and the Supplier shall provide copies of certificates upon demand.

13.3 Neither party may benefit from the limitations and exclusions set out in this clause in respect of any liability arising from its deliberate default.

13.4 Nothing in this agreement limits any liability which cannot legally be limited, including [but not limited to] liability for:

- a) death or personal injury caused by negligence;
- b) fraud or fraudulent misrepresentation; and
- c) breach of the terms implied by section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession).

13.5 In no event shall either Party be liable to the other under this Agreement for indirect, consequential, remote or unforeseeable loss or damage or any loss of profits, sales, anticipated savings, goodwill, or corruption of software, data or information.

14. Termination

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

- (a) the other party commits a material breach of any term of this agreement and such breach is irremediable or (if such breach is remediable) fails to remedy that breach within a reasonable period after being notified in writing to do so;
- (b) the other party repeatedly breaches any of the terms of this agreement in such a manner as to reasonably justify the opinion that its conduct is inconsistent with it having the intention or ability to give effect to the terms of this agreement;

For the purposes of this section, material breach means a breach (including an anticipatory breach) that is serious in the widest sense of having a serious effect on the benefit which the terminating party would otherwise derive from a substantial portion of this agreement or any of its key obligations. In deciding whether any breach is material no regard shall be had to whether it occurs by some accident, mishap, mistake or misunderstanding.

14.2 Smart Co may terminate a Statement of Work with 1 weeks' notice unless otherwise specified therein. The Supplier may terminate a Statement of Work early by giving notice if so specified therein and recognises that failure by the Supplier to complete the term or give full notice of termination specified shall constitute breach of contract and shall entitle Smart Co to claim damages from the Supplier for all consequent loss suffered by Smart Co or the Client, including without limitation Smart Co's projected margin fees for the scheduled duration of the Statement of Work.

14.3 Smart Co reserves the right to terminate a Statement of Work with immediate effect without liability in the event of:

- 14.3.1 any misconduct by the Supplier or breach of rules and regulations or unauthorised act;
- 14.3.2 the Supplier not performing a Statement of Work to its reasonable satisfaction
- 14.3.3 the Supplier failing to obtain or maintain any requisite professional qualifications, certifications, licences, associations, or medical assessments;

- 14.3.4 any associated payments from a Customer to Smart Co for the Supplier's services becoming overdue;
- 14.3.5 either the Customer or the Supplier entering into a creditors' agreement or liquidation, becoming insolvent, dissolved or subject to a winding up petition or having its credit rating substantially reduced.

14.4 In the event of Smart Co terminating a Statement of Work with notice where no services are to be supplied by the Supplier during the notice period, the payment shall be based upon standard hours/units of services and shall become payable once Smart Co is in receipt of any corresponding payment from its Customer.

15. Consequences of termination

15.1 In the event of immediate termination of this Agreement under the above section 14:

- (a) all existing Statements of Work shall terminate automatically;
- (b) each party shall promptly return to the other any of the other's equipment in its possession.

15.2 Termination or expiry of this agreement shall not affect any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination or expiry, including the right to claim damages in respect of any breach of the agreement which existed at or before the date of termination or expiry.

16. Force Majeure

16.1 Force Majeure Event means any circumstance not within a party's reasonable control including, without limitation: acts of God, flood, drought, earthquake, epidemic, pandemic or other natural disaster; terrorist attack, war, riots, armed conflict, imposition of sanctions, embargos; nuclear, chemical or biological contamination; any law or any action taken by a government or public authority, including without limitation imposing export or import or licence restrictions; collapse of buildings, fire, explosion or accident; labour or trade dispute, strikes, industrial action or lockouts; non-performance by suppliers or subcontractors (other than by companies in the same group as the party seeking to rely on this clause); interruption or failure of utility services.

16.2 Provided it has complied with this section, if a party is prevented, hindered or delayed in or from performing any of its obligations under this agreement by a Force Majeure Event (Affected Party), the Affected Party shall not be in breach of this agreement or otherwise liable for any such failure or delay in the performance of such obligations. The time for performance of such obligations shall be extended accordingly.

16.3 The Affected Party shall: as soon as reasonably practicable after the start of the Force Majeure Event, notify the other party in writing of the Force Majeure Event with full details

of the event and likely impact; and use all reasonable endeavours to mitigate the effect of the Force Majeure Event on the performance of its obligations.

16.4 If the Force Majeure Event prevents, hinders or delays the Affected Party's performance of its obligations for a continuous period of more than 8 weeks, the party not affected by the Force Majeure Event may terminate this agreement by giving 4 weeks' written notice to the Affected Party.

17. Assignment and other dealings

17.1 The Supplier shall not assign or transfer or subcontract any of its rights and obligations under this agreement without prior written consent (not to be unreasonably withheld) of Smart Co.

Smart Co may at any time assign, mortgage, charge, delegate, declare a trust over or deal in any other manner with any or all of its rights under this agreement, provided that Smart Co gives prior written notice of such dealing to the Supplier

18. Rights and remedies

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

19. Entire agreement

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

19.2 Each party agrees that it shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in this agreement. Each party agrees that it shall have no claim for innocent or negligent misrepresentation [or negligent misstatement] based on any statement in this agreement.

20. Conflict

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

21. Notices

To Smart Co:

to Supplier:

22. Dispute resolution procedure

22.1 If a complaint or dispute (a "Dispute") arises in connection with this Agreement, then, without prejudice to either party's other rights and remedies, Supplier and Smart Co shall operate the following escalation path to attempt to resolve such Dispute:

(a) Smart Co may request that the Dispute is referred to Supplier's director in charge of the business unit to which the Dispute most closely relates and such director shall attempt to resolve such Dispute; and

(b) If the Dispute is not resolved the parties will attempt to settle it by mediation in accordance with the CEDR Model Mediation Procedure. Unless otherwise agreed between the parties, the mediator will be nominated by CEDR. To initiate the mediation, a party must give notice in writing (an "ADR Notice") to the other party requesting a mediation. A copy of the request should be sent to CEDR. The mediation will start not later than 30 days after the date of the ADR Notice.

22.2 The commencement of a mediation will not prevent the parties commencing or continuing court proceedings.

23. Governing law and jurisdiction

This agreement shall be exclusively governed by the laws of England and Wales and subject to the exclusive jurisdiction of the courts of England and Wales.

Signed in agreement by:	
Smart Co SmartCo Contracts Team	Signature
SUPPLIER – LTD COMPANY ASSOCIATE NAME TITLE – I.E. DIRECTOR	Signature