



Software and services agreement

Signed in agreement of schedules and master agreement

	Customer	3C Consultants Limited
Company	XXX ("the Client") xx	3C Consultants Ltd ("3C") Clearways Colleys Way Reigate Surrey RH2 9JH
Name		Colin Sales
Job title		CEO
Signature		xx
Date		xx

Schedule 1 – Software and services

Contract term (1a)	
Contract Date	Dd mmmmmmm yyyy
Initial Term	TBA - x year(s)

Software (1b)	Qty	Annual Licence	Total
3C Data Logic automated data processing and management platform			
Structured data	1	£xxxx	£xxxx
Unstructured data	1	£xxxx	£xxxx
AI Data Query	0	£xxxx	£xxxx
Total		£xx	£xx

Services (1c)	Qty	Rate	Fee
Support	1	£xxxx	£xxxx
Maintenance “standard” (maximum of 2 releases p.a. per instance)	1	£3300	£xxxx
Additional maintenance releases per deployed instance (NB: If client complies with Cyber Essentials we recommend an additional 2 releases p.a. per instance)	xx	£1650	£xxxx
Installation	xx	£995	£xx
Project management	xx	£1095	£xx
Configuration and training	xx	£995	£xx
Additional services	xx	£995	£xx
Total			£xx

Standard Service Rates	
Director	£1,250
Project management and senior consultant	£1095
Data consultant/Analyst	£995

All prices are in GBP (Pounds Sterling) exclude VAT and expenses.

Expenses (1d)
Travel by car is charged at the prevailing HMRC mileage rate.
Other expenses for travel to the Client including but not limited to rail, parking, taxis, hotels, subsistence including lunch are charged at cost.

Schedule 2 – Payment terms

(1) All Licence and Services Charges will become due on order.

(2) Invoices are due for payment on 30 days

Future Software Charges will be invoiced annually in advance and will become due and payable prior to the commencement of the anniversary of this agreement or the Delivery Date whichever is the sooner.

Schedule 3 – Permitted purpose and restrictions

The fees for the software are based on the Client managing no more than **xxxxx** units. If the Client exceeds this limit, then 3C has the right to make additional Charges for the Software, Support and Maintenance.

The licence permits connection to: **unlimited structured data sources; unlimited SharePoint sites, unlimited Exchange online mailboxes, and unlimited Shared Drives.**

The licence permits use of the software by any number of users.

Schedule 4 – Support and maintenance

1. SUPPORT

- 1.1. During the continuance of this Agreement, 3C may provide (if specified in schedule 1(c)) to the Client the following support and maintenance services for the Software in schedule 1b:
 - 1.1.1.A telephone hotline for the Client's designated co-ordinators during 3C's normal working hours to request assistance with reporting and diagnosing Errors.
 - 1.1.2.3C may provide remote assistance using a secure connection provided by the Client to the Client's equipment. On-site assistance will be provided by 3C on an exceptions basis if in the opinion of 3C it is necessary to resolve the problem.
 - 1.1.3.Diagnosis of Errors or assistance to overcome specific Software problems.
- 1.2. The Client shall supply in writing to 3C a detailed description of any Error requiring support services and the circumstances in which it arose, and shall submit sufficient material and information to enable 3C's support staff to duplicate the problem.
- 1.3. When appropriate, 3C will endeavour to give an estimate of how long a problem may take to resolve. 3C will keep the Client reasonably informed of the progress of problem resolution. 3C's support staff will attempt to solve a problem immediately, or as soon thereafter as possible and the response times shall be:
 - 1.3.1.Between Monday to Friday from 09.00 to 17.00 (excluding public and bank holidays in England and further excluding 1 extra day over each Christmas period. 3C shall use its reasonable endeavours to respond within ten (10) working hours of receipt of a request.

2. MAINTENANCE

- 1.4. During the continuance of this Agreement 3C shall provide the Client with the following maintenance services for the Software in schedule 1a if a maintenance agreement is in place as defined in schedule 1(c).
- 1.5. Error Correction
 - 1.5.1.If the Client shall discover that the facilities and functions of a current release of the Software fail to operate materially in compliance with the Documentation when properly used with the Approved Environment in accordance with the Documentation, then the Client shall, within fourteen days after such discovery, notify 3C (in writing in accordance with schedule 4 paragraph 1.2) of the Error in question and provide 3C (so far as the Client is able) with a documented example of such Error.
 - 1.5.2.3C shall use its reasonable endeavours to correct material Errors promptly. Upon such correction being completed, 3C shall deliver to the Client the corrected version of the Object Code of the current release in machine readable form, together with the appropriate amendments (if any) to the Documentation, specifying the nature of the correction and providing instructions for the proper use of the corrected version of the current release. The Client is responsible for the installation of corrected versions.
 - 1.5.3.The foregoing error correction service shall not include service in respect of:
 - 1.5.3.1. Errors resulting from any modifications of the Software made by any person other than 3C;
 - 1.5.3.2. Any version of the Software other than the current release or the immediate current release;
 - 1.5.3.3. Incorrect use of the current release or operator error;

1.5.3.4. Any fault in the Approved Environment or in any programs used in conjunction with the current release;

1.5.3.5. Errors caused by the use of the current release on or with equipment (other than the Approved Environment) or programs not approved in writing by 3C.;

1.5.4.3C shall make an additional charge in accordance with its Standard Service Rates for the time being in force for any Services provided by 3C:

1.5.4.1. At the request of the Client, but which do not qualify under the aforesaid error correction service by virtue of any of the exclusions referred to in Clause 2.2.3 above; or

1.5.4.2. At the request of the Client but which 3C reasonably finds are not necessary. For the avoidance of doubt nothing in this paragraph shall impose any obligation on 3C to provide Services in respect of any of the exclusions referred to in Clause 2.2.3.

1.6. Releases

1.6.1.3C shall promptly notify the Client of any improved version of the Software that 3C shall from time to time release and the timetable for the release being available to the Client. Standard maintenance provides for a maximum of two releases per annum.

1.6.2.3C shall deliver to the Client the Object Code of the new release in machine-readable form together with the Documentation.

1.6.3. The Client is responsible for the installation of additional releases required over that provided under standard maintenance. If required by the Client, 3C shall provide Services to install the new release at 3C's Standard Service Rates for the time being in force.

1.6.4. If required by the Client, 3C shall provide training for the Client's staff in the use of the new release at 3C's Standard Service Rates for the time being in force as soon as reasonably practicable after the delivery of any new release.

1.6.5. The new release shall thereby become the current release and the provisions of this Agreement shall apply accordingly.

1.6.6. If the Client is not able to Use the new release because it has material Errors not present in the current release, then the Client may continue to Use the current release until such time as 3C provide corrections to the Software.

1.7. 3C will from time to time make such modifications to the current release as shall ensure that the current release conforms to any change of legislation or new legal requirements which affect the application of any function or facility described in the Documentation. 3C shall promptly notify the Client in writing of all such changes and new requirements and shall implement the modifications providing a new release (and all consequential amendments to the Documentation which may be necessary to enable proper use of such modifications) as soon as reasonably practicable thereafter. 3C shall have the right to make reasonable Charges for such modifications.

3. EXCLUDED SUPPORT AND MAINTENANCE

1.8. 3C shall be under no obligation to provide Support and Maintenance in respect of:

1.8.1. Any service requirement resulting from any modifications or customisation of the Software, Documentation or the Approved Environment not authorised in writing by 3C. For the avoidance of doubt, modifications to the Software and Documentation shall include but not be limited to changes to the logical or physical database schema for the Software, changes to the disk layout and configuration, and hand-modified changes to the data within the database;

- 1.8.2.Errors in Specially Written Software which result from changes made to programs not supplied by 3C;
 - 1.8.3.Any software other than the Software or any service requirement relating to the Software that results from such other software (other software includes Java RTE, Apache Tomcat, Elastic Search and Windows (or other) operating system);
 - 1.8.4.Incorrect or unauthorised use of the Software or operator error (which means use or operation otherwise than in accordance with the Documentation);
 - 1.8.5.Any service requirement resulting from insufficient training;
 - 1.8.6.Any error, fault or other service requirement in relation to the Approved Environment;
 - 1.8.7.Any programs used in conjunction with the Software or any service requirement relating to the Software that results from such other software;
 - 1.8.8.Use of the elements of the Software in any combination other than those specified in the Documentation;
 - 1.8.9.Use of the Software with computer hardware, operating systems or other supporting software other than the Approved Environment;
 - 1.8.10. The Client's failure to install and use upon the Approved Environment in substitution for the previous release a new release of the Software within seven (7) days of receipt of the same;
 - 1.8.11. Any service requirement resulting from the Use by the Client or any person authorised or suffered or permitted by the Client of the Software or Documentation or Media otherwise than in accordance with the terms and conditions of the Licence or the other terms and conditions of this Agreement;
 - 1.8.12. Any matter that falls within the scope of the Client's responsibilities under schedule 6;
 - 1.8.13. Any corruption of the Software or Documentation or Media.
- 1.9. 3C shall upon request by the Client provide Support and Maintenance Services notwithstanding that the Error results from any of the circumstances described in Clause 3.1 above. Any time spent by 3C investigating such Errors will be chargeable at 3C's Standard Service Rates. 3C shall invoice such charges at its discretion and such shall be paid within 30 days of the date of said invoice.
- 1.10. 3C reserves the right to discontinue the Support and the Maintenance Services for any prior version of the supported Software if a superseding version is available to the Client.
- 1.11. 3C shall not be obliged to make modifications or provide support in relation to the Client's computer hardware, operating system software, or third party application software or any data feeds or external data.
- 1.12. Where the Client seeks to comply with Cyber Essentials Accreditation (or similar) and the Client's scanning software products identify anomalies in Java RTE, Apache Tomcat, Elastic Search or Windows Operation System that necessitate an update to the Software, then where the frequency of such releases is more than that provided for in the standard maintenance agreement (currently two releases per deployed instance, per annum) then these events will be considered to be an additional release and services charged as per schedule 1(c).

Schedule 5 – Approved environment

The Approved Environment for deployment of the software is defined in the technical requirements documentation for the software purchased in schedule 1b. These documents may be amended from time to time.

Schedule 6 – Client's responsibilities

The Client's responsibilities include but are not limited to:-

1. All matters concerning the procurement, operation and maintenance of the Approved Environment, installation, testing, maintenance and operation of the Software, training and supervision of the Client's permitted employees and contractors in their Use of the Software and the system and other associated matters that are not expressly the responsibility of 3C under the agreement;
2. Providing and maintaining appropriate equipment for the Use of the Software. If a new release requires a change to the Approved Environment then the Client will make such changes as are necessary for the Use of the Software;
3. The allocation of the Client's own resources to ensure that timescales and dates in the Project Plan are met;
4. Accepting the software after the Delivery Date;
5. Ensuring at all times that there is a 'Super User' who is fully trained in the Use of the Software;
6. Providing adequate secure remote access for 3C to the Software, for 3C to provide the Support and Maintenance Services if contracted to do so;
7. The security of the System;
8. Providing adequate protection from computer software viruses;
9. Undertaking and validating backups;
10. Disaster recovery policies and their implementation;
11. Protecting data in the event of System failure;
12. For planning and scheduling the roll-out of new releases that 3C provides from time to time;
13. For reporting Use of the Software that exceeds the Licence restrictions stated in or under this Agreement.

RECITALS

- (A) 3C has developed Software and may optionally provide Support, Maintenance and other Services (as defined in schedule 1c) to implement, support and maintain the Software.
- (B) The Client wishes to licence the Software from 3C and optionally procure associated Services. The terms on which 3C is willing to grant a licence of the Software and provide Services to the Client and the terms of any associated arrangements are set out in this Agreement.

1 DEFINITIONS

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

Acceptance	means actual or deemed acceptance of the Software by the Client pursuant to Clause 6;
Additional Services	means any consultancy, training or development services that may or may not be included in schedule 1c and which are requested by the Client and provided by 3C;
AI Data Query	Artificial Intelligence Data Query software module that works with the SCALONG AI and OpenAI API services to provide natural language query functionality within the 3C software
Approved Environment	means such computer equipment and operating software required for the Use of the Software as may be specified by 3C from time to time and is as presently listed in schedule 5;
Charges	means the fee for the Software, Services and Support and Maintenance Services provided under this Agreement as specified in Schedule 1(b) and Schedule 1(c). Charges may vary each year in accordance with Clause 4.
Change	any change or variation to (1) the Services or Software Maintenance and Support Services, or (2) any change or variation requested by the Customer to the Software, to be supplied under this Agreement agreed between the parties in accordance with Clause 16
Change Notice	Any notice from one party to the other expressed to be given under Clause 16;
Client	means the Client named above and any parent company or subsidiary or other subsidiary of its parent company
Client Data	means any Personal Data provided by the Client to 3C
Data Protection Authority	means any organisation which is responsible for the supervision, promotion and enforcement of the Data Protection Legislation, including the Information Commissioner's Office (or any joint, like, replacement or successor organisation from time to time).

Data Protection Legislation	means all privacy laws applicable to the personal data which is processed under or in connection with this Agreement, including the DPA and UK GDPR as amended, updated and/or replaced from time to time;
DPA	means the Data Protection Act 2018 as amended, updated and/or replaced from time to time;
Data Subject	has the meaning given under UK GDPR
Delivery Date	means the date agreed between 3C and the Client's representative for the delivery of the Software to the Location and installation of the Software at the Location;
Documentation	means such operating manuals, user instructions, technical literature and any other related materials supplied (in such form or format as 3C may decide) to the Client by 3C from time to time (including pursuant to Schedule 4 paragraph 2.4) for aiding the use and application of the Software;
Error	any error of the Software that hinders or prevents the Client from using any of the functionality of the Software in accordance with the Documentation, or any failure of the Software to perform in accordance with the Documentation;
UK GDPR	Regulation (EC) 2016/679 as it applies in the United Kingdom as amended, updated and/or replaced from time to time;
Insolvency Event	in relation to either party: - other than for the purposes of a bona fide reconstruction or amalgamation, that party passing a resolution for its winding up, or a court of competent jurisdiction making an order for it to be wound up or dissolved, or that party being otherwise dissolved; or - the appointment of an administrator of, or the making of an administration order in relation to that party, or the appointment of a receiver or administrative receiver of, or an encumbrancer taking possession of or selling, the whole or any part of that party's undertaking, assets, rights or revenue; or - that party entering into an arrangement, compromise or composition in satisfaction of its debts with its creditors or any class of them, or taking steps to obtain a moratorium, or making an application to a court of competent jurisdiction for protection from its creditors; or - that party being unable to pay its debts, or being capable of being deemed unable to pay its debts, within the meaning of section 123 of the Insolvency Act 1986.
Intellectual Property Rights	means all vested contingent and future intellectual property rights including but not limited to copyright, trademarks, service marks, design rights (whether registered or unregistered), patents, know-how, trade secrets, inventions, get-up, database rights and any applications for the protection or registration of these rights and all renewals and extensions thereof existing in any part of the world whether now known or in the future created to which 3C may be entitled;

Licence	means the licence granted by 3C pursuant to Clause 3.1;
Location	means the location of the computer room where Software is to be installed as specified by the Client;
Media	means the media on which the Software and Documentation are recorded or printed as provided to the Client by 3C;
Object Code	means machine code generated by the compiling or assembling of Source Code;
Personal Data	has the meaning given under UK GDPR
Process	has the meaning given under UK GDPR
Processed	has the meaning given under UK GDPR
Processing	has the meaning given under UK GDPR
Project Plan	means the plan and timetable for delivery of the Software and Services agreed between 3C project manager and the Client's representative;
Services	means such consultancy, training and/or development services provided under this Agreement as are specified in Schedule 1 (c);
Software	means the computer applications of 3C specified in schedule 1b including Specially Written Software and any releases and versions thereof released by 3C during the term of this Agreement that may be provided as part of the Support and Maintenance Services;
Source Code	means computer programs and/or data in eye-readable form and in such form that it can be compiled or interpreted into equivalent binary code together with all technical information and documentation necessary for building, compiling and installing the software, including names and versions of the development tools;
Specially Written Software	means any software written by or on behalf of 3C for the Client, including but not limited to interfaces, custom reports and custom applications, and supplied to the Client hereunder;
Standard Service Rates	means the daily rates charged by 3C for Services, which 3C shall vary in accordance with Clause 4.
Support and Maintenance Services	means the support and maintenance services provided under this Agreement as specified in schedules 1(c) and 4;

Use	means to read (using the Client's equipment) all or any part of the Software from magnetic or other storage media, to report and print data from the Software, to load the Software on the Client's equipment for the storage and running of the Software, to read the Documentation in conjunction with the use of the Software and to hold the Media, in each case subject always to the restrictions notified to the Client by 3C in or under this Agreement;
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2. TERM OF THIS AGREEMENT

- 2.1. This Agreement shall be effective from the "Contract Date" and subject to the rights of termination contained herein, shall continue for the Initial Term shown in Schedule 1a and thereafter be automatically renewed on an annual basis.

3. LICENCES TO USE THE SOFTWARE

- 3.1. 3C hereby grants to the Client, subject to the Client's compliance with this Clause 3 and Clause 11
- 3.1.1. upon delivery of 3C's Software, subject to Clause 18.2, a non-exclusive, non-transferable, non-sublicensable licence to Use the Documentation and to Use the Media and Software on and in conjunction with the Approved Environment to the extent required for the proper installation, testing and conduct of the relevant Acceptance Tests subject to the terms and conditions contained in this Agreement, and such licence shall subsist from the date hereof until Acceptance or the date on which termination takes effect pursuant to clause 6.2.7; and upon the successful Acceptance of the Software in accordance with the provisions of Clause 6, a perpetual, non-exclusive, non-transferable, non-sublicensable licence to Use the Media and the Software on and in conjunction with the Approved Environment together, with a perpetual, non-exclusive non-transferable non-sublicensable licence to reproduce any Documentation provided in machine-readable format relating to the same subject to the terms and conditions contained in this Agreement. Such licence shall be subject to any express licence terms specified as relating to the Software in Schedule 3 and shall subsist, subject to Clause 18.2 and 18.3, from the date thereof until the expiry of written notice by the Client terminating such licence pursuant to Clause 18.1
- 3.2. The Client shall be entitled to make copies of the Software which are strictly necessary for the program to be used and in order to make a security backup.
- 3.3. If requested by the Client, 3C shall place the Source Code of the Software in escrow with a third party on the basis of the appropriate standard agreement or on such other terms as the Client, 3C and the third party shall agree. Such escrow agreement to be entered into within ninety (90) days of the date of this Agreement.
- 3.4. The Client hereby agrees to pay the fees as set out in any escrow agreement entered into pursuant to Clause 3.3.
- 3.5. The Client is responsible for obtaining licences for any other (third party) software or programs (including any of the software referred to in schedule 5) that is required for using the Software or which the Client intends to Use with the Software. If the software is deployed via the Hosting service, some or all of the 3rd party software server licences will be provided by 3C on a rental agreement for the Hosting service (schedule 8).
- 3.6. The Client may not Use the Software or the Documentation or the Media except for the purposes of the management of the Client's own affairs and for its own corporate purposes.
- 3.7. For the purposes of this clause 3.6 the Client's licence to Use the Software or the Documentation or the Media for projects is limited so that the Client may not permit any person to Use the Software or the Documentation or the Media other than its own executive directors or employees, or agents or sub-contractors of the Client acting exclusively for the Client's purposes, or the person appointed by either party to maintain the Approved

Environment, and the Client may not permit any such person to Use the Software outside the scope of the Licence granted to the Client.

- 3.8. The Client shall not Use the Software or the Documentation or the Media in any way or for any purpose other than as expressly permitted by this Agreement. In the case of any other purpose or doubt or ambiguity the Client shall obtain 3C's prior written consent before Using the Software or the Documentation or the Media for any such purpose. The Client shall (and shall procure that its employees and sub-contractors (being duly authorised under Clause 35) comply with all notices from 3C clarifying the scope of the Licence and all related conditions and restrictions imposed by 3C.
- 3.9. 3C reserves the right to suspend the Licence if payment for the Software, Services or the Support and Maintenance Services has not been received in full in accordance with this Agreement.
- 3.10. If the AI Data Query module is deployed as per schedule 1(b) then 3C will collaborate with SCALONG AI and OpenAI to provide the service. See also Client's responsibilities 11.6

4. CHARGES AND PAYMENT

- 4.1. The Client will pay the Charges on the terms specified in Schedule 2.
- 4.2. In consideration of the payment of the Charges:
- 4.2.1. 3C shall supply the Software as specified in Schedule 1b; and
 - 4.2.2. 3C shall supply the Services as specified in Schedule 1c.
- 4.3. 3C shall supply the Support and Maintenance Services if specified in Schedule 1c and as specified in Schedule 4. The fees and charges for these are specified in schedule 1c.
- 4.4. If the Client fails to make any undisputed payment in full and in cleared funds on the due date, 3C may charge the Client interest (both before and after judgement) on the amount unpaid at the higher of the rate of 2% above the base rate from time to time of The Bank of England compounded with monthly rests.
- 4.5. All charges will be invoiced and paid in pounds sterling.
- 4.6. The Charges will vary each year in line with the UK retail prices index (all items) in the 12 months prior to the previous 30th September from the anniversary of the Contract Date;

5. DELIVERY AND INSTALLATION

- 5.1. If the Client has elected for installation services (see schedule 1(c)), then on the Delivery Date 3C will deliver the Software to the Client and install the Software on the Approved Environment at the Location. The Software so delivered shall consist of one copy of the Object Code on the Media.

6. ACCEPTANCE OF SOFTWARE

- 6.1. Following delivery and/or installation of the Software on the Delivery Date the Client will be deemed to have accepted the software no later than 14 days from the Delivery Date.
- 6.1.1. In the event that the Client is unable to accept the Software then the Client shall have the right to terminate this Agreement forthwith in accordance with Clause 18.3
 - 6.1.2. Notwithstanding the above, the Software shall be deemed to have been accepted when the Software has been put into operational Use or within 14 days of the Delivery Date whichever is the earlier.

7. PROPRIETARY RIGHTS

- 7.1. The Software and Documentation and the Intellectual Property Rights of whatever nature in the Software and Documentation are and shall remain the property of 3C.
- 7.2. The Client shall notify 3C immediately if the Client becomes aware of any unauthorised use of the whole or any part of the Software or Documentation by any person.
- 7.3. 3C acknowledges that the Client's data is the property of the Client and the Client hereby reserves all Intellectual Property Rights which may subsist in the Client's data.

8. INTELLECTUAL PROPERTY RIGHTS

- 8.1. 3C shall defend at its own expense any claim brought against the Client alleging that the Use of the Software or Documentation infringes the Intellectual Property Rights of a third party ('Intellectual Property Claim') and 3C shall pay all costs and damages awarded or agreed to in settlement of an Intellectual Property Claim provided that the Client:
 - 8.1.1. Furnishes 3C with prompt written notice of the Intellectual Property Claim;
 - 8.1.2. Provides 3C with reasonable assistance in respect of the Intellectual Property Claim;
 - 8.1.3. Gives to 3C the sole authority to defend or settle the Intellectual Property Claim.
- 8.2. If, in 3C's reasonable opinion, the Use of the Software or Documentation is or may become the subject of an Intellectual Property Claim then 3C shall either:
 - 8.2.1. Obtain for the Client the right to continue using the Software or Documentation which is the subject of the Intellectual Property Claim; or
 - 8.2.2. Replace or modify the Software or Documentation which is the subject of the Intellectual Property Claim so it becomes non-infringing.
- 8.3. If the remedies set out in Clause 8.2 above are not in 3C's opinion reasonably available, and the Intellectual Property Claim is found to be valid and legally enforceable, then the Client shall return the Software or Documentation which is the subject of the Intellectual Property Claim and 3C shall refund to the Client the corresponding portion of the Charges, as normally depreciated, relating to the remainder of any applicable service term, whereupon this Agreement shall immediately terminate.
- 8.4. 3C, its employees, servants, agents, contractors and sub-contractors shall have no liability for any Intellectual Property Claim that falls within the scope of clause 15.9.

9. SUPPLY OF SERVICES

- 9.1. 3C shall supply the Services set out in schedule 1c. 3C shall use all reasonable endeavours to meet the performance dates agreed between the Parties, but any such dates shall be estimates only and time shall not be of the essence with respect to the Agreement
- 9.2. 3C undertakes to perform at any time during the term of this Agreement such Additional Services as may be agreed by the parties. Such Additional Services shall be provided at 3C's then current daily rate and shall be subject to the terms and conditions of this Agreement.
- 9.3. 3C undertakes that in providing Services it shall use the reasonable skill, care and diligence expected of a competent software provider for projects of a similar size, cost and complexity as provided for in this Agreement.

- 9.4. 3C may in the course of its provision of the Services incur expenses that shall be payable by the Client. The terms of Schedule 1(d) shall apply in relation to such expenses.
- 9.5. 3C reserves the right to suspend the Services (or any of them) if payment for the Services (or any of them) has not been received in full in accordance with this Agreement.
- 9.6. Extensions of time to any service delivery dates 3C shall be given an extension of the timetable of any delivery date if one of more of the following events occurs:
- 9.6.1. a variation to Services is made at the Client's request or a request is for something out of scope;
 - 9.6.2. a force majeure event occurs as described in this agreement;
 - 9.6.3. a delay is caused in whole or in part by an action or omission of the Client or its employees, agents or any third-party.
 - 9.6.4. If 3C is entitled to an extension of time under clause 9.6, it shall give written notice to the Client not later than thirty days after having become aware of the event. Such notice shall specify the event relied on and, in the case of a force majeure event, shall estimate the probable extent of the delay.
 - 9.6.5. The parties shall use best endeavours to agree in writing, signed by both parties, what extension of time is reasonable in the circumstances and any applicable timetable shall be deemed amended accordingly.
- 9.7. Delays caused by Client. If 3C's performance of its obligations under this Agreement is hindered, prevented or delayed by any act or omission of the Client, the Client's agents, sub-contractors or employees, the Client will be liable to pay 3C, on demand, all reasonable costs, charges or losses sustained or incurred by it (including loss of opportunity to use 3C resources elsewhere), subject to 3C confirming such costs, charges and losses to the Client in writing.

10. SERVICE LEVELS

- 10.1. If at any time the Services are not supplied due to the fault of 3C, 3C shall without prejudice to the Client's other rights and remedies, use its reasonable endeavours to promptly arrange the resources necessary to perform the Services at a time to be agreed between the parties and at no additional charge to the Client.

11. CLIENT'S RESPONSIBILITIES

- 11.1. The Client shall perform the Client's Responsibilities as specified in schedule 6.
- 11.2. The Client undertakes:
- 11.2.1. not to, and not to permit any third party to, copy (except as is necessary in order to enable the Client to run the Software at the Location in accordance with the terms of this Agreement), reproduce, translate, adapt, reverse engineer, decompile (except as permitted under the Copyright, Designs and Patents Act 1988), vary or modify the Software and/or the Documentation or any part of the Software and/or the Documentation;
 - 11.2.2. not to disclose the Software or Media or Documentation to any unauthorised third party and/or allow any unauthorised third party to use the Software or Media or Documentation;
 - 11.2.3. to maintain accurate and up to date records of the number and location of all copies of the Software and Media and Documentation;
 - 11.2.4. to supervise and control use of the Software and Media and Documentation in accordance with the terms of this Agreement; and

- 11.2.5. to keep possession of and take adequate precautions to ensure the security of the Software and Media and Documentation.
- 11.2.6. The Client undertakes not to use the Software in Source Code form unless source code is required for normal operational use
- 11.3. The Client shall provide 3C with such access to the Location and to the Client's computer equipment as is necessary to enable 3C to carry out its obligations under this Agreement, including sufficient access to enable 3C staff to install the Software and any new releases and to maintain, implement and update the Software from a location remote from Client sites via a data communications link from 3C offices.
- 11.4. The Client shall provide to 3C a copy of all records maintained in accordance with clause 11.2 within 14 days of a written request.
- 11.5. The Client shall within 14 days of a written request provide 3C with access to the Location for the purpose of confirming or enforcing the Client's compliance with this Agreement.
- 11.6. If the client has purchased the AI Data Query module as per schedule 1(b) then they will be required to
 - 11.6.1. Supply an OpenAI API code for a valid and active OpenAI account
 - 11.6.2. Maintain a balance of credit on their OpenAI account to ensure proper functioning of the software.

12. PROJECT MANAGEMENT

- 12.1. Each party shall appoint a representative to interface with the other party for the purpose of performance of this Agreement.

13. SUPPLY OF SUPPORT AND MAINTENANCE SERVICES

- 13.1. 3C may supply the Support and Maintenance Services set out in schedule 1(c) and 4. 3C and the Client each undertake and agree on the terms set out in schedule 4.
- 13.2. 3C reserves the right to suspend the Support and Maintenance Services if payment for this service has not been received in full in accordance with this agreement..

14. WARRANTIES

- 14.1. 3C warrants that
 - 14.1.1. the Software's facilities and functions operate materially in compliance with the Documentation when properly used with the Approved Environment in accordance with the Documentation;
 - 14.1.2. the Documentation will provide adequate instructions to enable the Client to make proper use of such facilities and functions;
 - 14.1.3. it will not make changes to the Software or the Documentation which cause the Software to adversely affect the utility of the Software or the ease of use by the Client
- 14.2. 3C shall ensure that itself and its servants, agents and sub-contractors take all reasonable precautions to ensure that no known viruses for which detection and antidote software is generally available are coded or introduced into the Software.
- 14.3. The said warranties above shall be subject to the Client complying with its obligations under the terms of this Agreement and shall also be subject to the limits and exclusions of liability set out in Clause 15 below. In particular, the said warranties shall not apply to the extent that any defect in the Software arose or was exacerbated as a result of any matter that falls within the scope of clause **Error! Reference source not found.**
- 14.4. To the extent permitted by applicable law, 3C:

14.4.1. Disclaims all other warranties with respect to the Software, either express or implied, including but not limited to any implied warranties relating to quality, fitness for any particular purpose or ability to achieve a particular result;

14.4.2. Makes no warranty that the Software is Error free or that its Use will be uninterrupted nor that the Software and/or the information or data obtained by the Client through the use of the Software will meet the Client's specific requirements and the Client acknowledges and agrees that the existence of such Errors after Acceptance shall not constitute a breach of this Agreement.

For the avoidance of doubt any reference in this Agreement to a facility or function required by the Client shall not be construed as reflecting that the Client does not require the other standard facilities or functions of the Software, and shall not be construed as implying any representation or warranty that the Software is fit for any particular purpose of the Client.

14.5. Except as expressly and specifically provided in this Agreement: (a) the Client assumes sole responsibility for results obtained from the use of the Software, and for conclusions drawn from such use, reliance on any results and any action taken. 3C shall have no liability for any damage caused by errors or omissions in any information, data, instructions or materials provided to 3C by the Client or otherwise used in relation to or queried by the Software, or any action taken by 3C at the Client's direction or any action taken by the Client in reliance on such data or material; (b) all warranties, representations, conditions and all other terms of any kind whatsoever implied by statute or common law are, to the fullest extent permitted by applicable law, disclaimed and excluded from this agreement including, without limitation, any warranties of title, merchantability, or fitness for a particular use or purpose; and (c) the Services and the Documentation are provided to the Client on an "as is" basis.

14.6. 3C does not assume any responsibility for the completeness, veracity or accuracy of any of the information provided to or retrieved through the Software nor does it warrant the accuracy, reliability or timeliness of any data, or other information accessible via or through the use of the Software. 3C will not be liable for any damage or loss caused by the Clients's reliance on the Software.

15. LIABILITY

15.1. All indemnities given in or under the terms of this Agreement are subject to this Clause 15.

15.2. 3C shall during the term of this Agreement maintain employer's liability insurances in respect of its liabilities arising out of or connected with this Agreement, such cover to be to a minimum value of five million pounds (£5,000,000) and for professional indemnity cover in respect of its liabilities arising out of or connected with this Agreement, such cover to be a minimum value of one million pounds (£1,000,000) for any one event or series of connected events and with an insurance company or companies of repute. 3C shall on request supply copies of the relevant certificates of insurance to the Client as evidence that such policies remain in force.

15.3. Neither party excludes nor limits liability to the other for death or physical injury caused by the negligence of its employees in connection with the performance of their duties hereunder.

15.4. 3C's total liability to the Client for or in respect of any direct damage to any tangible property caused by 3C or any officer, director, employee, servant, agent, contractor or sub-contractor shall be limited to the value of the licence fees paid for the software for any one event or series of connected events.

15.5. Save in respect of claims for death or physical injury arising from either party's negligence, and to the extent permitted by applicable law, in no event will either party be liable to the other for any loss or damage resulting from loss or damage of data or use, lost profits and/or damage to goodwill, loss of anticipated savings, economic and/or similar losses, business interruption, loss of business, contracts, opportunity and/or production, management costs, wasted management time nor for any damages that are an indirect or

secondary consequence of any act or omission whether such damages were reasonably foreseeable or actually foreseen.

- 15.6. Except as provided above in the case of personal injury, death and damage to tangible property, 3C's maximum liability to the Client under this Agreement or otherwise for any cause whatsoever (whether in the form of the additional cost of remedial services or otherwise) will be for direct costs and damages only and will be limited to a sum equivalent to the total Charges received by 3C for the Software under this Agreement.
- 15.7. The parties hereby acknowledge and agree that the limitations contained in this Clause 15 are reasonable in light of all the circumstances. The Client is responsible for undertaking its own risk assessment in relation to the Software, for considering evidence of 3C's insurance position, and for taking independent advice on the Agreement.
- 15.8. The Client's statutory rights as a consumer (if any) are not affected. All liability that is not expressly assumed in this Agreement is hereby excluded. These limitations will apply regardless of the form of action, whether under statute, in contract or tort including negligence or any other form of action. Where a party's liability under this Clause 15 is limited or excluded that limitation or exclusion applies to any liability the other party may have to any third party, including employees, sub-contractors or suppliers. Nothing in this Agreement shall exclude or limit liability for fraudulent misrepresentation.
- 15.9. 3C shall have no liability for or in respect of (1) any Intellectual Property Claim (as that term is defined in clause 8) or (2) any breach of the warranty in clause 14 to the extent in any such case such liability directly results from:
- 15.9.1. the Use by the Client or any person authorised or permitted by the Client of the Software or Documentation or Media;
 - 15.9.2. otherwise than in accordance with normal reasonable use; or
 - 15.9.3. in combination with equipment other than the Approved Environment or in combination with any equipment or programs not supplied by 3C, or
 - 15.9.4. any modification or alteration of the Software or Documentation or Media or any part thereof by a party other than 3C or its authorised servants, agents, contractors or sub-contractors; or
 - 15.9.5. any corruption of the Software or Documentation or Media caused or permitted by the Client or its employees or agents

16. CHANGE CONTROL

- 16.1. Both parties agree that it is in their best interests to implement the Changes as quickly and as efficiently as possible.
- 16.2. If either party wishes to Change the scope of the Services or Support and Maintenance Services, or if the Client wishes to Change the Software, it shall submit details of the requested Change to the other party in writing.
- 16.3. If the Client requests a Change whether or not such a change request is made in response to a recommendation or suggestion by 3C:
- 16.3.1. 3C shall, within a reasonable time (and in any event not more than fifteen working days after receipt of the Client's request), but without further charge to the Client, provide a written estimate to the Client of:
 - 16.3.2. The likely time required to implement the Change;
 - 16.3.3. Any necessary variations to the Charges as a result of the Change;

- 16.3.4. The likely effect of the Change on the Delivery timetable;
 - 16.3.5. Any impact of the Change on the Software or the Services or the Support and Maintenance Services or the Client's IT system, and;
 - 16.3.6. Any impact of the Change on the terms of this Agreement.
 - 16.3.7. If the Client does not wish to proceed, there shall be no Change to the Services or the Support and Maintenance Services or the Project Plan or this Agreement, and;
 - 16.3.8. If the Client wishes 3C to proceed with the Change, 3C shall do so after agreement on the necessary variations to its Charges, the Project Plan and any other relevant factors referred to in clause 16.3.1 above including the terms of this Agreement to take account of the Change.
- 16.4. If 3C requests a Change, the Client shall not unreasonably withhold or delay consent to it. If the Client wishes 3C to proceed with the Change, 3C shall do so. Unless 3C's request was attributable to the Client's non-compliance with the Client's Responsibilities, neither the Charges, the Project Plan nor any other terms of this Agreement shall vary as a result of such change unless otherwise agreed.
- 16.5. The agreed terms on which the Change shall be made shall be reduced to writing and signed by duly authorised representatives of each party within fifteen working days of the Client's decision to process with the Change.
- 16.6. Changes that involve additional Software will be delivered as set out in Clause 5.
- 16.7. If the Client requests a change to the scheduled delivery date of one or more service days within 14 days of the scheduled date of delivery of such a Service, then 3C will charge 100% of the agreed fee for the service days.

17. CONFIDENTIAL INFORMATION

- 17.1. Both parties to this Agreement undertake, except as provided below, to treat as confidential and keep secret all information marked 'confidential' or which may reasonably be supposed to be confidential, including, without limitation, information contained or embodied in the Software, Documentation this Agreement and other information supplied by the Client or 3C including Change and other proposals and quotations from 3C, 3C's unpublished prices, product literature and the Documentation (in this Agreement collectively referred to as 'the Information') with the same degree of care as it employs with regard to its own confidential information of a like nature and in any event in accordance with best current commercial security practices, provided that, this clause shall not extend to any information which was rightfully in the possession of either party prior to the commencement of the negotiations leading to this Agreement or which is already public knowledge or becomes so at a future date (otherwise than as a result of a breach of this clause).
- 17.2. Both parties shall not without the prior written consent of the other party divulge any part of the Information to any person except:
- 17.2.1. To their own employees and self-employed contractors and then only to those employees and self-employed contractors who need to know the same;
 - 17.2.2. To either party's auditors, HM Inspector of Taxes, HM Customs and Excise, a court of competent jurisdiction, governmental body or applicable regulatory authority and any other persons or bodies having a right duty or obligation to know the business of the other party and then only in pursuance of such right duty or obligation;
 - 17.2.3. Any person who is for the time being appointed by either party to maintain the Approved Environment on which the Software is for the time being used (in accordance with the terms of this Agreement) and then only to the extent necessary to enable such person to properly maintain the Approved Environment.

- 17.3. Both parties undertake to ensure that persons and bodies referred to in Clause 17.2 are made aware prior to the disclosure of any part of the Information that the same is confidential and that they owe a duty of confidence to the other party.
- 17.4. Each party to this Agreement shall promptly notify the other party if it becomes aware of any breach of confidence by any person to whom it divulges all or any part of the Information and shall give the other party all reasonable assistance in connection with any proceedings which the other party may institute against such person for breach of confidence.
- 17.5. The foregoing obligations as to confidentiality shall remain in full force and effect notwithstanding any termination of this Agreement.

18. TERMINATION

- 18.1. The Client may terminate the Agreement on completion of the initial term referred to in Clause 2.1 by giving at least three (3) months prior written notice to 3C. The Client may not terminate the Agreement before the expiry of such Initial Term except upon the occurrence of any Insolvency Event affecting 3C.
- 18.2. 3C may suspend or terminate the Agreement including the Licence forthwith on giving notice in writing to the Client if:
- 18.2.1. The Client commits any serious breach of any term of this Agreement and (in the case of a breach capable of being remedied) shall have failed, within thirty (30) days after the receipt of a request in writing from 3C to do so, to remedy the breach (such request to contain a warning of 3C's intention to terminate); or
 - 18.2.2. The Client permanently discontinues the use of the Software, or
 - 18.2.3. The Client fails to make any payment when due, or
 - 18.2.4. The occurrence of any Insolvency Event affecting the Client.
- 18.3. The Client may terminate the Agreement including the Licence forthwith on giving notice in writing to 3C if:
- 18.3.1. 3C commits any serious breach of any term of this Agreement and (in the case of a breach capable of being remedied) shall have failed, within thirty (30) days after the receipt of a request in writing from the Client to do so, to remedy the breach (such request to contain a warning of the Client's intention to terminate); or
 - 18.3.2. In the circumstances detailed in Clause 6.2.7
 - 18.3.3. The occurrence of any Insolvency Event affecting the Client.
- 18.4. Save as expressly provided in this Clause 18 or elsewhere in this Agreement the Licence granted under Clause 3.1 may not be terminated during the term of this Agreement.
- 18.5. Any termination of the Licence or this Agreement (howsoever occasioned) shall not affect any accrued rights or liabilities of either party nor shall it affect the coming into force or the continuance in force of any provision in this Agreement which is expressly or by implication intended to come into or continue in force on or after such termination.

19. CONSEQUENCES OF TERMINATION

- 19.1. In the event of any termination of this Agreement pursuant to Clause 18.3 the Client shall be entitled, without prejudice to the Client's other rights and remedies, to elect one or more of the following:

- 19.1.1. Return the Software and Documentation and the Media or any part thereof, and 3C shall give the Client a full refund of all monies paid by the Client to 3C for the returned items; and
- 19.1.2. Obtain a refund of any reasonable Charges paid by the Client in respect of any Services which have not been performed by 3C in accordance with the terms of this Agreement.
- 19.2. In the event of the termination of this Agreement by other than pursuant to Clause 18.3 the Client shall:
 - 19.2.1. Return to 3C the Software, Media and Documentation and all copies of the whole or any part thereof or, if requested by 3C, shall destroy the same (in the case of the Software by erasing them from the magnetic media on which they are stored) and certify in writing to 3C that they have been destroyed. PROVIDED THAT the Client may extract and store any Client data upon a separate media for continuity purposes, and
 - 19.2.2. Pay forthwith to 3C all Charges due and outstanding under this Agreement.
- 19.3. In the event of termination of this Agreement the Client shall have no further rights to Use the Software, Media or Documentation or any copies of the whole or any part thereof.
- 19.4. In the event of any termination of this Agreement all money owed by the Client to 3C shall immediately become due and payable.
- 19.5. In the event of the termination of this Agreement by either party, the provisions of Clauses 1,7,8,15,17,19,25,38,39 and 40 shall survive the termination of this Agreement.
- 19.6. As a consequence of termination of this Agreement by 3C or the Client pursuant to Clause 18.1, Clause 18.2 or Clause 18.3.2 the escrow agreement referred to in Clause 3.3 of this agreement shall be deemed to have terminated at the same time as this Agreement.

20. DATA PROTECTION

- 20.1. Both Parties shall comply with their respective obligations under the applicable Data Protection Legislation in relation to the processing of Client Data in the course of carrying out their respective obligations under this Agreement.
- 20.2. 3C shall:
 - 20.2.1. not transfer any Personal Data to a country or territory outside the United Kingdom or European Economic Area except with the prior written consent of the Client, and such consent may be subject to and given on such terms as the Client may in its absolute discretion prescribe; or
 - 20.2.2. without undue delay and in any event within 24 hours notify the Client if it should become aware of, or reasonably suspect there has been, any unauthorised or unlawful Processing of Personal Data or any breach of the Data Protection Legislation (each a "Data Protection Breach"), or any action that could or reasonably be deemed to cause a security breach affecting customer data (including Personal Data);
 - 20.2.3. implement appropriate technical and organisational measures to protect Personal Data against unauthorised or unlawful access and against accidental loss, destruction, damage, alteration or disclosure;
 - 20.2.4. not otherwise modify, amend, remove or alter the contents of any Client Data or disclose or permit the disclosure of any of Client Data to any third party without the prior written authorisation of the Client;
 - 20.2.5. treat all Client Data as Confidential Information of the relevant member of the Client's Group for the purposes of this Agreement;

- 20.2.6. keep the Client Data separate from any data it Processes on behalf of any other third party (including but not limited to business continuity measures and processes for regularly testing, assessing and evaluating the effectiveness of such security measures);
- 20.2.7. return or delete, at the Client's sole discretion, all Client Data upon the termination of the Processing activities carried out under this Agreement, and promptly provide the Client with a confirmation in writing that it has done so;
- 20.2.8. procure that all personnel who need to have access to Client Data shall have undergone reasonable levels of training in Data Protection Legislation are aware of and comply with this clause 20 and only access Client Data on a need to know basis and have committed themselves to confidentiality or are subject to confidentiality obligations equivalent to those contained in this Agreement;
- 20.2.9. without prejudice to any other rights that the Client may have under this Agreement, allow for and contribute to audits conducted by the Client and permit the Client on an annual basis and / or where the Client becomes aware of a data breach of alleged breach of the Data Protection Legislation by 3C, reasonable access by the Client to all records, files, tapes, computer systems, or any other information howsoever held by 3C in respect of 3C's activities pursuant to the contract for the purposes of reviewing compliance with the Data Protection Legislation;
- 20.2.10. immediately (and in any event no later than 24 hours after becoming aware of such event) notify the Client when it becomes aware of a material breach of 3C's obligations under this clause 20. For the avoidance of doubt, 3C shall notify the Client in accordance with this clause 20 in the event that the security of any Client Data has been, or 3C has a reasonable basis to believe may have been, compromised (including unauthorised access to and unauthorised attempts to access such data)
- 20.3. Each party shall:
 - 20.3.1. not do or omit to do anything which causes the other party to breach any Data Protection Legislation or contravene the terms of any registration, notification or authorisation under any Data Protection Legislation of that party;
- 20.4. Nothing in this Agreement shall be construed as preventing any party from taking such steps as are necessary to comply with its own obligations under the applicable Data Protection Legislation and this clause 20.

21. INTERPRETATION

- 21.1. In this Agreement unless the context otherwise requires:
 - 21.1.1. Words importing any gender include every gender;
 - 21.1.2. Words importing the singular number include the plural number and vice versa;
 - 21.1.3. Words importing persons include firms, companies and corporations and vice versa;
 - 21.1.4. References to numbered clauses and Schedules are references to the relevant clause in or Schedule to this Agreement;
 - 21.1.5. Reference in any Schedule to this Agreement to numbered paragraphs relate to the numbered paragraphs of that Schedule;
 - 21.1.6. The headings to the clauses, Schedules and paragraphs of this Agreement will not affect the interpretation;
 - 21.1.7. Any reference to an enactment includes reference to that enactment as amended or replaced from time to time and to any subordinate legislation or byelaw made under that enactment;

21.1.8. Any obligation on any party not to do or omit to do anything is to include an obligation not to allow that thing to be done or omitted to be done;

21.1.9. Any party who agrees to do something will be deemed to fulfil that obligation if that party procures that it is done;

21.1.10. The words 'including' and 'include' shall be construed so as not to limit the range of matters that it is intended to cover even if a list of examples is given.

21.2. In the case of conflict or ambiguity between any provision contained in the body of this Agreement and any provision contained in any Schedule, the provision in the body of this Agreement shall take precedence.

22. AGENCY, PARTNERSHIP

22.1. This Agreement shall not constitute or imply any partnership, joint venture, agency, fiduciary relationship or other relationship between the parties other than the contractual relationship expressly provided for in this Agreement.

23. AMENDMENTS

23.1. This Agreement may not be released, discharged, supplemented, interpreted, amended, varied or modified in any manner except by an instrument in writing signed by a duly authorised officer or representative of each of the parties hereto.

24. ANNOUNCEMENTS

24.1. No party shall issue or make any public announcement or disclose any information regarding this Agreement unless prior written consent has been obtained from the other party.

25. ASSIGNMENT

25.1. 3C may assign its rights and/or obligations under this Agreement to any successor owner of the intellectual property rights in the Software.

25.2. Subject to Clause 26.3 below, neither this Agreement nor any rights, licenses or obligations under this Agreement, may be assigned by the Client without the prior written approval of 3C.

25.3. If the Client merges and/or amalgamates with another company and/or there is a change of control as defined by Section 416 of the Income and Corporation Taxes Act 1998 in the Client, 3C and the Client shall agree revised Charges. If the parties fail to reach an agreement within a reasonable period of time, 3C shall be entitled to increase the Charges in line with 3C's prevailing list price for the software by an amount considered in 3C's opinion to be reasonable, having regard to the increase in size of the Client following the merger, amalgamation and/or change of control

26. ENTIRE AGREEMENT

26.1. This Agreement supersedes all prior agreements, arrangements and undertakings between the parties and constitutes the entire agreement between the parties relating to the subject matter of this Agreement. However the obligations of the parties under any pre-existing non-disclosure agreement shall remain in full force and effect insofar as there is no conflict between the same. The parties confirm that they have not entered into this Agreement on the basis of any representation that is not expressly incorporated into this Agreement.

27. FORCE MAJEURE

- 27.1. Neither party shall have any liability under or be deemed to be in breach of this Agreement for any delays or failures in performance of this Agreement which result from circumstances beyond the reasonable control of that party. If such circumstances continue for a continuous period of more than 6 months, either party may terminate this Agreement by written notice to the other party. In the meantime each party shall use its reasonable endeavours to circumvent or mitigate the circumstances that so hinder its performance.

28. NOTICES

- 28.1. All notices hereunder shall be in writing.
- 28.2. Notices shall be deemed to have been duly given:
- 28.2.1. When delivered, if delivered by courier or other messenger by hand (including registered mail) during normal business hours of the recipient; or
- 28.2.2. When sent, if transmitted by fax or e-mail and a successful transmission report or return receipt is generated; or
- 28.2.3. On the fifth business day following mailing, if mailed by national ordinary mail, postage pre-paid; or
- 28.2.4. On the tenth business day following mailing, if mailed by airmail, postage pre-paid, in each case addressed to the most recent address, e-mail address, or facsimile number notified to the other party.

29. SCHEDULES

- 29.1. The provisions of Schedules 1 to 6 to this Agreement shall be incorporated into and form part of this Agreement.

30. SEVERANCE

- 30.1. If any provision of this Agreement is prohibited by law or judged by a court to be unlawful, void or unenforceable, the provision shall, to the extent required, be severed from this Agreement to the minimum extent required without modifying the remaining provisions of this Agreement, and shall not in any way affect any other circumstances of or the validity or enforcement of this Agreement.

31. SUCCESSORS AND ASSIGNEES

- 31.1. This agreement shall be binding upon, and enure to the benefit of, the parties and their respective successors and permitted assignees, and references to a party in this Agreement shall include its successors and permitted assignees.
- 31.2. In this Agreement references to a party include references to a person:
- 31.2.1. Who for the time being is entitled (by assignment, novation or otherwise) to that party's rights under this Agreement (or any interest in those rights); or
- 31.2.2. Who, as administrator, liquidator or otherwise, is entitled to exercise those rights;
- 31.2.3. And in particular those references include a person to whom those rights (or any interest in those rights) are transferred or pass as a result of a merger, division, reconstruction or other reorganisation involving that party. For this purpose, references to a party's rights under this Agreement include any similar rights to which another person becomes entitled as a result of a novation of this Agreement.

32. WAIVER

- 32.1. No delay, neglect or forbearance on the part of either party in enforcing against the other party any term or condition of this Agreement shall either be or be deemed to be a waiver or in any way prejudice any right of that party under this Agreement. No right, power or remedy in this Agreement conferred upon or reserved for either party is exclusive of any other right, power or remedy available to that party. No waiver by either party shall be effective unless made in writing and signed by the waiving party.

33. COUNTERPARTS

- 33.1. This Agreement may be executed in any number of counterparts or duplicates, each of which shall be an original, and such counterparts or duplicates shall together constitute one and the same agreement.

34. SUB-CONTRACTING

- 34.1. 3C may perform any or all of its obligations under this Agreement through agents or sub-contractors, provided that 3C shall remain liable for such performance.

35. COSTS AND EXPENSES

- 35.1. Each party shall bear its own legal costs and other costs and expenses arising in connection with the drafting, negotiation, execution and registration (if applicable) of this Agreement.

36. THIRD PARTIES

- 36.1. Subject to Clause 15.8 above, a person who is not a party to this Agreement has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Agreement but this does not affect any right or remedy of a third party which exists or is available apart from such Act. The rights of the parties to terminate, rescind or agree any variation, waiver or settlement under this Agreement shall not be subject to the consent of any person that is not a party to this Agreement.

37. PROPER LAW AND JURISDICTION

- 37.1. This Agreement and all matters arising from it and any dispute resolutions referred to below shall be governed by and construed in accordance with English Law save that:
- 37.1.1. 3C (and the Client) shall have the right to sue to recover its fees in any jurisdiction in which the Client is operating or has assets, and
- 37.1.2. 3C (and the Client) shall have the right to sue for breach of its Intellectual Property Rights or other proprietary information or trade secrets ('IPR') (whether in connection with this Agreement or otherwise) in any country where it believes that infringement or a breach of this Agreement relating to its IPR might be taking place. For the avoidance of doubt, the place of performance of this Agreement is agreed by the parties to be England.
- 37.2. Each party recognises that the other party's business relies upon the protection of its IPR and that in the event of a breach or threatened breach of IPR, the other party will be caused irreparable damage and such other party may therefore be entitled to injunctive or other equitable relief in order to prevent a breach or threatened breach of its IPR.
- 37.3. With respect to all other disputes which are not IPR related pursuant to Clauses 37.1 and 37.2 above and its special rules the following procedures in Clauses 37.3 to 37.5 shall apply. The parties shall use their best endeavours to negotiate in good faith and settle any dispute that may arise out of or in relation to this Agreement. If any such dispute cannot be settled amicably through ordinary negotiations, the dispute shall be

referred to the managing directors or chief executives (as appropriate) of each party who will meet in good faith in order to try and resolve the dispute. If the dispute is not resolved as a result of such meeting either party may request that the matter be referred to mediation in accordance with clause 37.4 below.

37.4. Any mediation will be conducted in accordance with the Centre for Effective Dispute Resolution (CEDR) Model Mediation Procedure. Unless otherwise agreed between the parties, the mediator will be nominated by CEDR. To initiate the mediation a party must give notice in writing ("ADR notice") to the other party to the dispute requesting mediation. A copy of the request should be sent to CEDR. The mediation will start not later than 30 days after the date of the ADR notice and finish not later than 120 days after the date of the ADR notice.. No party may commence any court proceedings in relation to any dispute arising out of this agreement until it has attempted to settle the dispute by mediation and either the mediation has terminated or the other party has failed to participate in the mediation, provided that the right to issue proceedings is not prejudiced by a delay.

37.5. If the parties cannot resolve the dispute by the procedure set out above, the parties shall irrevocably submit to the exclusive jurisdiction of the Courts of England and Wales for the purposes of hearing and determining any dispute arising out of this Agreement.

38. NON POACHING OF STAFF

38.1. Each party covenants with the other that it shall not either during the term of this Agreement or within a period of 6 months thereafter directly entice away or endeavour to entice away from the other party without prior written agreement of both parties any person who has during the previous 12 months been employed by the other party to perform this Agreement.