



**VERSEONE MASTER SOFTWARE AND CUSTOMER SOLUTION
AGREEMENT**

DATED: [DATE]

Agreement no. **[NUMBER]**

PARTIES

- (1) **VERSEONE GROUP LIMITED** incorporated and registered in England and Wales with company number 05210274 whose registered office is at Griffin House, West Street, Woking, Surrey, GU21 6BS (the “**Supplier**”).
- (2) **[CUSTOMER COMPANY NAME]** incorporated and registered in England and Wales with company number **[NUMBER]** whose registered office is at **[REGISTERED OFFICE ADDRESS]** (the “**Customer**”).

INTRODUCTION

- (A) The Supplier is the owner of or has the right to licence the Software Product and/or the Customer Solution and has expertise in the provision of the same, delivered either in binary object code or as a managed cloud service, and in the support and maintenance of the Software Product.
- (B) The Customer wishes to receive a non-exclusive, non-transferable licence for the Software Product and/or the Customer Solution from the Supplier to use the Software Product and/or the Customer Solution as part of a Managed Cloud Service, subject to the terms of this Agreement.
- (C) The Customer wishes to engage the Supplier to provide certain value add services relating to the Software Product and/or the Customer Solution, including design, build and development, project management, training, maintenance, support and related services, in the field of browser-based website, intranet, or other web-based applications (including mobile and tablet applications), together the “Customer Solution”, as more fully set out in the Order Form and subject to the terms of this Agreement.
- (D) As an alternative to (A) to (C) above the Customer wishes to engage the Supplier to provide certain services including design, build and development, project management, training and related services, in the field of browser-based website, intranet, or other web-based applications (including mobile and tablet applications), as more fully set out in the Order Form and subject to the terms of this Agreement.

AGREEMENT

1. This Agreement consists of this main agreement together with Schedules 1 to 10 as set out below.
2. This is a master agreement which contemplates that the Customer and the Supplier may from time to time agree Orders which will be governed by this Agreement.
3. Each Order constitutes a separate contract between the parties. Unless otherwise agreed in writing, each Order Form shall be automatically deemed to include all the terms and provisions of this main agreement and the Schedules.
4. Whenever the provisions of an Order are expressly stated to amend or override the provisions of this main agreement or the Schedules the provisions of that Order control and take precedence over the provisions of this main agreement and the Schedules but only for the purposes of that Order and the terms and provisions of the Schedules are not otherwise amended, modified, cancelled, waived or released.

5. The Definitions and rules of Interpretation set out in Schedule 8 shall apply throughout this Agreement.
6. Subject always to 4 above if there is any conflict or ambiguity between the Schedules the order of priority for construction purposes shall be the order in which the Schedules are listed below.

SCHEDULES

Schedule 1	Key Provisions
Schedule 2	General Terms and Conditions
Schedule 3	Software and Services Order Form
Schedule 4	Statement of Work
Schedule 5	Managed Cloud Service
Schedule 6	Change Control Process
Schedule 7	Rate Card
Schedule 8	Definitions and Interpretation
Schedule 9	UK GDPR
Schedule 10	Acceptable Use Policy

Signed by the authorised representative of THE CUSTOMER

Name:		Signature:	
Position:		Date	

Signed by the authorised representative of THE SUPPLIER

Name:		Signature:	
Position:		Date	

SCHEDULE 1

KEY PROVISIONS

1. Term

- 1.1 This Agreement shall commence on the Commencement Date and shall remain in force subject to the provisions of Clause 2, Clause 22 and 24.4 of Schedule 2 for an Initial Licence Period of 36 months (thirty six months) unless a different period is stated on the applicable Order Form and shall then continue on an annual basis unless either party gives the other three month's prior written notice of non-renewal, such notice to expire on the last day of the Initial Licence Period or on an anniversary thereof, save where the Customer has opted for a perpetual Licence (that is to say, where the Initial Licence Period is described as "perpetual" on the Order Form).
- 1.2 Each Order shall commence on the Order Commencement Date and shall remain in force subject to the provisions of Clause 2, Clause 22 and Clause 24.4 of Schedule 2 for the period set out in the applicable Order Form or where no such period is set out for the term of the Agreement.

2. Contract Managers

- 2.1 The Contract Managers at the Commencement Date for the purposes of Clause 6 of Schedule 2 are:
- 2.1.1 for the Customer:
[]
- 2.1.2 for the Supplier:
[]
- 2.2 Clause 6 of Schedule 2 shall apply in relation to any change or proposed change of Contract Manager by either party.

3. Notices

- 3.1 The addresses for service of a notice under Clause 27 of Schedule 2 are:

for the Customer	Address: [ADDRESS] For the attention of: [NAME] Telephone number: [NUMBER] Email: [EMAIL_ADDRESS]
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for the Supplier	Address: VerseOne Group Ltd, Griffin House, West Street, Woking, Surrey, GU21 6BS For the attention of: Accounts E-mail: Accounts@verseone.com
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4. Management levels for escalation and dispute resolution

- 4.1 The applicable management levels at which a Dispute may be dealt with as referred to as part of the Dispute Resolution Procedure in Clause 29 of Schedule 2 shall be as follows:

Level	Customer representative	Supplier representative
1	[]	[]
[2]	[insert role]	[insert role]
[3]	[insert role]	[insert role]

5. Grant of Licence

- 5.1 Subject to the terms and conditions of this Agreement, the Supplier hereby grants to the Customer, for the Licence Period, the following non-exclusive, non-transferable rights:

- (a) to use the Software Product and/or the Customer Solution for its own internal business purposes only and to allow End Users to access the same in the normal course of conducting its internal business activities; and
- (b) to allow Authorised Users to access the Software Product and/or the Customer Solution derived from it via the Managed Cloud Service for internal business purposes only.

- 5.2 To allow Authorised Users to access the Software Product and/or the Customer Solution derived from it via the Managed Cloud Service. The Customer shall ensure that:

- (a) unless otherwise allowed or agreed by the Supplier, the actual number of Authorised Users of the Software Product and/or the Customer Solution does not exceed the number of Authorised Users specified on the Order Form; and
- (b) a reasonable, robust and well monitored process or mechanism is in place to ensure that the number of Authorised Users using the Software Product and/or the Customer Solution concurrently does not exceed the number of Authorised Users specified on the Order Form;
- (c) it complies at all times with the terms of this Agreement, including but without limitation, the “Limitations of Grant” set out in Clause 7 of Schedule 2.

For the avoidance of doubt the Software Product and/or the Customer Solution derived from it is “in use” on a computer when it is loaded into the temporary memory RAM, viewed and accessed via a browser, installed into the permanent memory (for example, hard disk, CD or other storage device) of that computer, except that a copy installed on a network server for the sole purpose of distribution to other computers is not considered “in use”. Additional copies of the Software Product and/or the Customer Solution may be made as are reasonably necessary for operational security.

- 5.3 Subject to the provisions of Clause 5.1(a) the Customer shall ensure that the use of the Software Product and/or the Customer Solution is restricted to the United Kingdom (UK). Any export, transfer, access or use of the Software Product and/or the Customer Solution outside the UK is expressly prohibited without the prior written agreement of the Supplier.
- 5.4 It is a condition of the Licence that the Customer receives the Managed Cloud Services and the Support and Maintenance Services from the Supplier or a duly authorised partner or Agent of the Supplier. The Licence to continue to use the Software Product and/or the Customer Solution shall therefore terminate if the Managed Cloud Services or the Support and Maintenance Services are terminated for any reason unless otherwise agreed to by the Supplier in writing.
- 5.5 The Customer acknowledges that failure to abide by the provisions of this Agreement will result in the termination of its License to use the Software Product and/or the Customer Solution.
- 6. Managed Cloud Services**
- 6.1 The Managed Cloud Services will be provided in accordance with the provisions of Schedule 5.
- 7. Support and Maintenance**
- 7.1 Support and Maintenance Services will be provided in accordance with the provisions of Clause 3 of Schedule 2.
- 7.2 Support and Maintenance Services must be provided under the terms of this Agreement.

SCHEDULE 2

GENERAL TERMS AND CONDITIONS

The following terms and conditions will apply to both parties in respect of the Licence and all Services provided under this Agreement.

1 FEES

- 1.1 The Customer will pay the Fees set out in the Order Form and all other sums due to the Supplier under this Agreement in accordance with this Clause 1 and Clause 13 of this Schedule 2 as applicable. In the event of any conflict between the two Clauses, the provisions of this Clause 1 shall prevail.
- 1.2 The following shall each be payable as per the payment schedule set out on the Order Form or if none in full on the Commencement Date:
- (a) the Initial Licence Fee; and
 - (b) if applicable, the Initial Support Fee; and
 - (c) if applicable, the Initial Managed Cloud Services Fee
 - (d) if applicable, the Services Fee.

- 1.3** The On-going Licence Fee (if any) shall be payable by the Customer annually in advance during the Extended Licence Period, starting on first day thereof and then on each anniversary thereof.
- 1.4** The On-going Support Fee (if any) shall be payable by the Customer annually in advance during the Extended Support Period, starting on first day thereof and then on each anniversary thereof.
- 1.5** The On-going Managed Cloud Services Fee (if any) shall be payable by the Customer annually in advance during the Extended Managed Cloud Service Period, starting on first day thereof and then on each anniversary thereof.
- 1.6** The Services Fee shall be payable in accordance with Clause 13 of Schedule 2.
- 1.7** All Fees and other charges quoted or made are exclusive of taxes, duties or tariffs imposed by any governmental authority which the Customer agrees to pay in respect of such amounts (as independently itemised) unless Customer is able to claim exemption for such tax, duty or tariff and delivers to Supplier satisfactory documentary evidence in support of such claim;
- 1.8** Except as otherwise provided in this Agreement, no part of any payment made by the Customer is refundable.

2 TERM AND TERMINATION OF SERVICES

- 2.1** All rights of termination under this clause are subject to the provisions of Clauses 22 and 23 of this Schedule 2.
- 2.2** On termination of an Order(s) (or the entire Agreement) for any reason then the provisions of Clause 23 of this Schedule 2 shall apply.

Termination of Licence

- 2.3** A breach of Clause 5 of Schedule 1 or Clause 7 of Schedule 2 by the Customer shall entitle the Supplier immediately to terminate the Agreement for material breach under Clause 22 of Schedule 2.
- 2.4** Upon expiry of the Initial Licence Period, the Licence shall automatically be extended on an annual basis for further periods of one year, subject to payment of the On-going Licence Fee, unless either party gives the other three months prior written notice of non-renewal in accordance with Clause 28 of Schedule 2, such notice to expire on the last day of the Initial Licence Period or on an annual anniversary thereof.
- 2.5** Subject to Clause 23 of this Schedule 2, any termination of the Licence in accordance with this Clause 2 will result in the automatic termination of the applicable Order in its entirety, effective from the following periods:
- (a)** expiring on the last day of the Initial Licence Period or the applicable Extended Licence Period (as the case may be) if terminated under Clause 2.4; and
 - (b)** immediately if terminated under Clause 2.3.

Termination of the Managed Cloud Services

- 2.6** Following expiry of the Initial Managed Cloud Services Period, the Cloud Services Period shall be automatically extended on an annual basis for further periods of one year,

subject to payment of the On-going Managed Cloud Service Fee, unless the Customer gives to the Supplier three months written notice of non-renewal in accordance with the provisions of Clause 28, such notice to expire on the last day of the Initial Managed Cloud Services Period or an annual anniversary thereof.

- 2.7** Termination of the Managed Cloud Services for any reason will result in the Supplier being unable to provide access to the Software Product and/or the Customer Solution to End Users and to the Software Product and/or the Customer Solution to Authorised Users and therefore on termination of the Managed Cloud Services the applicable Order in its entirety shall terminate with immediate effect, unless otherwise agreed to by the Supplier in writing.

Termination of the Support and Maintenance Services

- 2.8** Following expiry of the Initial Support Period, the Support and Maintenance Services shall be automatically extended on an annual basis for further periods of one year, subject to payment of the On-going Support Fee, unless the Customer gives to the Supplier three months written notice of non-renewal in accordance with the provisions of Clause 28, such notice to expire on the last day of the Initial Support Period or an annual anniversary thereof.
- 2.9** It is a condition of the Supplier providing the Licence and/or the Customer Solution and the Managed Cloud Services (if applicable) that the Customer continues to subscribe to the Support and Maintenance Services and therefore on termination of the Support and Maintenance Services the applicable Order in its entirety shall terminate with immediate effect, unless otherwise agreed to by the Supplier in writing.

3 SUPPORT AND MAINTENANCE

- 3.1** Subject to Clause 3.7, during the Support Period, and in consideration of the Support Fee, the Supplier shall:
- (a)** supply the Customer with all Maintenance Releases in machine-readable form together with related amendments to the documentation relating to the Customer Solution; and
 - (b)** use its reasonable endeavours to provide Support and Maintenance Services.
- 3.2** Whilst the Supplier will use its reasonable care and skill in the provision of Support and Maintenance Services, the Customer is exclusively responsible for ensuring that:
- (a)** all advice and guidance is acted upon and implemented effectively; and
 - (b)** all Maintenance Releases are promptly and correctly installed in accordance with the Supplier's instructions or by the Supplier (where the Supplier agrees to do so).
- 3.3** The Supplier reserves the right:
- (a)** to increase the Support Fee by giving not less than three months' notice in writing to the Supplier in advance of the anniversary date of its first delivery of the Software Product and/or Customer Solution. Any such increase shall be the greater of the increase in RPI in the period since the last increase or 4%;
 - (b)** to withhold Support and Maintenance Services (including the provision of Maintenance Releases) in any circumstances where (for whatever reason) any

invoice for Fees is not paid in accordance with the payment terms set out in this Agreement.

- 3.4** If in the reasonable opinion of the Supplier, the Customer does not comply with the provisions of Clause 3.2, the Supplier may suspend the provision of Support and Maintenance Services until such time as the Customer is in compliance.

Support Procedure

- 3.5** The Customer undertakes:

- (a) to report faults in the Software Product and/or the Customer Solution to the Supplier by means as advised by the Supplier from time to time which may include but not be limited to telephone calls, online Chat and Live Support, online logging and self-help via the Supplier's website; and
- (b) to provide the Supplier with such assistance as the Supplier may reasonably require in order to replicate or otherwise investigate any fault reported (including without limitation the free provision of documentation and of free computing facilities at its premises).

- 3.6** The Supplier will during such times as are agreed provide to the Customer (by telephone, online Live Support/Chat, letter, other electronic transmission or otherwise as the Supplier in its absolute discretion considers appropriate) a service which:

- (a) answers queries from an Authorised User concerning the Software Product and/or the Customer Solution;
- (b) gives diagnosis and guidance on correction of faults to an Authorised User following the report of fault to Supplier;
- (c) gives initial diagnosis of potentially serious faults in the Software Product and/or the Customer Solution reported by an Authorised User on a prior report; and
- (d) provides a temporary fix for the Software Product and/or the Customer Solution if the Supplier in its discretion considers this appropriate.

"No Fault" Service Charge

- 3.7** The Supplier shall not be obliged to make corrections to the Customer Solution, and reserves the right to charge at a reasonable rate for time used and expenses incurred, where any errors in the Customer Solution arise out of any of the following circumstances:

- (a) the error has occurred in, or been caused by any software not supplied by the Supplier;
- (b) any hardware failure (other than in respect of the Managed Cloud Services);
- (c) any use of the Software Product and/or the Customer Solution on computer equipment other than the Equipment (other than in respect of the Managed Cloud Services);
- (d) any modifications made to the Software Product and/or the Customer Solution without the prior written consent of the Supplier;

- (e) the failure of the Customer to implement reasonable written recommendations in respect of, or solutions to faults previously advised by, the Supplier;
- (f) any negligent or illegal use or misuse of the Software Product and/or the Customer Solution by the Customer;
- (g) the Customer's material breach of this Agreement; or
- (h) any assistance which the Supplier in its absolute discretion considers either excessive or otherwise unreasonable in the circumstances including in particular:
 - (i) assistance with system recovery following a failure resulting directly or indirectly from any fault referred to in this Clause 3.7; or
 - (ii) assistance with use of the Software and/or the Customer Solution where such assistance amounts either to the giving of general instruction and/or training or to the carrying out of a specific programming task and (in either case) does not involve a fault in the Software Product and/or the Customer Solution nor resulting from a reasonable query from an Authorised User.

4 ESTABLISHMENT OF ORDER AND PROJECT KICK OFF

4.1 The Customer's purchase order, request for tender document or other similar document constitutes a request by the Customer for the Supplier to prepare an Order Form for it to purchase the Software Products and/or the Customer Solutions and/or Services specified in it on the terms of this Agreement. An Order shall only be established on the earlier of the date upon which the Customer:

- (a) signs and returns a counterpart of the Order Form; or
- (b) accepts (whether by conduct or otherwise) commencement or execution of any work by the Supplier pursuant to the Order Form.

This Agreement shall govern the terms and conditions for each Order between the Supplier and the Customer.

The Customer's standard terms and conditions (if any) attached to, enclosed with, or referred to in, the purchase order, request for tender document or other document shall not govern any Order.

4.2 Promptly following establishment of an Order, and at the Supplier's discretion, the parties shall carry-out the kick-off stage of the Project(s) and shall work together to produce the relevant Project Specification Document(s).

5 SUPPLIER'S OBLIGATIONS

- 5.1** The Supplier shall grant the non-exclusive, non-transferable Licence for the Software Product and/or the Customer Solution and provide the Services to the Customer in accordance with the terms of this Agreement.
- 5.2** The Supplier shall use reasonable endeavours to manage and complete the Customer Solution and each Project in accordance with and in all material respects with the relevant Project Specification Document and in any event as a minimum the deliverables as set out in the Statement of Works.
- 5.3** The Supplier shall use reasonable endeavours to meet the performance dates specified in each Project Specification Document and/or Statement of Works, but any such dates shall be estimates only and time shall not be of the essence in the delivery of the Services.

6 CUSTOMER OBLIGATIONS

6.1 The Customer shall:

- (a)** make available to the Supplier appropriate personnel required by the Supplier in order to properly perform its obligations hereunder;
- (b)** co-operate with the Supplier in all matters relating to each Project and appoint and provide the name and contact details (including email address) of one or more suitably qualified project managers of the Customer, who shall have the authority to make decisions concerning the Project(s) and contractually bind the Customer on matters relating to the Project(s);
- (c)** provide prompt access to the Customer's premises and data, and such office accommodation and other facilities, as is requested by the Supplier in order to properly perform its obligations under this Agreement;
- (d)** promptly respond to any request for guidance, instruction, assistance or other such information as the Supplier may request in order to properly perform its obligations under this Agreement, and ensure that such information is accurate in all material respects; and
- (e)** agree the form of words and give consent for a press release to be made available to the public concerning this Agreement or other forms of appropriate promotional activities which the Supplier may choose to carry out from time to time.
- (f)** be responsible (at its own cost) for preparing the relevant premises, data and Content for the supply of the Services.

- 6.2** If the Supplier's performance of its obligations under the Order is prevented or delayed by any act or omission of the Customer or the Customer's agents, sub-contractors or employees, the Customer shall in all circumstances be liable to pay to the Supplier on demand all reasonable costs, charges or losses sustained or incurred by it (including, without limitation, any direct or indirect consequential losses, loss of profit and loss of reputation, loss or damage to property, injury to or death of any person and loss of opportunity to deploy resources elsewhere), subject to the Supplier confirming such costs, charges and losses to the Customer in writing.
- 6.3** The Customer shall not, without the prior written consent of the Supplier, at any time from the Commencement Date to the expiry of twelve months after termination of this Agreement, solicit or entice away from the Supplier or employ or attempt to employ any person who is, or has been, engaged as an employee or sub-contractor of the Supplier.
- 6.4** The Customer shall be responsible, in accordance with clause 19, for the accuracy and completeness of all Content and any other materials uploaded to the Software Product and/or the Customer Solution (or any part of it) by or on behalf of the Customer or by any Visitor.

7 LIMITATIONS OF GRANT

IMPORTANT - This Clause places limitations on the Licenced use of the Software Product and/or the Customer Solution and should be read carefully. It applies to the Licence granted to the Customer under Clause 5 of Schedule 1. Breach of this Clause will lead to termination of the whole Agreement.

- 7.1** Subject to the Customer's rights to use and to allow End Users to use the Software Product and/or the Customer Solution as set out in Clause 5.1(a) the Customer undertakes that it shall not at any time:
- (a)** allow any individual(s) apart from its Authorised User(s) to run or access the Software Product and/or the Customer Solution derived from it;
 - (b)** outsource, rent or lease the Software Product and/or the Customer Solution, use the Software Product and/or the Customer Solution for third-party training, commercial time-sharing or a bureau service or connect or permit the connection of third parties to the Software Product and/or the Customer Solution without the prior written consent of the Supplier;
 - (c)** make (or agree to make) any sale or gift or other disposal or alienation of the Software Product and/or Customer Solution;
 - (d)** make any copy (either transient or fixed) of the Software Product and/or the Customer Solution (save for provision of access to Authorised Users or bona fide back-up purposes);
 - (e)** make any modifications, additions or enhancements to the Software Product and/or the Customer Solution nor disassemble, error correct, decompile or otherwise reverse engineer or create derivatives of the same or make any attempt so to do;
 - (f)** make any modifications, additions or enhancements to the Software Product and/or the Customer Solution without the Supplier's prior written consent;

- (g) use the Software Product and/or the Customer Solution (or any part of it) in any investigation of the ideas and principles underlying any other software product unless such investigation is an investigation undertaken with the express written agreement of the Supplier and it is both:
 - (i) indispensable to obtaining information necessary to achieve interoperability of the Software Product and/or the Customer Solution with the other software product; and
 - (ii) confined to parts of the Software Product and/or the Customer Solution under investigation necessary to achieve interoperability of the Software Product and/or the Customer Solution with the other software product; or
- (h) distribute, rent, lease, or sub-licence the Software Product and/or the Customer Solution.
- (i) breach the Intellectual Property rights of the Supplier as set out in this Agreement.

7.2 The Customer acknowledges and agrees that by licensing the use of the Software Product and/or the Customer Solution the Supplier undertakes no responsibility whatsoever for the contents of any website or intranet or other Customer Solution derived from or created using the Software Product and/or the Customer Solution.

8 ACCEPTANCE OF PHASES, PROJECTS AND CUSTOMER SOLUTION

- 8.1** Upon completion of each Phase of a Project as detailed in the relevant Statement of Work and Project Specification Document as appropriate, the Supplier shall notify the Customer and make available the relevant Phase to the Customer. The Customer shall then carry out the applicable Acceptance Tests (if any).
- 8.2** If the Customer does not agree that the Acceptance Tests have been satisfied it must give written notice of such, including the reasons therefore, to the Supplier within 5 Business days (or such other period as set out in the Project Specification Document) of the date upon which the notification referred to in clause 8.1 was issued by the Supplier.
- 8.3** If any failure to pass the Acceptance Tests results from a Non-Supplier Defect, the Phase shall be deemed to have passed the Acceptance Tests notwithstanding such Non-Supplier Defect. The Supplier shall provide all assistance reasonably requested by the Customer in remedying any Non-Supplier Defect by supplying additional services or products. The Customer shall pay the Supplier in full for all such additional services and products at the Supplier's rates set out in the Rate Card.
- 8.4** If any failure to pass the Acceptance Tests does not result from a Non-Supplier Defect the Supplier shall use its reasonable endeavours to remedy or fix such defect following which the provisions of Clause 8.1 shall apply again.
- 8.5** Acceptance of each Phase shall take place or be deemed to take place upon the first day upon which any of the following events occurs:
- (a) the Customer confirms to the Supplier that the relevant Acceptance Tests have been passed; or

- (b) the Customer uses any part of the Phase in a live environment; or
- (c) the Customer fails to notify the Supplier that it does not agree that the Acceptance Tests have been satisfied within the time limit set out in clause 8.2; or
- (d) the Customer unreasonably delays the start of the relevant Acceptance Tests or any retests for a period of ten working days from the date on which the Supplier delivered the particular Phase.

8.6 If the Customer fails to identify or notify the Supplier of issues within these agreed timescales, then any associated effort required to address these issues will be separately billable at the appropriate rate.

8.7 Acceptance of a Project shall occur or be deemed to occur when all of its constituent Phases have been accepted pursuant to this clause 8 or (if later) the later of (i) the date on which the Acceptance Tests have been carried out for a second time; or (ii) 30 days from the date on which the Customer first gives written notice under Clause 8.2 unless agreed by the Supplier.

8.8 Acceptance of the Software Product and/or Customer Solution shall occur or be deemed to occur when all of its constituent Projects have been accepted pursuant to this clause 8.

9 THIRD PARTY PRODUCTS

9.1 The Third Party Products shall be supplied in accordance with and subject to the relevant third party's standard terms. The licence fee(s) for such Third Party Products shall be set out in the Order Form and shall be payable by the Customer.

10 CONTRACT MANAGEMENT

10.1 Each party shall, appoint a contract manager or contract lead ("**the Contract Manager**") who shall be responsible for managing the overall relationship between the parties and who shall in relation to this Agreement generally:

- (a) provide professional and prompt liaison with the other party; and
- (b) have the necessary expertise and authority to commit the relevant party.

10.2 Neither party shall change or alter its Contract Manager without prior consultation with the other party except due to prolonged illness, death, retirement, resignation or the termination of the employment of such Contract Manager. Where a party does change its Contract Manager then it shall notify the other party immediately in writing.

11 PROJECT MANAGEMENT

11.1 Each party shall, in relation to each Project, appoint a project manager or project lead ("**the Project Manager**") who shall in relation to a Project:

- (a) provide professional and prompt liaison with the other party; and
- (b) have the necessary expertise and authority to commit the relevant party.

- 11.2** The Project Managers shall liaise and communicate and, if appropriate and deemed necessary meet regularly, and in any event in accordance with any communication plan contained within the Project Specification Document(s), until Acceptance and thereafter maintain regular contact as necessary. The Supplier shall provide minutes of these meetings to the Customer who promptly and in any case no later than five Business Days following receipt shall revert to the Supplier with any corrections and revisions.
- 11.3** Neither party shall change or alter its Project Manager without prior consultation with the other party except due to prolonged illness, death, retirement, resignation or the termination of the employment of such Project Manager. Where a party does change its Project Manager then it shall notify the other party immediately in writing.

12 CHANGE CONTROL

- 12.1** Any request to change the scope and/or deliverables for a Project (including any of the Services relating thereto) as set out in the Statement of Work Document and further defined in the Project Specification Document shall be processed in accordance with the Change Control Procedure set out in Schedule 6.

13 CHARGES AND PAYMENT

- 13.1** The Services shall be provided and the Charges shall be calculated on a time-and-materials basis in accordance with the following provisions:
- (a) the Charges shall be calculated in accordance with the Rate Card in force on the date of the Order;
 - (b) the Supplier's standard daily fee rates are calculated on the basis of a seven-and-a-half hour day worked between 09:00 and 17:30 on weekdays (excluding weekends and public holidays); and
 - (c) the Supplier shall be entitled to charge at an overtime rate of 150% of the normal rate for part days and for time worked by members of its project team outside the hours referred to in clause 13.1(b) on a pro-rata basis;
- 13.2** Fees for the Licence, Managed Cloud Services and Support and Maintenance Services are charged separately in accordance with clause 1 above and as set in the Order Form.

- 13.3** Any statement of the anticipated Charges quoted in the Order Form shall be estimates only based on the information provided by the Customer and as set out in the Statement of Work Document as appropriate. The Supplier shall notify the Customer in the event it becomes aware that any such estimate is likely to be exceeded (including the reasons why) and shall be entitled to amend the Statement of Work Document and/or the scope of any relevant Project Specification Document(s) in order to bring the Charges into line with the anticipated Charges quoted in the Order Form.
- 13.4** The Supplier shall invoice the Customer for the Charges and Fees (together with VAT where applicable), in accordance with the Payment Schedule.
- 13.5** All Charges shall be exclusive of the cost of hotel, subsistence, travelling and any other ancillary expenses reasonably incurred by the project team in connection with the Order or the provision of the Customer `solution and/or the Services, and the cost of any materials or services reasonably and properly provided by third parties required by the Supplier for the supply of the Customer Solution and/or the Services. Such expenses, materials and third party services shall be invoiced to the Customer by the Supplier.
- 13.6** The Customer shall pay the Charges and Fees set out in each invoice submitted by the Supplier in full and in cleared funds within 14 days of the date of the relevant invoice or upon such earlier date specified in the relevant invoice. Time for payment shall be of the essence.
- 13.7** If the Customer fails to pay any amount payable by it under this Agreement, the Supplier shall be entitled to charge the Customer interest on the overdue amount. Such interest shall be payable by the Customer forthwith on demand, from the due date up to the date of actual payment, after as well as before judgment, at the rate of 4% per annum above the base rate for the time being of Barclays Bank PLC. Such interest shall accrue on a daily basis and be compounded quarterly. The Supplier reserves the right to claim interest under the Late Payment of Commercial Debts (Interest) Act 1998. In addition, the Supplier shall be entitled to suspend performance of some or all of the Software Product(s) and/or the Customer Solution(s) and/or the Services while any amount remains outstanding.
- 13.8** The Supplier may amend the Rate Card from time-to-time provided that not less than 30 days prior notice of any such change is given to the Customer in writing.
- 13.9** Charges in respect of work agreed to be completed in accordance with clause 12 (Change Control) or clause 8.5 and any fees payable in respect of additional Third Party Products, shall be invoiced separately and shall identify the additional work or software to which they relate.
- 13.10** All Charges and Fees are exclusive of VAT, which the Supplier shall add to its invoices at the appropriate rate.

14 WARRANTIES

- 14.1** Each of the parties warrants to the other that it has full power and authority to enter into and perform this Agreement.
- 14.2** The Supplier warrants that it shall perform the provision of the Customer Solution and/or the Services with reasonable care and skill.
- 14.3** The Customer warrants and represents that:
- (a) the Content does not infringe the rights or Intellectual Property Rights of any third party; and
 - (b) it has and will at all times comply with the UK Data Protection Laws in all material respects.

15 LIMITATION OF LIABILITY

- 15.1** Nothing in this Agreement shall operate to exclude or limit the Supplier's liability for:
- (a) death or personal injury caused by its negligence; or
 - (b) any breach of the terms implied by section 12 of the Sale of Goods Act 1979 or section 2 of Goods and Services Act 1982; or
 - (c) fraud; or
 - (d) any other liability which cannot be excluded or limited under applicable law.
- 15.2** Subject to Clause 15.1 and whether the same arises in contract, tort (including negligence) or otherwise howsoever, the Supplier shall not be liable to the Customer for:
- (a) damage to, corruption of or loss of data,
 - (b) loss of profit,
 - (c) loss of business,
 - (d) loss of anticipated profits,
 - (e) loss of revenues,
 - (f) loss of anticipated savings,
 - (g) loss of goodwill or business opportunity,
 - (h) indirect or consequential loss or damage, or
 - (i) special damages even if the Supplier was aware that such special damages could arise.

- 15.3** Subject to clause 15.1, the Supplier's aggregate liability in respect of claims based on events in any Year arising out of or in connection with this Agreement or any collateral contract, whether in contract or tort (including negligence) or otherwise, shall in no circumstances exceed the total sum of Charges and Fees paid by the Customer to the Supplier under this Agreement in that Year.
- 15.4** All dates supplied by the Supplier for the delivery of the Customer Solution shall be treated as approximate only. The Supplier shall not in any circumstances be liable for any loss or damage arising from any delay in delivery beyond such approximate dates.
- 15.5** All references to "the Supplier" in this clause 15 shall, for the purposes of this clause only, be treated as including all employees, subcontractors and suppliers of the Supplier and its affiliates, all of whom shall have the benefit of the exclusions and limitations of liability set out in this clause, in accordance with clause 26.

16 INTELLECTUAL PROPERTY RIGHTS

- 16.1** All Intellectual Property Rights in the Software Product and/or the Customer Solution (and each part thereof) (including but not limited to, in the look and feel and the functional design, but excluding the Content), shall as between the Customer and the Supplier be owned by the Supplier, and the Customer has no rights in or to the Software Product and/or the Customer Solution other than as provided by this Agreement. The Customer is only permitted to use such Intellectual Property Rights under and subject to the Licence terms as provided for under this Agreement.
- 16.2** All Intellectual Property Rights in the Content used in connection with this Agreement shall be the property of the Customer, and the Supplier has no rights in or to the Content other than as provided by this Agreement. The Customer hereby grants the Supplier a non-exclusive, royalty-free, worldwide, irrevocable and perpetual licence to use the Content solely for the purpose of delivering the Customer Solution, Services and performing its obligations under this Agreement.
- 16.3** The Customer shall forthwith notify the Supplier if it becomes aware of any:
- (a)** unauthorised use of the whole or any part of the Software Product and/or the Customer Solution; or
 - (b)** infringement or alleged infringement of the Supplier's Intellectual Property Rights in the Software Product and/or the Customer Solution.
- 16.4** The Supplier reserves the right to audit the Customer's use of the Software Product and/or the Customer Solution at any time to ensure compliance with this Agreement.

17 ESCROW

- 17.1** Where the Customer subscribes to the Escrow Agreement the Supplier shall ensure that a copy of the Software Product and/or the Customer Solution as appropriate is deposited into escrow so that the Software Product and/or the Customer Solution can be accessed by the Customer on the terms of the Escrow Agreement.
- 17.2** Both the Customer and Supplier shall abide by the terms of the Escrow Agreement where the Customer has subscribed to the same.

18 INDEMNITY

- 18.1** The Customer shall indemnify and keep indemnified the Supplier against all damages, losses and expenses arising as a result of any action or claim that:
- (a) the Content infringes the Intellectual Property Rights of a third party;
 - (b) results from any of the Content being, or being alleged to constitute, Inappropriate Content; or
 - (c) results from the failure of the Customer or its employees or agents to comply with any of its obligations under clause 21 or clause 3 of Schedule 5.
- 18.2** The Supplier shall indemnify the Customer against all damages, losses and expenses arising as a direct result of any action or claim that the Software Product and/or the Customer Solution infringes any Intellectual Property Rights of a third party in the UK, other than infringements referred to in clause 19.1. In the event of any such alleged infringement, the Supplier shall be entitled at its own expense and option either to:
- (a) procure the right for the Customer to continue using the Software Product and/or the Customer Solution;
 - (b) make such alterations modifications or adjustments to the Software Product and/or the Customer Solution as required to make become non-infringing without incurring a material diminution in performance or function;
 - (c) replace the Software Product and/or the Customer Solution with non-infringing substitute material provided such substitute material does not result in a material diminution in performance or function; or
 - (d) if (a), (b) or (c) are not reasonably possible, immediately to terminate the Agreement or (to the extent if reasonably practicable) that part of it to which the infringement relates by notice in writing to the Customer, and refund any of the Licence Fee paid by the Customer as at the date of termination (less a reasonable sum in respect of the Customer's use of the Software Product and/or the Customer Solution to the date of termination) on return of the Software Product and/or the Customer Solution and all copies thereof (if applicable)

18.3 Clause 18.2 states the entire liability of the Supplier with respect to any infringements of any Intellectual Property Rights of a third party and without prejudice to this generality the Supplier shall have no liability whatsoever for infringement based on either:

- (a) use of a Software Product and/or the Customer Solution which is other than a current and unaltered release; or
- (b) use of the Software Product and/or the Customer Solution in combination with any software not supplied and/or approved by the Supplier.

18.4 The indemnities in clauses 18.1 and 18.2 are subject to the following conditions:

- (a) the indemnified party promptly notifies the indemnifier in writing of the claim;
- (b) the indemnified party makes no admissions or settlements without the indemnifier's prior written consent;
- (c) the indemnified party gives the indemnifier all information and assistance that the indemnifier may reasonably require; and
- (d) the indemnified party allows the indemnifier complete control over the litigation and settlement of any action or claim.

19 CONTENT

19.1 The Customer shall be solely responsible for producing, editing, managing and uploading Content for the Software Product and/or the Customer Solution. If the Customer wishes the Supplier to assist with the production or uploading of any Content (including sourcing and acquiring photographic and other media files), this shall be separately described and costed in an Order Form or any applicable Project Specification Document.

19.2 The Customer shall be solely responsible for ensuring that no Content (including any Content edited and/or uploaded by the Supplier at the request of or with the consent of the Customer) infringes any applicable laws, regulations or third party rights (including material which is obscene, indecent, pornographic, seditious, offensive, defamatory, threatening, liable to incite racial hatred or acts of terrorism, menacing, blasphemous or in breach of any third party Intellectual Property Rights) ("**Inappropriate Content**").

19.3 The Supplier may include or require the inclusion of the statements "*Designed or created by VerseOne Limited*" or "*Powered by VerseOne Technologies Limited*" or other VerseOne Group companies as appropriate and/or such other statement or notice as the Supplier may from time to time request on the relevant pages of any website, intranet, extranet or other web-based solution of the Customer to which the Software Product and/or the Customer Solution and/or Services relate. The Customer shall ensure that such statement or notice appears as requested by the Supplier and shall do nothing to remove, obliterate or change same.

19.4 The Customer shall comply with and shall ensure that the Authorised Users and End Users comply with the Supplier's Acceptable Use Policy as amended from time to time the current version of which forms part of this Agreement and is attached at Schedule 10.

20 LIMITED WARRANTIES, DISCLAIMER AND REMEDIES

- 20.1** The Supplier warrants that for a period of thirty (30) days following the delivery or making available of the Software Product and/or the Customer Solution (as appropriate) (the "**Warranty Period**") to the Customer, the Software Product and/or the Customer Solution will conform with and perform substantially in accordance with the Software Product and/or the Customer Solution specification document and/or Project Specification Document or Statement of Work as the case may be and that the medium on which the Software Product and/or the Customer Solution is contained will be free of material defects in materials and workmanship.
- 20.2** The Supplier does not warrant that the operation of the Software Product and/or the Customer Solution will be uninterrupted or error-free.
- 20.3** If during the Warranty Period the Software Product and/or the Customer Solution fails to conform substantially to the Software Product and/or the Customer Solution specification document and/or Project Specification Document or Statement of Work as applicable or if defects in materials and workmanship exist on the medium on which the Software Product and/or the Customer Solution is contained, then the Supplier will, at its option, repair or replace the defective copy of the Software Product and/or the Customer Solution without charge to the Customer. If the Supplier determines that the repair or replacement is not practical, then the Supplier shall refund the Licence Fee.
- 20.4** The warranty set out in clause 20.1 shall not apply to the extent that any failure of the Software Product and/or the Customer Solution to perform substantially in accordance with the Software Product and/or the Customer Solution specification document and/or Project Specification Document or Statement of Work as applicable is caused by any Content or Non-Supplier Defect.
- 20.5** This Agreement sets out the full extent of the Supplier's obligations and liabilities in respect of the supply of the Services and/or the delivery of the Customer Solution. All conditions, warranties or other terms concerning the Services which might otherwise be implied into this agreement or any collateral contract (whether by statute or otherwise) are hereby expressly excluded including but not limited to the implied conditions, warranties or other terms as to satisfactory quality, fitness for purpose or the use of reasonable skill and care.

21 DATA PROTECTION

- 21.1** If the Supplier processes any Personal Data on the Customer's behalf when performing its obligations under this Agreement, the parties record their intention that the Customer shall be the data controller and the Supplier shall be a data processor and in any such case:
- (a) the parties acknowledge and agree that they will comply with their obligations under the Data Protection Laws;
 - (b) the Supplier shall process the personal data only in accordance with the terms of this agreement and any lawful instructions reasonably given by the Customer from time to time;

- (c) each party shall take appropriate technical and organisational measures against unauthorised or unlawful processing of the personal data or its accidental loss, destruction or damage.
- (d) the scope, nature and purpose of processing by the Supplier, the duration of the processing and the types of personal data and categories of data subject shall be as set out in Schedule 9.
- (e) the Customer will ensure that it has all necessary appropriate consents and notices in place to enable lawful transfer of the Personal Data to the Supplier for the duration and purposes of this Agreement.

21.2 The Supplier shall:

- (a) process the Personal Data only on documented instructions from the Customer, unless required to do so by UK law; in such a case, the Supplier shall inform the Customer of that legal requirement before processing, unless that law prohibits such notification;
- (b) ensure that persons authorised to process the Personal Data have committed themselves to confidentiality or are under an appropriate statutory obligation of confidentiality;
- (c) not transfer any Personal Data outside of the European Economic Area unless the following conditions are fulfilled:
 - (i) the Supplier has provided appropriate safeguards in relation to the transfer;
 - (ii) the data subject has enforceable rights and effective legal remedies;
 - (iii) the Supplier complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred; and
 - (iiii) the Supplier complies with reasonable instructions notified to it in advance by the Customer with respect to the processing of the Personal Data;
- (d) assist the Customer in ensuring compliance with the obligations pursuant to Articles 32 (Security of processing), 33 (Notification of a personal data breach to the supervisory authority), 34 (Communication of a personal data breach to the data subject), 35 (Data protection impact assessment) and 36 (Prior consultation) of the UK GDPR taking into account the nature of processing and the information available to the Supplier;
- (e) at the choice of the Customer, delete or (subject to payment of the Supplier's reasonable expenses) return all the personal data to the Customer after the end of the provision of services relating to processing, and delete existing copies unless the applicable data protection laws and regulations requires storage of the Personal Data;
- (f) maintain and make available to the Customer on request all information necessary to demonstrate compliance with the obligations laid down in this clause 21.2 and allow for and contribute to audits, including accompanied inspections in order to ensure the protection of Customer Personal Data, conducted by the Customer or another auditor mandated by the Customer.

- 21.3** The Supplier shall respect the conditions referred to in paragraphs 2 and 4 of Article 28 of the UK GDPR for engaging another processor including that the Supplier shall not engage another processor without prior specific or general written authorisation of the Customer.
- 21.4** The Customer hereby gives authorisation to the Supplier appointing third party processors of Personal Data under this agreement as set out in Schedule 9.
- 21.5** The Supplier shall inform the Customer of any intended changes concerning the addition or replacement of any third party processors, thereby giving the Customer, acting reasonably, the opportunity to object (on data protection grounds only) to such changes within 14 days of notification by the Supplier. If no objection is received in writing from the Customer within that period, the Customer will be deemed to have given general authorisation to the appointment of the processor(s) notified by the Supplier and will confirm this in writing to the Supplier if requested. If the Customer, acting reasonably, objects to any proposed amendments to data processors under this Agreement, the Supplier will use reasonable endeavours to find a commercially comparable and viable alternative processor. Where the addition or replacement of a third party processor relates to the Managed Cloud Services then the provisions of paragraph 2.3 of Schedule 5 shall apply and not this Clause 21.5.
- 21.6** The Supplier confirms that it has entered or (as the case may be) will enter into with any third-party processor a written agreement incorporating terms which are substantially the same as those set out in this clause.
- 21.7** As between the Customer and the Supplier, the Supplier shall remain fully liable for all acts or omissions of any third-party processor appointed by it pursuant to this clause.

22 TERM AND TERMINATION

- 22.1** This Agreement shall commence on the Commencement Date and individual Orders shall commence on the Order Commencement Date and shall be subject to earlier termination pursuant to this clause 22.
- 22.2** Without prejudice to any rights that have accrued under this Agreement or any of its rights or remedies, either party may at any time terminate this Agreement (or at their option an individual Order or Orders) with immediate effect by giving written notice to the other party if:
- (a) the other party fails to pay any amount due under this agreement on the due date for payment and remains in default not less than 14 days after being notified in writing to make such payment;
 - (b) the other party commits any material breach of its obligations under this Agreement which (if remediable) is not remedied within 30 days after the service of written notice specifying the breach and requiring it to be remedied;
 - (c) 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;
 - (d) the other party:

- (i) ceases to trade (either in whole, or as to any part or division involved in the performance of this agreement); or
- (ii) becomes insolvent or unable to pay its debts within the meaning of the insolvency legislation applicable to that party; or
- (iii) a person (including the holder of a charge or other security interest) is appointed to manage or take control of the whole or part of the business or assets of that party, or notice of an intention to appoint such a person is given or documents relating to such an appointment are filed with any court; or
- (iv) the ability of that party's creditors to take any action to enforce their debts is suspended, restricted or prevented or some or all of that party's creditors accept, by agreement or pursuant to a court order, an amount of less than the sums owing to them in satisfaction of those sums; or
- (v) any process is instituted which could lead to that party being dissolved and its assets being distributed to its creditors, shareholders or other contributors (other than for the purposes of solvent amalgamation or reconstruction).

22.3 Without prejudice to any rights that have accrued under this Agreement or any of its rights or remedies, the Supplier may at any time terminate this Agreement (or at its option an individual Order or Orders) with immediate effect by giving written notice to the Customer if the Customer is in breach of any of its obligations under Clause 6,7 or 8 of Schedule 1, Clause 7 of Schedule 2 or otherwise infringes or threatens to infringe any of the Supplier's Intellectual Property Rights in the Software Product and/or the Customer Solution.

22.4 Termination by either party in accordance with the rights contained in clause 22 shall not affect the accrued rights, remedies, obligations or liabilities of the parties existing at termination.

23 CONSEQUENCES OF TERMINATION

23.1 On termination of this Agreement for any reason:

- (a) all Orders shall terminate forthwith automatically. However, the termination or expiration of any one Order shall not affect the validity or continuance of any other Order or of this Agreement.
- (b) all provisions of this Agreement (or an Order(s) as the case may be) shall cease to have effect subject to clause 23.3;
- (c) all rights granted to either party under this Agreement (or under an Order(s) as the case may be) (including the Licence) shall cease;
- (d) the Managed Cloud Service shall be suspended immediately and terminated as soon as practicable thereafter;
- (e) the Customer shall cease all activities authorised by this Agreement (or by an Order(s) as the case may be);
- (f) the Customer shall immediately pay to the Supplier any sums due to the Supplier under this Agreement (or under an Order(s) as the case may be); and

- (g) the Customer shall immediately destroy or return to the Supplier (at the Supplier's option) all copies of the Software Product and/or the Customer Solution (excluding the Content) and any associated Materials then in its possession, custody or control and, in the case of destruction, certify to the Supplier that it has done so.

23.2 On termination of this Agreement for any reason the Supplier shall in its absolute discretion, upon receipt of a written request from the Customer;

- (a) at the Customer's cost, return all Content to the Customer (in a recognised industry standard format); and
- (b) provide such assistance as is reasonable requested by the Customer in transferring the hosting of the Software and/or the Customer Solutions to the Customer or another service provider subject always to the full payment in advance of the Supplier's full costs expenses in connection with such transfer.

23.3 Any provision of this Agreement which expressly or by implication is intended to come into or continue in force on or after termination of this agreement including but not limited to Schedule 8 (Definitions and Interpretation), clause 15 (Limitation of Liability), clause 16 (Intellectual Property), clause 17 (Indemnity), this clause 23 (Consequences of Termination), clause 25 (Confidentiality), clause 26 (Publicity) and clause 31 (Governing Law) shall remain in full force and effect.

24 FORCE MAJEURE

24.1 If either party is affected by Force Majeure, it shall immediately notify the other party in writing of the matters constituting the Force Majeure and shall keep that party fully informed of any relevant change of circumstances whilst such Force Majeure continues.

24.2 Save as provided in clause 24.3, Force Majeure shall not entitle either party to terminate this Agreement and neither party shall be in breach of this Agreement, or otherwise liable to the other, by reason of any delay in performance or non-performance of any of its obligations due to Force Majeure.

24.3 If the party affected by Force Majeure fails to comply with its obligations under clause 24.1 no relief for Force Majeure shall be available to it and the obligations of each party shall continue in force.

24.4 If the Force Majeure continues for longer than 3 months either party may immediately terminate this Agreement at any time whilst such Force Majeure continues by notice in writing to the other.

25 CONFIDENTIALITY

25.1 In respect of any Confidential Information of the other party that either party may receive or gain access to in the course of performing their respective obligations under this Agreement, the parties each undertake:

- (a) to apply security measures no less stringent than measures applicable to confidential internal information;
- (b) not to make any unauthorised use or disclosure of such information; and
- (c) where any use or disclosure is authorised, to represent to the other party that no use or disclosure occurs which is in any manner a breach of the authorisation given.

25.2 The Customer further acknowledges that the Software Product and/or the Customer Solution contains materials which are highly confidential in nature and which are trade secrets and proprietary information of the Supplier. Accordingly, and subject always to the Customer's rights in Clause 5.1(a) of Schedule 1 the Customer further undertakes to keep the Software Product and/or the Customer Solution secret and confidential and to ensure that access to the Software Product and/or the Customer Solution shall be restricted to the Authorised User(s) and to such other employees or contractors of the Customer who (in every case) have, prior to any access provided to the Customer, entered into relevant and effective written undertakings of confidentiality.

25.3 The parties agree that the expression "confidential information" used in this Agreement does not extend to:

- (a) information which at the date of its disclosure by one party to the other is already available in the public domain;
- (b) information which comes into the public domain on a date after its disclosure by one party to the other (otherwise than as a result of a breach of this clause 25);
- (c) information disclosed by the receiving party to its employees who need to know the information;
- (d) information which either party receives from a third party not bound by any contractual or fiduciary obligation of confidence in respect of such information; or
- (e) information which the recipient can establish by contemporaneous written evidence was created by it independently prior to that information becoming available from the other party.

25.4 The obligations of confidentiality in this clause 25 shall not be affected by the expiry or termination of this Agreement.

26 PUBLICITY

- 26.1** The Supplier shall have the right to issue media releases, public announcements and public disclosures relating to this Agreement and/or its subject matter, including promotional or marketing material, unless the Customer expressly requests in writing that it should not do so.

27 NON-ALIENATION

- 27.1** This Agreement is made for the benefit of the parties to it and is not intended to benefit, or be enforceable by, any other person pursuant to the Contracts (Rights of Third Parties) Act 1999.
- 27.2** The rights of the parties to terminate, rescind or agree any variation, waiver or settlement under this Agreement are not subject to the consent of any person that is not a party to this Agreement.
- 27.3** The Supplier may at any time assign, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any or all of its rights and obligations under this Agreement (including but not limited to subcontracting any of the Services to any third party).
- 27.4** The Customer may not assign or transfer any of its rights or obligations under this Agreement without the prior written consent of the Supplier and such consent not to be unreasonably withheld.
- 27.5** The Customer may not sub-licence all or any part of its rights or obligations hereunder.

28 NOTICES

- 28.1** A notice given under this Agreement:

- (a)** shall be in writing in the English language (or be accompanied by a properly prepared translation into English);
- (b)** shall be sent for the attention of the person, and to the address or e-mail address given in this clause 28 (or such other person, address or e-mail address as the receiving party may have notified to the other, such notice to take effect five days from the notice being received); and
- (c)** shall be:
 - (i)** delivered personally; or
 - (ii)** sent by e-mail; or
 - (iii)** sent by pre-paid first-class post, recorded delivery or registered post; or

- (iv) (if the notice is to be served or posted outside the country from which it is sent) sent by registered airmail.

28.2 The addresses for service of notice are as set out in clause 4 in Schedule 1.

28.3 A notice is deemed to have been received:

- (a) if delivered personally, at the time of delivery; or
- (b) in the case of e-mail, at the time of transmission, provided a confirmatory copy is sent by first-class pre-paid post or by personal delivery before the end of the next Business Day; or
- (c) in the case of pre-paid first class post, recorded delivery or registered post, 48 hours from the date of posting; or
- (d) in the case of registered airmail, five days from the date of posting; or
- (e) if deemed receipt under the previous paragraphs of this clause 28 is not within business hours (meaning 9.00 am to 5.30 pm Monday to Friday on a day that is not a public holiday in the place of receipt), when business next starts in the place of receipt.

28.4 To prove service, it is sufficient to prove that the notice was transmitted by e-mail to the email address of the relevant party or, in the case of post, that the envelope containing the notice was properly addressed and posted.

29 DISPUTE RESOLUTION

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

- (a) either party shall give to the other written notice of the Dispute, setting out its nature and full particulars (“**a Dispute Notice**”), together with relevant supporting documents. On service of the Dispute Notice, the people listed as “Level 1” in Clause 4 of Schedule 1 shall attempt in good faith to resolve the Dispute;
- (b) if the people listed as “Level 1” in Clause 4 of Schedule 1 are for any reason unable to resolve the Dispute within [30] days of service of the Dispute Notice, the Dispute shall be referred to the people listed as “Level 2” in Clause 4 of Schedule 1 who shall attempt in good faith to resolve it;
- (c) if the people listed as “Level 2” in Clause 4 of Schedule 1 are for any reason unable to resolve the Dispute within [30] days of service of the Dispute being referred to them, the Dispute shall be referred to the people listed as “Level 3” (if any) in Clause 4 of Schedule 1 who shall attempt in good faith to resolve it;
- (d) if the people listed as “Level 3” in Clause 4 of Schedule 1 or (if none) the people listed as, “Level 2” in Clause 4 of Schedule 1 are for any reason unable to resolve the Dispute within [30] days of it being referred to them, the parties agree to enter into mediation in good faith to settle the Dispute in accordance with the CEDR Model Mediation Procedure. Unless otherwise agreed between the parties the mediator shall be nominated by CEDR. To initiate the mediation, a party must serve notice in writing (“**an ADR notice**”) to the other party to the Dispute, referring the

dispute to mediation.

- 29.2** No party may commence any court proceedings in relation to the whole or part of the Dispute until 30 days after service of the ADR notice, provided that the right to issue proceedings is not prejudiced by a delay.
- 29.3** If the Dispute is not resolved within 30 days after service of the ADR notice, [or either party fails to participate or ceases to participate in the mediation before the expiry of that 30 day period, or the mediation terminates before the expiry of that 30 day period, the Dispute shall be finally resolved by the courts of England and Wales in accordance with clause 30.

30 GENERAL

- 30.1** This Agreement, together with the documents referred to in this Agreement (including its recitals) contains the entire agreement between the parties in relation to its subject-matter. Each of the parties irrevocably and unconditionally waives any right it may have to claim damages for, and/or to rescind this Agreement because of breach of any warranty not contained in this Agreement, or any misrepresentation whether or not contained in this Agreement, unless such misrepresentation was made fraudulently.
- 30.2** The Supplier agrees that, in entering into this Agreement, either it did not rely on any representations (whether written or oral) of any kind or of any person other than those expressly set out in this Agreement or (if it did rely on any representations, whether written or oral, not expressly set out in this Agreement) that it shall have no remedy in respect of such representations and (in either case) the Supplier shall have no liability in any circumstances otherwise than in accordance with the express terms of this Agreement.
- 30.3** No purported alteration or variation of this Agreement shall be effective unless it is in writing, refers specifically to this Agreement and is duly executed by an authorised officer of each of the parties to this Agreement.
- 30.4** The rights and remedies of either party in respect of this Agreement shall not be diminished, waived or extinguished by the granting of any indulgence, forbearance or extension of time granted by such party to the other nor by any failure of, or delay by the said party in ascertaining or exercising any such rights or remedies. Any waiver of any breach of this Agreement shall be in writing. The waiver by either party of any breach of this Agreement shall not prevent the subsequent enforcement of that provision and shall not be deemed to be a waiver of any subsequent breach of that or any other provision.

- 30.5** If at any time any part of this Agreement (including any one or more of the clauses of this Agreement or any sub-clause or paragraph or any part of one or more of these clauses) is held to be or becomes void or otherwise unenforceable for any reason under any applicable law, the same shall be deemed omitted from this Agreement and the validity and/or enforceability of the remaining provisions of this Agreement shall not in any way be affected or impaired as a result of that omission.
- 30.6** This Agreement may be entered into in the form of two counterparts, each executed by one of the parties, and, provided that both the parties shall so enter into the Agreement, each of the executed counterparts, shall be deemed to be an original but, taken together, they shall constitute one instrument.
- 30.7** This Agreement shall not be modified except by a document in writing signed by a duly authorised representative of both parties and each party if requested by the other will provide such written confirmation of the authority of any such representative as the other party may reasonably require.
- 30.8** Nothing in this Agreement shall create or be construed so as to create any partnership or joint venture or agency relation between the Supplier and the Customer.

31 GOVERNING LAW AND JURISDICTION

- 31.1** This Agreement and any issues, disputes or claims arising out of or in connection with it (whether contractual or non-contractual in nature such as claims in tort, from breach of statute or regulation or otherwise) shall be governed by, and construed in accordance with, the laws of England.
- 31.2** All disputes or claims arising out of or relating to this Agreement shall be subject to the exclusive jurisdiction of the English Courts to which the parties irrevocably submit.



SCHEDULE 3

VerseOne Group Software and Services Order Form

Order Form Number	
Order Form pursuant to Master Software and Customer Solution Agreement Number	
Commencement Date	
Customer Purchase Order Number	
Term	

SOFTWARE PRODUCT & DELIVERY METHOD

Subscription Licence ☐

Software Product / Version Number	
-----------------------------------	--

Number of Authorised Users	
----------------------------	--

CUSTOMER SOLUTION TERM AND FEES

Initial Licence Period	
Initial Licence Fee	
Payment Schedule for the Initial Licence Fee	
On-Going Licence Fee	
Initial Support Period	
Initial Support Fee	
On-Going Support Fee	
Initial Managed Cloud Services Period	
Initial Managed Cloud Fee	

On-Going Managed Cloud Fee	£
Third Party Licence Fee	£

Statement of Work: As set out in Schedule 4

Anticipated Charges	Price:
Software & Licence costs	
VerseOne CMS Software	
Services – Design Services	
Stakeholder Workshops (1 for CGA website and 1 for Intranet)	
Build for CGA, PVC and Intranet	
Training (4 days on-site)	
Content Migration	
Project Management & Quality Assurance	
VerseOne CMS Annual Support, Maintenance and Hosting	
Sub Total	
VAT	
Total	

Payment Schedule	Price:
Amount payable on date of Order:	
Amount payable on [Design submitted for CGA website]	
Amount payable on [CGA Website – ready to add content]	
Amount payable on [CGA Website ready to Go-Live]	
Amount payable on [Design submitted for PVC website]	
Amount payable on [PVC Website – ready to add content]	
Amount payable on [PVC Website ready to Go-Live]	
Amount payable on [Design submitted for Intranet]	
Amount payable on [Intranet– ready to add content]	
Amount payable on [Intranet ready to Go-Live]	
Sub Total	

	VAT	
	Total	
Estimated timetable for delivery*		Target [start/end date]
This/these date/dates is/are subject to change until the draft project schedule has been discussed by the project team at the External Kick-Off meeting and included within the Project Specification Document deliverable.		Project to start as soon as possible with a target launch

All fees detailed above are valid for 30 days and shall be exclusive of the cost of hotel, subsistence, travelling and any other ancillary expenses reasonably incurred by the Supplier project team in connection with the Order or the provision of the Services. Such expenses, materials and third-party services shall be invoiced to the Customer by the Supplier.

The Customer hereby orders the services described in the Statement of Work document attached to the Order Form which the Supplier agrees to provide, in each case, subject to the terms and conditions of the Supplier's Master Software and Customer Solution Agreement referred to above.

By signing this Software and Services Order Form, you are consenting to the Supplier storing your personal data in their customer contractual records and contacting you with reference to the deliverables listed herein while you remain an authorised representative of the Customer organisation. The Supplier will not share any of your personal identifiable information (PII) with any third party. For information about data protection and your rights, please visit <https://www.verseone.com/privacy>.

Sign:

Sign:

Name:

Name:

Title:

Title:

Date:

Duly authorised for the Customer

Date:

Duly authorised for the Supplier

SCHEDULE 4
STATEMENT OF WORKS

SCHEDULE 5

MANAGED CLOUD SERVICES

PART 1 – TERMS OF MANAGED CLOUD SERVICE

1. Application of this Schedule

- 1.1. This Schedule shall apply to the Software Product and/or the Customer Solution accessed and/or used by the Customer under this Schedule hosted by the Supplier or a hosting partner of the Supplier and accessed by the Customer.

2. The Managed Cloud Service

The Supplier will use reasonable efforts to ensure the Managed Cloud Service is available on a 24/7 basis. However, it is possible that on occasion the Managed Cloud Service may be unavailable to permit maintenance or other development activity to take place, or in the event of Force Majeure. The Supplier will use reasonable efforts to publish on the Supplier website in advance details of any unavailability. Through the use of web services and APIs, the Managed Cloud Service interoperates with a range of third party service features. The Supplier does not make any warranty or representation on the availability of those features. The Supplier will use all reasonable efforts to ensure continuity of Managed Cloud Services in the event of any such unavailability. In particular the Supplier shall:

- 2.1. For the duration of the Cloud Services Period and in consideration of the payment of the Managed Cloud Service Fee relating thereto:
- (a) procure that the Software Product and/or the Customer Solution is hosted on the Managed Cloud Services System and shall be responsible for installing, configuring and managing the Software Product and/or the Customer Solution on that System;
 - (b) use all reasonable endeavours to procure that the Software Product and/or Customer Solution using the Managed Cloud Services system is accessible, uninterrupted and error free, and that if any material errors occur in that System (excluding the Software Product and/or Customer Solution) they will be addressed as soon as reasonably practicable;
 - (c) procure the provision of a reasonable level and robust firewall security and virus protection for the Managed Cloud Services System;
 - (d) procure that storage of regular backups of the Data stored on the Managed Cloud Services System.
- 2.2. The Supplier shall sub-contract the provision of the Managed Cloud Services to a third party hosting partner of the Supplier ("**Partner**").
- 2.3. The Supplier reserves the right to change the Partner subject to the provisions of this paragraph 2.3. In relation to the appointment of any new Partner the Supplier will:
- (a) ensure that any new Partner is at least as compliant as the current Partner with relevant industry standards, and ensure that data remains within the EEA;

- (b) ensure that any new Partner provides sufficient guarantees to implement appropriate technical and organisational measures in such a manner that processing shall meet the requirements of the UK GDPR and ensure the protection of the rights of data subjects;
- (c) notify the Customer in advance of its intention to appoint a new Partner;
- (d) allow the Customer up to 14 days to object to the appointment of the new Partner such objection to be in writing and include reasons why the new Partner should not be appointed and any such objection should be limited to setting out why the appointment of the new Partner would materially prejudice the rights of data subjects under the UK GDPR;
- (e) not appoint the new Partner if the Customer has shown to the Supplier's reasonable satisfaction that the appointment of the new Partner would materially prejudice the rights of data subjects under the UK GDPR and in such an event seek to appoint an alternative Partner for consideration by the Customer;
- (f) comply with the provisions of paragraph 3.10 below.

2.4. The Customer undertakes to comply with:

- (a) the agreed Managed Cloud Service Limits;
- (b) the Partner's acceptable use policy the Supplier shall provide copies of any updated acceptable use policy as soon as practical following it becoming aware of any such update; and
- (c) any other terms of use related to the Managed Cloud Service and notified by the Supplier to the Customer.

2.5. In the event of the appointment of a Partner for the duration of the Managed Cloud Services Period and in consideration of the payment of the Managed Cloud Service Fee, the Supplier shall ensure that the Hosted Services provided by the Partner are no less favourable than those previously offered and as set out in clauses 2 and 2.1 above.

2.6. On the expiry of the Initial Managed Cloud Services Period, the Managed Cloud Services shall, subject to payment of the On-going Managed Cloud Service Fee, automatically renew on an annual basis for further periods of one year unless the Customer gives not less than three months notice of non-renewal in writing to the Supplier, such notice to expire on the last day of the Initial Managed Cloud Services Period or on an anniversary thereof.

2.7. The Customer agrees to pay an additional fee where the parameters for available resources as set out in the appropriate Managed Cloud Service Tier are exceeded, such fee to be notified to the Customer by the Supplier from time to time and in any event no later than 14 days following the reaching of a particular Quarter end for the Managed Cloud Services. The costs for extra resources such as storage, bandwidth and other related Managed Cloud Services overages are contained in the Supplier's Rate Card Schedule 7.

2.8. The Customer shall indemnify the Supplier for any breach of the Partner's acceptable use policy or for any unauthorised access to the Software Product and/or the Customer Solution on the Managed Cloud Service System.

2.9. In the event of failure of the Managed Cloud Service System the Supplier will use all reasonable endeavours to provide or procure the provision of a back-up Cloud Service System as soon as reasonably practicable so as to ensure the uninterrupted provision of the Managed Cloud Services to the Customer.

2.10. The Supplier shall not be liable for any unauthorised access to the Managed Cloud Service System.

3. Conditions of Use of the Managed Cloud Service System

3.1. The Managed Cloud Service System may only be accessed and used by Authorised Users.

3.2. Without prejudice to paragraph 2.5 of this Schedule, the Supplier reserves the right to monitor the Customer's usage of the Software Product and/or the Customer Solution on the Managed Cloud Service System and to review the fees and charges in the event of excessive use and apply the Overage charges as set out in Rate Card, Schedule 7.

3.3. The Customer acknowledges and agrees:

- (a) that it is solely responsible and liable for use of the Managed Cloud Service and the Software Product and/or the Customer Solution by its Authorised Users and End Users. The Customer must notify the Supplier immediately if it suspects that there has been any breach of this provision;
- (b) to use reasonable security precautions in connection with its use of the Managed Cloud Service;
- (c) that there are risks inherent in Internet connectivity that could result in the loss of its privacy, confidential information and property and the Customer must assure itself that there is compliance with all applicable privacy and other laws in respect of the Managed Cloud Service and use of the Software Product and/or the Customer Solution by means of that Service; and
- (d) that it is solely responsible for the suitability of the Managed Cloud Service if the Customer decides to host the Software Product and/or the Customer Solution by themselves.

3.4. Shared access (with non-Customer personnel) to the Software Product and/or the Customer Solution and Managed Cloud System is not permitted under this Agreement without the Supplier's prior written consent.

3.5. The Customer acknowledges that it is aware that use of the Software Product and/or the Customer Solution whether by accessing, utilising, storing or otherwise dealing with the same may from time to time be subject to certain statutory or other external regulations, conditions and restrictions (including but not limited to data protection, financial services, etc regulations). The Customer undertakes to comply with all such regulations, conditions or restrictions.

3.6. The Customer acknowledges that use of the Managed Cloud Service System and the Software Product and/or the Customer Solution requires the Authorised Users to have proper training in use of the same. The Customer warrants that it shall be solely liable to ensure the same.

3.7. Any unauthorised access to or use of the Managed Cloud Service System will entitle the Supplier at its sole discretion, in addition to any other remedy it may have, to

terminate access rights to the Managed Cloud Service System and/or the Software Product and/or the Customer Solution immediately (temporarily or permanently).

- 3.8. The Customer shall not and shall ensure that no other person shall, without the Supplier's express prior written consent:
- (a) make any additions, modifications, adjustments or alterations to the Software Product and/or the Customer Solution or the Managed Cloud Service System;
 - (b) attempt to rectify or permit any persons other than the Supplier or its agent to rectify any fault or inaccuracy in the Software Product and/or the Customer Solution or Managed Cloud Service System; or
 - (c) otherwise tamper with the Software Product and/or the Customer Solution and/or Managed Cloud Service System.
- 3.9. The Supplier may suspend the Managed Cloud Service without liability if:
- (a) it reasonably believes that the Managed Cloud Service is being used in breach of this Agreement;
 - (b) the Customer does not cooperate with the Supplier's reasonable investigation of any suspected breach of this Agreement;
 - (c) there is an attack on the Managed Cloud Service System(s) or it is accessed or manipulated by a third party without consent;
 - (d) required to suspend the Managed Cloud Service by law or a regulatory or government body; or
 - (e) there is another event for which the Supplier reasonably believes that the suspension of the Managed Cloud Service is necessary to protect the Supplier's network or its other customers.
- 3.10. If the Supplier processes any personal data on the Customer's behalf when performing the Managed Cloud Service, the parties record their intention that the Customer shall be the data controller and the Supplier shall be a data processor, and the parties agree to comply with their respective obligations under clause 21 of Schedule 2.

PART 2 – MANAGED CLOUD SERVICE LIMITS for the Customer's Content

Gold Tier Managed Cloud Service Maximum disk space 10GB:

Data transfer per month 20GB:

SCHEDULE 6

CHANGE CONTROL PROCEDURE

- 1 The Supplier and the Customer shall discuss any change to the Customer Solution and or any Project(s) contained therein ("**Change**") proposed by the other and such a discussion shall result in either:
 - (a) a written request for a Change by the Customer; or
 - (b) a written recommendation for a Change by the Supplier,or, if neither the Customer nor the Supplier wishes to submit a request or recommendation, the proposal for the Change will not proceed.
- 2 Where a written request for a Change is received from the Customer, the Supplier shall, unless otherwise agreed, submit a "Change Control Request Form" (CCRF) to the Customer within the period agreed between them or, if no such period is agreed, within ten (10) Business Days from the date of receipt of such request for a Change. A sample CCRF template is attached (see Appendix A).
- 3 A written recommendation for a Change by the Supplier shall be submitted as a CCRF direct to the Customer at the time of such recommendation.
- 4 Each CCRF shall contain:
 - (a) the originator and the date of the request or recommendation for the Change;
 - (b) the sequential number for the CCRF;
 - (c) the title of the Change;
 - (d) the reason for the Change;
 - (e) the full details of the Change, including any specifications and user facilities;
 - (f) the price if any of or associated with the Change;
 - (g) a timetable for implementation, together with any proposals for acceptance of the Change;
 - (h) the impact, if any, of the Change on other aspects of the Customer Solution and/or Project, including:
 - (i) the Charges;
 - (ii) the contractual documentation;
 - (iii) staff resources; and
 - (iv) delivery dates and timetables;
 - (i) the date of expiry of validity of the CCRF (which shall not be less than **[10]** Business Days); and
 - (j) provision for signature of the CCRF by the Customer and the Supplier.

- 5** For each CCRF submitted, the Customer shall, within the period of validity of the CCRF as set out in paragraph 4(h) of this Schedule 2:
- (a)** evaluate the CCRF, and as appropriate either:
 - (i)** request further information; or
 - (ii)** approve the CCRF; or
 - (iii)** notify the Supplier of the rejection of the CCRF; and
 - (b)** if approved, arrange for two copies of the approved CCRF to be signed for and on behalf of the Customer and the Supplier. The signing of the CCRF shall signify acceptance of a Change by both the Customer and the Supplier, and acceptance by the Customer to pay any associated charges.
- 6** Once signed by the Customer and the Supplier in accordance with paragraph 5(c) of this Schedule 6, the Change shall be immediately effective and the Customer and the Supplier shall perform their respective obligations on the basis of the agreed amendment.

SCHEDULE 7

RATE CARD

AVAILABLE ON REQUEST AND SUBJECT TO AMENDMENT FROM TIME TO TIME IN ACCORDANCE WITH CLAUSE 13.8 OF SCHEDULE 2

SCHEDULE 8

DEFINITIONS AND INTERPRETATION

1.1 Definitions

In this Agreement:

Acceptable Use Policy: means the Supplier's Acceptable Use Policy as amended from time to time the current version of which is attached as Schedule 10.

Acceptance: means the acceptance or deemed acceptance of completion of a Phase, a Project or the Customer Solution (as applicable) by the Customer pursuant to clause 8 of Schedule 2;

Acceptance Tests: means the tests (if any) to be carried out on completion of each Phase of a Project as set out in the project schedule incorporated into the relevant Project Specification Document;

Agreement: means this agreement, the schedules, and any accepted Order;

Agreement Date: means the date this Agreement is signed by both parties;

Authorised Users: means the individual(s) or class of individual(s) all being bona fide employees or contractors of the Customer permitted to use the Customer Solution;

Business Day: means any day (other than a Saturday or Sunday) when banks are generally open for normal business in London;

Change Control Procedures: means the procedures set out in Schedule 6;

Charges: means the charges payable by the Customer in respect of the Services to be provided pursuant to an Order, but excluding Fees;

Commencement Date: means the date of this Agreement and in relation to each Order the Order Commencement Date;

Completion Date: means the deadline for completion and delivery of the Customer Solution in its entirety or one or more of the Project(s) it may contain as set out in the appropriate Project Specification Document;

Confidential Information: means all information which is secret, proprietary in nature, acquired in any circumstances implying an obligation of confidence or otherwise not publicly available (in both cases either in its entirety or in part), including commercial, financial, marketing or technical information, know-how, trade secrets or business methods or Personal Data, in all cases whether disclosed orally or in writing before or after the date of this Agreement;

Content: means the content provided by the Customer from time to time for incorporation in any Project or as part of the Customer Solution (including but not limited to text copy, information, images, graphic files, audio-visual content, user accounts and other media materials);

Contribution means: the materials as defined and in adherence to the content standards set out in Schedule 10.

Customer Solution: means the Software Products or other Services of the Supplier, together the “Customer Solution”. The Customer Solution includes but is not limited to website, intranet, extranet or other web-based or mobile solution to be developed, deployed or hosted utilising the Software Product, other third-party software and knowhow including but not limited to web services, APIs (which for the avoidance of doubt will form a part of the Customer Solution), and which is the subject of an Order, but excluding the Content;

Data: means the computer records of the Customer which are, from time to time, stored on the Managed Cloud Service System or otherwise transferred to the Supplier by the Customer;

Data Protection Laws: 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); the Privacy and Electronic Communications Regulations 2003 (SI 2003/2426) as amended; and the guidance and codes of practice issued by the Information Commissioner and which are applicable to a party;

End User: means the end user of the Customer Solution;

Equipment: means the Customer’s computer hardware identified by type and server host name and ID in the Order Form;

Escrow Agreement: means an escrow agreement between the Supplier, the Customer and a third party escrow agent.

Extended Licence Period: means each additional period of one year for which the Licence is extended pursuant to clause 2.4 of Schedule 2;

Extended Managed Cloud Service Period: means each additional period of one year for which the Managed Cloud Service is extended pursuant to clause 2.6 of Schedule 2;

Extended Support Period: means each additional period of one year for which the support and maintenance services are extended pursuant to clause 2.8 of Schedule 2;

Fees: means the Licence Fee and if applicable, the Service Fee, the Support Fee, Managed Cloud Service Fee and Third Party Fee (As applicable);

Force Majeure: means any event outside the reasonable control of either party affecting its ability to perform any of its obligations (other than payment) under this Agreement including Act of God, fire, flood, lightning, war, revolution, act of terrorism, riot or civil commotion;

Inappropriate Content: has the meaning given in clause 19.2;

Initial Managed Cloud Service Fee: means the fee payable for the **Managed Cloud Service** during the Initial Managed Cloud Services Period as set out in the Order Form;

Initial Managed Cloud Services Period: means the period set out in the Order for the provision of the Managed Cloud Services which shall be a minimum of 36 months from the Order Commencement Date unless otherwise mutually agreed;

Initial Licence Fee: means the fee payable for the Software Product and/or Customer Solution during the Initial Licence Period;

Initial Licence Period: means the period set out in the Order Form being 36 months unless otherwise mutually agreed;

Initial Support Fee: means the fee payable for Support and Maintenance during the Initial Support Period as set out in the Order Form;

Initial Support Period: means the period set out in the Order Form which shall be a minimum of 36 months from the Order Commencement Date unless otherwise mutually agreed;

Intellectual Property Rights: means any patent, copyright, trade mark, service mark or trade name, right in software, right in design, right in databases, image right, moral right, right in an invention, right relating to passing off, domain name, right in confidential information (including trade secrets) or right of privacy, and all similar or equivalent rights in each case whether registered or not and including all applications (or rights to apply) for, or renewal or extension of, such rights which exist now or which will exist in the future in the United Kingdom and all other countries in the world;

Licence: means the non-exclusive, non-transferable licence granted by the Supplier to the Customer for the Intellectual Property Rights in the Software Product and/or the Customer Solution to the Customer, as set out in Schedule 1 of this Agreement;

Licence Fee: means the Initial Licence Fee plus the On-going Licence Fee;

Licence Period: means (i) in perpetuity in the case of a perpetual licence and (ii) the Initial Licence Period plus the Extended Licence Period in all other cases;

Maintenance Releases: means any new release of the Software Product and/or the Customer Solution or supplementary code or software updates relating thereto which corrects faults, adds minor functionality or otherwise amends or upgrades the Software Product and/or the Customer Solution, and which is not a New Version;

Managed Cloud Service Limits: means the storage capacity, data transfer limits and other usage related metrics relating to the Managed Cloud Service as set out in part 2 of Schedule 5;

Managed Cloud Service Fee: means (a) the Initial Managed Cloud Service Fee and (b) the On-going Managed Cloud Service Fee payable for the Managed Cloud Service as set out in the Order Form;

Managed Cloud Service Period: means (a) the Initial Managed Cloud Services Period and (b) any Extended Managed Cloud Period;

Managed Cloud Service: means the provision of secure and dedicated spaces within a virtualised cloud server environment located in a specialised data centre operated by the Supplier or a third party hosting partner of the Supplier, for use by the Customer for the purpose of running the Software Product and/or the Customer Solution;

Managed Cloud Service System: means the infrastructure the Software Product and/or the Customer Solution is hosted on;

Materials: means any documentation relating to the Software Product and/or the Customer Solution, including but not limited to project documentation, pricing, operating manuals, performance statistics and technical specifications.

New Versions: means any new version, release or module of the Software Product and/or the Customer Solution which the Supplier in its absolute discretion may designate as a New Version.

Non-Supplier Defects: means defects caused by an act or omission of the Customer, or by one of the Customer's subcontractors or agents for whom the Supplier has no responsibility;

On-going Managed Cloud Service Fee: means the annual fee payable for the provision of **Managed Cloud Service** for each year of the Extended Cloud Services Period following the end of the Initial Managed Cloud Services Period, as set out in the Order Form;

On-going Licence Fee: means the annual licence fee payable for each year of the Extended Licence Period following the end of the Initial Licence Period, as set out in the Order Form;

On-going Support Fee: means the annual fee payable for Support and Maintenance for each year of the Extended Support Period following the end of the Initial Support Period, as set out in the Order Form;

Order: means an order for the provision of the Services constituted by the Customer's acceptance of an Order Form under Clause 4 of Schedule 2;

Order Commencement Date: means the date on which the Services and Licence in any Order are to commence which if not specified in writing on the Order Form shall be the date on which the Customer accepts the Order Form under Clause 4 of Schedule 2;

Order Form: means the document, substantially in the form set out in Schedule 3, prepared by the Supplier (to which will be attached the Statement of Work Document as appropriate) which will contain: (i) the estimated timetable for completion of the Customer Solution to be delivered; (ii) a schedule of the anticipated Charges; and (iii) the Payment Schedule relating thereto;

Payment Schedule: means the payment schedule of the Charges, as set out on the Order Form;

Personal Data: means personal data as defined in the Data Protection Act 2018 processed in respect of which the Customer is the data controller as defined in that act;

Phases: means the phases for the delivery of a Project relating to the Software Product and/or the Customer Solution (based upon the Supplier Implementation Methodology) as described in the Statement of Work Document and further expanded upon as appropriate within the relevant Project Specification Document (and "**Phase**" means any of them);

Project: means the development of one distinct element of a Customer Solution which is to be delivered by the Supplier in accordance with the terms of this Agreement;

Project Specification Document: means the document setting out the detailed project plan and any technical, functional and creative design specifications of an individual

Project agreed between the Customer and the Supplier as per the Order Form and the Statement of Work Document, which shall include, *inter alia*, the detailed description of the Phases of that Project, the timetable and details of the deliverables thereof, a schedule of any Third Party Products required, and details of the responsibilities of the Customer;

Rate Card: means the Supplier's rates for the provision of services set out in Schedule 7 (as amended from time to time in accordance with the provisions of clause 13.8.

RPI: means the UK Retail Price Index or such index that may replace it in whole or in part from time to time.

Services: means:

- (a) the Support and Maintenance Services for the Support Period (if the Customer has elected to subscribe to these by indicating so on the Order Form);
- (b) the Managed Cloud Services for the Cloud Services Period (if the Customer has elected to subscribe to these by indicating so on the Order Form)
- (c) the development, delivery of and access to the Customer Solution;
- (d) the creative design, build, development, project management, training and other services to be provided by the Supplier pursuant to an Order; and

all in accordance with this Agreement and as set out in the Order Form and the relevant Statement of Work Document.

Service Fee: means the fees for other Services as set out on the Order Form and not included in the License Fee, the Managed Services Fee or the Support Fee;

Software Product: means the software for the Customer Solution licensed by the Supplier to the Customer pursuant to this Agreement in executable code form (a) identified by the title and release number in the Order Form (b) any relevant New Versions subsequently distributed by the Supplier and (c) any modifications thereto;

Supplier Implementation Methodology: means the description of the typical Phases and deliverables and milestones of a Project based on the Supplier's standard project implementation methodology;

Statement of Work Document: means the document attached to an Order Form substantively in the form of Schedule 4, prepared by the Supplier in response to the Customer's purchase order, request for tender document or other request for the provision of the Software Product and/or the Customer Solution and/or Services, which shall include a description of the Customer Solution and the Services required to deliver it, including a summary of (each of) the Project(s) and a list of the Supplier Software Product(s) and any Third Party Products required;

Support Fee: means (a) the Initial Support Fee and (b) any On-going Support Fee;

Support and Maintenance Services: means the customer support and maintenance services to be provided by the Supplier to the Customer under this Agreement as set out in Clause 3 of Schedule 2;

Support Period: means (a) the Initial Support Period and (b) any Extended Support Period;

Third Party Products: those third party software products (if any) set out in the Statement of Work Document;

Third Party Fee: means the fees payable for any Third Party Products

Visitor: a visitor (whether internal or external) to the Customer's website, intranet, extranet or other web-based solution of the Customer to which the Services relate.

UK GDPR: means the GDPR as it applies from time to time in the UK including by reference to the Data Protection 2018.

Year: twelve calendar months.

- 1.2 The headings in this Agreement are inserted for convenience only and shall not affect the interpretation or construction of this Agreement.
- 1.3 Words expressed in the singular shall include the plural and vice versa. Words referring to a particular gender include every gender. References to a person include an individual, company, body corporate, corporation, unincorporated association, firm, partnership or other legal entity.
- 1.4 The words "other", "including" and "in particular" shall not limit the generality of any preceding words or be construed as being limited to the same class as any preceding words where a wider construction is possible.
- 1.5 References to any statute or statutory provision shall include (i) any subordinate legislation made under it, (ii) any provision which it has modified or re-enacted (whether with or without modification), and (iii) any provision which subsequently supersedes it or re-enacts it (whether with or without modification).
- 1.6 All references in this Agreement to clauses and schedules are to the clauses and schedules contained in this Agreement.

SCHEDULE 9

UK GDPR

PART I – AUTHORISED SUB-PROCESSORS

Part I of this schedule sets out those third party processor(s) of Personal Data which the Customer has given the Supplier specific authorisation to appoint pursuant to Clause 2.2 of Schedule 5 as required by Article 28(2) UK GDPR.

Sub Processor – Microsoft Ltd, Thames Valley Park, Reading, RG6 1WG

All data is held in Microsoft UK South Data Centre.

PART II - PROCESSING OF PERSONAL DATA

Part II of this schedule includes certain details of the Personal Data that the Supplier will process as required by Article 28(3) UK GDPR.

Subject matter and duration of the processing of Personal Data

The Customer will process Personal Data as necessary to perform its obligations under this Agreement in relation to the use by the Customer and those authorised by it of the Software Product and/or the Customer Solution.

The Personal Data shall only be held for the length of time the Managed Cloud Services are to be performed for the Customer except as otherwise required by the Data Protection Laws.

The nature and purpose of the processing of Personal Data

Processing of Data Subjects' Personal Data for the purposes of providing the Managed Cloud Services at the request of the Customer.

The types of Personal Data to be processed

Personal Data of Authorised Users who use the Software Product and/or the Customer Solution, the extent of which is determined and controlled by Customer in its sole discretion, and which may include, but is not limited to the following categories of Personal Data:

[Customer to define]

- First and last name
- Title
- Position
- Employer
- Contact information (company, email, phone, physical business address)

- Localisation data

and any other information generated from such personal information.

The categories of data subject to whom the Personal Data relates

Personal Data of Authorised Users who use the Software Product, and/or the Customer Solution the extent of which is determined and controlled by Customer in its sole discretion, and which may include, but is not limited to the following categories of Personal Data, the extent of which is determined and controlled by Customer in its sole discretion, and which may include, but is not limited to Personal Data relating to the following categories of data subjects:

- Authorised Users (being employees of the Customer)

The obligations and rights of the Customer additional to the obligations and rights set out in the Agreement

Any rights provided for by the applicable data protection laws.

SCHEDULE 10

ACCEPTABLE USE POLICY

This acceptable use policy sets out the Content standards that apply when the Customer uses or allow others to use the Software Products or other services of the Supplier together the “Customer Solution”. The Customer Solution includes but is not limited to any website, intranet, extranet or other web-based or mobile solution developed, deployed or hosted utilising the Supplier’s Software products, Services or know how either alone or together with any third party software.

BY USING the Supplier’s Software Product and/or the Customer Solution the Customer ACCEPTS THESE TERMS

1 By using the Supplier’s Software Products and/or the Customer Solution or other Services, the Customer confirms the acceptance of the terms of this policy and that the Customer agrees to comply with them.

2 If the Customer does not agree to these terms, the Customer must not use the Supplier Software Product and/or the Customer Solution.

3 The Customer acknowledges that the Customer will be responsible for violations of this policy by third parties that have gained access to the Supplier Software Products and/or the Customer Solution through the Customer.

THERE ARE OTHER TERMS THAT APPLY TO THE CUSTOMER.

These terms need to be read in conjunction with and form part of the Terms and Conditions on which the Customer uses the Supplier Software Product and/or the Customer Solution.

THE SUPPLIER MAY MAKE CHANGES TO THE TERMS OF THIS POLICY

These terms may be amended from time to time. Every time the Customer wishes to use the Supplier Software Product and/or Customer Solution the Customer needs to check these terms to ensure the Customer understands the terms that apply at that time.

PROHIBITED USES

The Customer may use the Supplier Software Product and/or the Customer Solution only for lawful purposes. The Customer may not use or allow others to use the Supplier Software Product and/or the Customer Solution:

- In any way that breaches any applicable local, national or international law or regulation.
- In any way that is unlawful or fraudulent or has any unlawful or fraudulent purpose or effect.
- For the purpose of harming or attempting to harm minors in any way.
- To bully, insult, intimidate or humiliate any person.
- To send, knowingly receive, upload, download, use or re-use any material which does not comply with our content standards (set out below)

- To transmit, or procure the sending of, any unsolicited or unauthorised advertising or promotional material or any other form of similar solicitation (spam).
- To knowingly transmit any data, send or upload any material that contains viruses, Trojan horses, worms, time-bombs, keystroke loggers, spyware, adware or any other harmful programs or similar computer code designed to adversely affect the operation of any computer software or hardware.

CONTENT STANDARDS

These content standards apply to any and all material which the Customer uploads, posts or contributes or allows to be uploaded, posted or contributed by others to ("**Contribution**").

The Content Standards must be complied with in spirit as well as to the letter. The standards apply to each part of any Contribution as well as to its whole.

The Supplier will determine, in its discretion, whether a Contribution breaches the Content Standards.

A Contribution must:

- Be accurate (where it states facts).
- Be genuinely held (where it states opinions).
- Comply with the law applicable in England and Wales and in any country from which it is posted.

A Contribution must not:

- Be defamatory of any person.
- Be obscene, offensive, hateful or inflammatory.
- Bully, insult, intimidate or humiliate.
- Promote sexually explicit material.
- Include child sexual abuse material.
- Promote violence.
- Promote discrimination based on race, sex, religion, nationality, disability, sexual orientation or age.
- Infringe any copyright, database right or trademark of any other person.
- Be likely to deceive any person.
- Breach any legal duty owed to a third party, such as a contractual duty or a duty of confidence.
- Promote any illegal content or activity.
- Be in contempt of court.

- Be threatening, abuse or invade another's privacy, or cause annoyance, inconvenience or needless anxiety.
- Be likely to harass, upset, embarrass, alarm or annoy any other person.
- Impersonate any person or misrepresent the Customer's identity or affiliation with any person.
- Give the impression that the Contribution emanates from us, if this is not the case.
- Advocate, promote, incite any party to commit, or assist any unlawful or criminal act such as (by way of example only) copyright infringement or computer misuse.
- Contain a statement which the Customer knows or believes, or has reasonable grounds for believing, that members of the public to whom the statement is, or is to be, published are likely to understand as a direct or indirect encouragement or other inducement to the commission, preparation or instigation of acts of terrorism.

BREACH OF THIS POLICY

When the Supplier considers that a breach of this Acceptable Use Policy has occurred, The Supplier may take such action as deemed appropriate.

Failure to comply with this Acceptable Use Policy constitutes a material breach of the terms upon which the Customer is permitted to use the Supplier Software Product and/or the Customer Solution, and may result in the Supplier taking all or any of the following actions:

- Immediate, temporary or permanent withdrawal of the right to use the Supplier Software Product and/or the Customer Solution.
- Immediate, temporary or permanent removal of any Contribution uploaded by the Customer.
- Issue of a warning to the Customer.
- Legal proceedings against the Customer for reimbursement of all costs on an indemnity basis (including, but not limited to, reasonable administrative and legal costs) resulting from the breach.
- Further legal action against the Customer.
- Disclosure of such information to law enforcement authorities as the Supplier reasonably feels is necessary or as required by law.

The Supplier excludes liability for all action that it may take in response to breaches of this Acceptable Use Policy. The actions that may be taken by the Supplier are not limited to those described above, and the Supplier may take any other action as it reasonably deems appropriate.