

Service Terms & Conditions (the “Terms”)

AGREED TERMS

1. DEFINITIONS AND INTERPRETATIONS

1.1 Definitions:

“**Affiliate**” means, in relation to a party, any other entity which directly or indirectly Controls, is directly or indirectly Controlled by or is under direct or indirect common Control with, that party from time to time.

“**Applicable Laws**” means all applicable laws, by-laws, enactments, regulations, regulatory policies, ordinances, protocols, industry codes, regulatory permits, regulatory licences or requirements of any court, tribunal or governmental, statutory, regulatory, judicial, administrative, or supervisory authority or body, which are in force from time to time during the term of these Terms.

“**Business Day**” means a day (other than a Saturday or Sunday) on which banks are generally open in London for business.

“**Charges**” means the charges payable by customer to supplier in accordance with a Work Order.

“**Commencement Date**” means the Work Order Commencement Date (as set out in the Work Order).

“**Confidential Information**” has the meaning given in clause 13.1.

“**Control**” means, in relation to a person, the direct or indirect ownership of more than 50 per cent of the voting capital or similar right of ownership of that person or the legal power to direct or cause the direction of the general management and policies of that person, whether through the ownership of voting capital, by contract or otherwise and controls and controlled shall be interpreted accordingly.

“**Customer**” means the legal entity as described in the applicable Work Order.

“**Customer IPR**” means all Intellectual Property Rights owned by Customer and/or its Affiliates.

“**Data Protection Legislation**” means the UK Data Protection Legislation and where applicable to the Services provided hereunder the General Data Protection Regulation (EU) 2016/679 (“**EU GDPR**”) and any other directly applicable UK or EU regulation relating to privacy.

“**Deliverables**” means all documents, products and materials provided by the Supplier or its agents, subcontractors, consultants, and employees in relation to the Services in any form, including computer programs, data, reports, and specifications (including drafts).

“**Force Majeure Event**” has the meaning given in clause 11.1.

“**Good Industry Practice**” means the exercise of reasonable skill, care, prudence, efficiency, foresight, and timelines which would at that time be expected from a reasonable and suitably

skilled, trained, and experienced person providing services similar to the Services.

“**Intellectual Property Rights**” or “**IPR**” means:

- (a) copyright, patents, database rights and rights in trademarks, designs, know-how and confidential information (whether registered or unregistered);
- (b) applications for registration, and the right to apply for registration, for any of these rights; and
- (c) all other intellectual property rights and equivalent or similar forms of protection existing anywhere in the world.

“**IPR Claim**” a claim arising from the infringement of IPR belonging to third parties.

“**Losses**” means all losses, liabilities, costs (including legal costs), charges, expenses, actions, procedures, claims, demands and damages.

“**Personal Data**” means, any personal data that the Supplier processes in connection with this Agreement, in the capacity of a processor on behalf of the Customer.

“**Processing**” means, in relation to Personal Data, the carrying out of any operation or set of operations in relation to the Personal Data and includes any of the following: (a) recording; (b) holding; (c) organisation, adaptation or alteration; (d) retrieval; (e) combination; (f) transmissions; or (g) erasure or destruction.

“**Retail Prices Index**”: the Retail Prices Index (all Items, excluding mortgages) as published by the Office for National Statistics from time to time, or failing such publication, such other index as the parties may agree (such agreement not to be unreasonably withheld or delayed), acting reasonably, most closely resembles such index.

“**Service Credit**” if applicable, has the meaning given to it in the relevant Work Order.

“**Services**” the services to be provided by Supplier under these Terms together with any other services which Supplier provides or agrees to provide to Customer.

“**Supplier**” means the legal entity specified in the Work Order, being Just After Midnight Limited or an Affiliate.

“**Supplier IPR**” has the meaning set out in clause 7.1.

“**Supplier Personnel**” means all employees, agents, and consultants of Supplier and of each subcontractor who are engaged in the provision of the Services.

“**Supplier Security Policy**” means the supplier security policy in effect from time to time.

“**Term**” means the term of these Terms, as described in clause 8.

“**Transfer Regulations**” means any Applicable Law in any jurisdiction relating to employees in connection with the transfer of undertakings or services, enacted to provide duties to inform/

and/or consult with employees and/or for the automatic transfer of employees.

“Transferring Employees” means any employees whose contract of employment transfers pursuant to the Transfer Regulations.

“UK Data Protection Legislation” means all applicable data protection and privacy legislation in force from time to time in the UK including the Data Protection Act 2018; the Privacy and Electronic Communications Directive 2002/58/EC (as updated by Directive 2009/136/EC) and the Privacy and Electronic Communications Regulations 2003 (SI 2003/2426) as updated and amended from time to time or any successor legislation.

“Work Order” means any statement of work or work order agreed pursuant to clause 2.

1.2 In these Terms (except where the context otherwise requires):

- (a) a reference to “writing” does not include email unless otherwise specified;
- (b) a reference to a statute or statutory provision is a reference to that statute or statutory provision and to all orders, regulations, instruments, or other subordinate legislation made under the relevant statute;
- (c) any reference to a statute, statutory provision, subordinate legislation, code or guideline (“legislation”) is a reference to such legislation as amended and in force from time to time and to any legislation which re-enacts, re-writes or consolidates (with or without modification) any such legislation except to the extent that, as between the parties, any such amendment or modification coming into force after the date of these Terms would impose any new or extended obligation, liability or restriction on, or otherwise adversely affect the rights of, any party under these Terms; and
- (d) any phrase introduced by the Terms “including”, “include”, “in particular” or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms.

These Terms are drafted in the English language. If these Terms are translated into another language the English language text shall in any event prevail.

1.3 These Terms are drafted in the English language. If these Terms are translated into another language the English language text shall in any event prevail.

1.4 Each party represents and warrants to the other party that it has the power to execute and deliver these Terms and perform its obligations under it and has taken all action necessary to authorise execution and delivery and the performance of its obligations.

2. WORK ORDER

2.1 Each Work Order shall be agreed as follows:

2.1.1. Supplier and Customer shall discuss and agree the draft Work Order. When it has been agreed they shall both sign a copy of it.

2.1.2. Once a Work Order has been agreed and signed in accordance with clause 2.1.1, no amendment shall be made to it except in accordance with clause 14.7.

2.2 A Work Order shall not enter into force, be legally binding or have any other effect unless:

2.2.1. the Work Order has been signed by the authorised representatives of the parties to it; and

2.2.2. as at the date the Work Order is signed, these Terms have not been terminated.

2.3 Each Work Order:

2.3.1 shall be entered into by Customer and Supplier; and

2.3.2 forms a separate contract between its signatories incorporating these Terms.

3. THIRD-PARTY SERVICES

3.1 AWS Hosting Services

In the provisioning of services, if and when Amazon Web Services (“AWS”) are used then the following terms will apply:

3.1.1 The service level agreement for all services related to hosting will be governed by the AWS commitments found at <https://aws.amazon.com/legal/service-level-agreements/>

3.1.2 Security and Data Privacy will be governed at a server level by the AWS commitments found at <https://aws.amazon.com/agreement/> Licencing.

3.1.3 Compliance for server software will be included with the AWS procurement, details of which can be found here <https://aws.amazon.com/windows/resources/licensing>

3.1.4 The Customer agree that the Customer's use of the server software is subject to the customer licence terms or EULA that the relevant publisher imposes upon end-users. The Supplier shall not be liable to the Customer for any loss or damage that is caused directly or indirectly by the server software where the Supplier has performed its obligations under this Agreement and the Server Software has performed in a manner consistent with the Supplier's recommendations. The acceptable use policy will be against the AWS agreement found at <https://aws.amazon.com/agreement/>

3.2 Azure Hosting Services

In the provisioning of services, if and when Microsoft Azure ("Azure") is used and provided by the Supplier under the Cloud Solution Provider Program ("CSP") that the Customer enters into this agreement and the terms of which are found at <https://www.microsoft.com/licensing/docs/customeragreement> and which may be updated from time to time.

3.3 Other Third-Party Services

3.3.1 Where the Parties agree that the Supplier will procure any Third-Party Services required by the Customer for the provision of the Services, full details of those Third-Party Services (and the basis of their procurement by Supplier) will be set out in the Work Order.

3.3.2 Except as expressly set out in the relevant Licence Agreement, the Supplier expressly excludes any warranty to the Customer that the Third-Party Services supplied or licensed under this Agreement will operate substantially in accordance with, and perform, the material functions and features as set out in its marketing, sales, or other associated documentations. The Customer shall remain liable for any and all payments owed to the Supplier throughout this Agreement and until the end of the respective licence terms for such Third-Party Services (the "**Licence Fees**").

3.3.3 It is a condition of this Agreement that the Customer enters into such direct Licence Agreements issued by the Third-Party Supplier where the Customer must directly contract with that Third-Party Supplier as so prescribed by the relevant software owners of each Third-Party Service identified within this Agreement and/or in the applicable Statement of Work. In the event the Customer does not accept the terms of such Licence Agreements (whether directly contracted with Supplier or the relevant Third Party), Supplier reserves the right to suspend the provision of the Services until such time as the Customer enters into such Licence Agreement.

3.3.4 The Customer acknowledges that it is responsible for ensuring that the Customer's Hardware, and operating software for such Hardware, is compatible with the Third-Party Services and Just After Midnight gives no warranty in relation to that unless agreed otherwise in writing between the Parties in the Work Order.

4. SUPPLIER RESPONSIBILITIES

4.1 Supplier shall provide the Services to Customer in accordance with each Work Order.

4.2 Supplier shall provide the Services in accordance with all Applicable Laws which apply to its provision of the Services.

4.3 Supplier shall obtain and maintain throughout the Term, at its own cost and expense, all consents, licences, approvals, and authorisations as are necessary to perform its obligations in accordance with these Terms.

4.4 Supplier shall use reasonable endeavours to perform the Services in such a way as not to cause any fault or malfunction in any systems of the Customer or any interruption to the Customer's business.

4.5 Supplier shall be responsible for managing all Supplier Personnel. Supplier shall ensure that all Supplier Personnel;

(a) have relevant skills and experience;

(b) are fluent in the required language for the relevant Services; and

(c) are properly trained and fully conversant with any applicable technologies being used by Supplier in its provision of the Services.

5. CUSTOMER RESPONSIBILITIES

5.1 Customer shall:

(a) reasonably cooperate with Supplier in all matters relating to the Services;

(b) keep Supplier fully up to date on all matters relating to the Services;

I provide such access to Customer's premises, systems (including access credentials), data, materials, personnel, and other facilities as may reasonably be requested by Supplier for the purposes of providing the Services and

(d) comply with Applicable Laws.

5.2 If and to the extent that Supplier's performance of its obligation under these Terms is prevented or delayed by any act or omission of Customer, its agents, customers, subcontractors, consultants or employees, then without prejudice to supplier's other rights and remedies, such failure or delay in performance on the part of Supplier shall not constitute a breach of these Terms and Supplier shall not be liable for any costs, charges or losses sustained or incurred by Customer to the extent arising from such failure or delay.

5.3 Customer shall not, at any time from the date of these Terms to the expiry of six (6) months after termination or expiry of these Terms, solicit or entice away from Supplier or employ or attempt to employ any person who is, or has been, engaged as an employee, consultant, or subcontractor of Supplier in the provision of the Services.

5.4 In the event of any breach of clause 5.3 Customer shall pay to Supplier a one-off recruitment fee of 20% of the individual's basic annual salary, or in the case of a temporary engagement 25% of the contract fees payable to the individual so employed or engaged. Such fee is intended to enable the Supplier to recruit a replacement for this individual and as such the Supplier reserves the right to amend the fees if appropriate and will provide documentary evidence to back up such fee amendment. This provision shall be without prejudice to the Supplier's ability to seek injunctive relief.

6. CHARGES

6.1 Customer shall pay to Supplier the Charges as set out in the Work Order. Payment will be within 30 days unless otherwise stated in the Work Order.

6.2 Unless otherwise specified, the Charges are:

6.2.1 inclusive of all costs and expenses incurred by Supplier. No additional costs or expenses shall be payable by Customer unless approved by Customer in advance; and

6.2.2 exclusive of applicable taxes, which shall be payable in addition to the Charges at the prevailing rate.

6.3 Supplier shall ensure that each invoice includes the details and any pre-agreed supporting documentation which are necessary for Customer to verify the accuracy of the invoice.

6.4 Where a sum is required to be paid under these Terms but is not paid on the date the parties agreed, the party due to pay the sum shall be subject to a penalty interest at a rate of 4% per annum above National Westminster Bank base rate from time to time. Such interest shall accrue on a daily basis from the due date until actual payment of the overdue amount, whether before or after judgment. The Customer shall pay the interest together with the overdue amount.

6.5 Without prejudice to any other right or remedy that it may have if Customer fails to pay Supplier in accordance with clause 6.1. Supplier may suspend all Services until payment has been made in full.

6.6 All amounts due under these Terms shall be paid in full without any deduction, set-off or withholding other than as required by Applicable Law. If any such withholding or deduction is required by law, Customer shall, when making the payment to which the withholding or deduction relates, pay to Supplier such additional amount as will ensure that Supplier receives the same total amount that it would have received if no such withholding or deduction had been required.

6.7 Supplier may increase the Charges relating to the provision of the Services in the following circumstances:

6.7.1 as a result of (i) any delay caused by the failure of the Customer to give Supplier adequate information or instructions or (ii) any factor beyond the control of Supplier (including foreign exchange fluctuations, increases in taxes);

6.7.2 as agreed by the parties in any change notice (including as a result of the Customer increasing the scope of any Services), and any request by the Customer to change the delivery or types of Services ordered;

6.7.3 where applicable on renewal of a Service;

6.7.4 unless otherwise agreed in a Work Order on an annual basis with effect from each anniversary of the Commencement Date, by written notice to the

Customer for a sum which is at least in line with the increase in the Retail Price Index from the last anniversary of the Commencement Date;

6.7.5 at any time Supplier may on written notice to the Customer increase any fees related to third-party services in line with any increases imposed upon Supplier by the applicable third-party supplier(s).

7. INTELLECTUAL PROPERTY RIGHTS

7.1 Subject to Clause 7.2 below, where the Supplier agrees in the applicable Work Order that it will create bespoke materials or code pursuant to the Services ("**Bespoke IPR**") the Intellectual Property Rights in the Bespoke IPR will vest automatically in the Customer once the Supplier has received payment in full. The Supplier agrees to assign to the Customer its present and future rights and full title and interest in the Bespoke IPR. The Customer now provides an irrevocable, worldwide, royalty-free licence to Just After Midnight for the duration of this Agreement to use such Bespoke IPR strictly for the purposes of providing the Services.

7.2 Notwithstanding Clause 7.1 above, the Supplier and its respective licensors retain exclusive ownership of (i) all of its Background Materials; and (ii) ideas, concepts, techniques and know-how discovered, created or developed by the Supplier during the performance of the Services that are of general application and that are not based on or derived from the Customer's business or Confidential Information ("**General IP**", together with the Background Materials, the "**Supplier IPR**").

7.3 To the extent that any of the Deliverables incorporate or embody Supplier IPR, Supplier hereby grants to Customer a perpetual (continuing beyond the expiry of termination of these Terms without limit in time), irrevocable, royalty-free, non-transferable (save as permitted by these Terms), non-exclusive licence to use the Supplier IPR to facilitate and/or enable the use by Customer of the Deliverables and the Services.

7.4 To the extent that any of the Deliverables incorporate or embody the Intellectual Property Rights of any third-party ("**Third-party IPR**"), Supplier shall use all reasonable endeavours to procure the grant to Customer of a perpetual (continuing beyond the expiry or termination of these Terms without limit in time), irrevocable, royalty-free, non-transferable (save as permitted by these Terms), non-exclusive licence to use the Supplier IPR to facilitate and/or enable the use by Customer of the Deliverables and the Services.

7.5 Customer grants to Supplier for the Term an irrevocable, royalty-free, non-transferable (save as permitted by these Terms) non-exclusive licence to use the Customer IPR to the extent required to enable Supplier to provide the services in accordance with these Terms.

7.6 Customer shall pay and indemnify Supplier from and against all actions, claims, liabilities, demands, proceedings, costs suffered or incurred by Supplier, arising by reason of claims that (1) Supplier's possession of or use of the

Customer's IPR or any Customer materials (whether used, owned or licensed to the Customer) in connection with the provision of the Services infringes the Intellectual Property Rights of a third-party; (2) the Customer or any of its customers, modify, alter, replace combine with any other data, code, documents or other software, which alters Supplier's IPR and such alterations infringe the Intellectual Property Rights of a third-party. This indemnity applies whether or not legal proceedings are instituted and, if such proceedings are instituted, irrespective of the means, manner or nature of any settlement, compromise or determination.

7.7 Supplier shall pay and indemnify Customer, from and against all actions, claims, liabilities, demands, proceedings, costs suffered or incurred by Customer, arising by reason of claims that (1) Customer's possession of or use of Suppliers' IPR in connection with the provision of the Services infringes the Intellectual Property Rights of a third-party; (2) Supplier, modifies, alters, replaces combines with any other data, code, documents or other software, which alters the Customer's IPR and such alterations infringe the Intellectual Property Rights of a third-party. This indemnity applies whether or not legal proceedings are instituted and, if such proceedings are instituted, irrespective of the means, manner or nature of any settlement, compromise or determination.

7.8 If either Party ("**Indemnifying Party**") is required to indemnify the other Party ("**Indemnified Party**") under this clause 7, the Indemnified Party will:

7.8.1 notify the Indemnifying Party in writing of any IPR Claim against it in respect of which it wishes to rely on the indemnity at Clause 7.6 or clause 7.7 (as applicable);

7.8.2 allow the Indemnifying Party, at its own cost, to conduct all negotiations and proceedings and to settle the IPR Claim, always provided that the Indemnifying Party shall obtain the Indemnified Party's prior approval of any settlement terms, such approval not to be unreasonably withheld;

7.8.3 provide the Indemnifying Party with such reasonable assistance regarding the IPR Claim as is required by the Indemnifying Party, subject to reimbursement by the Indemnifying Party of the Indemnified Party's costs so incurred; and

7.8.4 not, without prior consultation with the Indemnifying Party, make any admission relating to the IPR Claim or attempt to settle it, provided that the Indemnifying Party considers and defends any IPR Claim diligently, using competent counsel and in such a way as not to bring the reputation of the Indemnified Party into disrepute.

7.9 If an IPR Claim is brought or in the reasonable opinion of Supplier is likely to be made or brought, Supplier may at its own expense ensure that the Customer is still able to use the Deliverables by either:

7.9.1 modifying any or all of the provisions of the Deliverables without reducing the performance and functionality for any or all of the provision of the Deliverables, so as to avoid the infringement or the alleged infringement, provided that the terms herein shall apply mutatis mutandis to such modified or substituted services and such modified or substituted services shall be acceptable to the Customer, such acceptance not to be unreasonably withheld; or

7.9.2 procuring a license or permission to use the Deliverables on terms which are acceptable to the Customer, such acceptance not to be unreasonably withheld.

7.10 Except to the extent that Supplier should reasonably have known or advised the Customer about the provisions of clause 7.9, Supplier will have no obligation or liability for any IPR Claim to the extent such IPR Claim arises from:

7.10.1 any use by or on behalf of the Customer of the combination with any item not supplied or recommended by Supplier where such use of the Deliverables directly gives rise to the claim, demand, or action; or

7.10.2 any modification carried out on behalf of the Customer to any item supplied by Supplier under these Terms if such modification is not authorised by Supplier in writing where such modification directly gives rise to a claim, demands or action.

7.11 The maximum aggregated liability for such indemnification outlined in this clause 7 for either Party shall be equal to and not more than one million pounds (£1,000,000.00).

8. TERM AND TERMINATION

8.1 Unless otherwise terminated in accordance with this clause 8, these Terms shall take effect on the Effective Date and shall continue without limit in time unless and until terminated in accordance with the remainder of this clause 8.

8.2 Either Party may terminate these Terms by providing not less than ninety (**90**) days' notice in writing to the other Party by reference to a termination date no earlier than the last termination date of any Work Order in effect between them.

8.3 The term of each Work Order shall commence on the date specified in the applicable Work Order and shall remain in full force for the term set out in the Work Order ("**the WO Term**") unless otherwise agreed by the parties. Should the Customer wish to terminate for convenience before the end of the WO Term, then the Customer agrees that the charges outlined in the Work Order for the remaining term shall remain payable and that there shall be no refund of any of the Charges paid.

8.4 Either Party (the "Non-Defaulting Party") may terminate these Terms in its entirety and/or any applicable Work Order (without prejudice to its other rights and remedies) with

immediate effect by written notice to the other party (the "Defaulting Party"):

8.4.1 If the Defaulting Party commits a material breach of these Terms or applicable Work Order and, if the breach is capable of remedy, fails to remedy it during the period of thirty (30) days starting on the date of receipt of notice from the Non-Defaulting Party specifying the breach and requiring it to be remedied; and/or

8.4.2 If the Defaulting Party becomes insolvent (including being unable to pay its debts as they fall due and/or that the value of its assets is less than the amount of its liabilities taking into account its contingent and prospective liabilities), proposes an individual, company or partnership voluntary arrangement, has a receiver administrator or manager appointed over the whole or any part of its business or assets; if any petition shall be presented, order shall be made or resolution passed for its winding up (except for the purpose of a bona fide amalgamation or reconstruction, is subject to bankruptcy or dissolution, if it shall otherwise propose or enter into any composition or arrangement with its creditors or any class of them, if it ceases or threatens to cease to carry on business or if it claims the benefit of any statutory moratorium.

8.4.3 If the Non-Defaulting Party elects to terminate these Terms in its entirety pursuant to this clause 8.4, then all then-current Work Orders shall also terminate with immediate effect.

8.5 Without prejudice to any rights that Supplier has accrued under these Terms or any of its respective remedies, obligations or liabilities, Supplier may terminate these Terms with immediate effect by giving notice to the Customer if:

8.5.1 the Customer (or an end-user) violates any acceptable use policy notified to the Customer by Supplier and as amended from time to time;

8.5.2 the Customer fails to pay any amount due under these Terms on the due date for payment and remains in default not less than thirty (30) days after being notified in writing to make such payment.

8.6 These Terms may also be terminated in accordance with clause 11 (Force Majeure).

8.7 A Customer breach of its obligations pursuant to clause 6 (Charges) shall constitute a material breach of these Terms.

8.8 Termination of any Work Order shall be without prejudice to any other rights which any party may have under any other Work Order.

8.9 Termination of these Terms, for any reason, shall not affect the accrued rights, remedies, obligations, or liabilities of the parties existing at termination.

9. CONSEQUENCES OF TERMINATION

9.1 On termination of these Terms or a Work Order for any reason:

9.1.1 Supplier shall immediately cease provision of the Services (or the applicable part);

9.1.2 the Customer shall pay any and all invoices and sums due and payable up to and including the date of termination including (1) all remaining amounts owing up to the end of the Term (including amounts owed under each Work Order); and (2) any termination fees that Supplier incurs from any of its third parties as a consequence of such early termination. Supplier shall use reasonable endeavours to mitigate any loss, but the Customer acknowledges and agrees that any third-party fees may not be mitigated by Supplier and the Customer shall not hold Supplier responsible if it incurs full termination fees; and

9.1.3 each Party shall use reasonable endeavours to return and make no further use of any equipment, property, materials, and other items (and all copies of them) belonging to the other Party.

9.2 The parties shall cooperate to ensure an efficient and orderly wind-down of these Terms upon termination.

10. LIMITATIONS OF LIABILITY

10.1 Nothing in these Terms seeks to or shall limit or exclude liability for death or personal injury caused by negligence, for fraud or for any other type of liability that cannot be limited or excluded under Applicable Law.

10.2 Any breach of the Party's responsibilities under clause 12 (Data Protection) shall be limited to £1,000,000.00 in the aggregate, which shall count towards the cap set out in clause 10.4.

10.3 To the maximum extent permitted by Applicable Law, neither party shall be liable to the other for any:

10.3.1 indirect, consequential losses or special damage even if the other Party was aware of the circumstances in which such indirect, consequential losses or special damage could arise;

10.3.2 loss of actual savings;

10.3.3 loss of actual profits;

10.3.4 loss of business opportunity;

10.3.5 loss of goodwill and reputation; or

10.3.6 loss of use or corruption of software, data, or information.

10.4 Subject to clauses 7.11, 9.1.2 and 10.2 and the Customer's obligation to pay the Charges, the maximum aggregate liability of each party (or any person claiming under or through that party) to the other party arising under or in connection with these Terms and/or any Work Order, whether

in contract, tort (including negligence), breach of statutory duty or otherwise, shall be limited to the Charges paid for the Services under the applicable Work Order to which the claim relates during the 12 months preceding the date on which the claim arose. This agreed limitation of liability reflects the position that the Supplier has obtained insurance cover in respect of its own potential legal liability to the Customer of not less than the sum referred to above, and the Supplier shall maintain such cover throughout the Term, and promptly provide evidence of such cover to the Customer upon reasonable request during the Term.

10.5 Except as expressly and specifically provided in these Terms all warranties, conditions and other terms implied by statute or common law are, to the fullest extent permitted by law, excluded from these Terms.

10.6 The indemnity set out at clause 6 of these Terms shall not apply unless the party claiming indemnification notifies (in writing) the other promptly of any matters in respect of which the indemnity may apply and of which the notifying party has knowledge and gives the other party full opportunity to control the response to and the defence of such claim; including without limitation, the right to accept or reject settlement offers and to participate in any litigation provided that in no event shall the indemnitor be liable for any settlement or compromise made without its consent, such consent not to be unreasonably withheld or delayed.

10.7 The Customer acknowledges and agrees that, except as expressly provided in these Terms or unless it is a Service under a relevant Work Order, the Customer assumes sole responsibility for all problems, conditions, delays, delivery failures (including any of those concerning transfer of data) and all other loss or damage arising from or relating to the Customer's or its agents' or contractors' (including any existing service provider's) network connections, telecommunications links or facilities, including the internet and acknowledges that the Services and the Deliverables, where applicable, may be subject to limitations, delays and other problems inherent in the use of such connections, links or facilities.

10.8 If the Parties agree Service Credits in relation to any Work Order, the Parties agree that each Service Credit is a genuine pre-estimate of the loss likely to be suffered by the Customer, the provision of a Service Credit shall be the Customer's sole and exclusive remedy in respect of any events giving rise to such Service Credit.

11. FORCE MAJEURE

11.1 Supplier party shall not be liable to the Customer for any delay or non-performance of its obligations under these Terms to the extent that it arises directly from any cause or causes beyond its reasonable control and unable reasonably to be planned for or avoided including: any extremely severe weather, landslide, storm, lightning, fire, subsidence, pandemic, epidemic, outbreak of military hostilities (whether or not war is declared), expropriation by governmental authorities, act of

God, governmental act (other than a change in Applicable Law), act of terrorism, earthquake, flood, embargo, riot, sabotage, strike (other than of its own employees), failures of third-parties (other than subcontractors), explosion or civil commotion ("Force Majeure Event"), provided that the Supplier;

11.1.1 promptly notifies the Customer in writing of the cause of the delay or non-performance and the likely duration of the delay or non-performance; and

11.1.2 uses all reasonable endeavours to limit the effect of that delay or non-performance on the Customer.

11.2 If a Force Majeure Event affects Supplier and Supplier has not restored full and uninterrupted Services within 42 hours, Customer shall not be required to pay, and Supplier shall not be entitled to charge, for Services affected by that Force Majeure event for the duration of the period commencing on the date the Force Majeure Event occurred and ending on the date full and uninterrupted Services resumed.

11.3 If a Force Majeure Event continues for a continuous period of more than thirty (30) days and/or if performance by Supplier is suspended for more than sixty (60) days in aggregate during the Term owing to a Force Majeure Event then the Customer shall be entitled to terminate these Terms by providing no less than fourteen (14) days' prior written notice.

12. DATA PROTECTION

12.1 To the extent that either party processes any Personal Data ("Processor") on behalf of the other party ("Controller") under these Terms, the parties agree that:

12.1.1 both parties will comply with all applicable requirements of the Data Protection Legislation. This clause 12.1.1 is in addition to, and does not relieve, remove, or replace, a party's obligations under the Data Protection Legislation. In this clause 12, Applicable Laws specifically include (for so long as and to the extent that they apply to the Processor) the law of the European Union, the law of any member state of the European Union and/or Domestic UL Law; and Domestic UL Law means the UK Data Protection Legislation and any other law that applies in the UK.

12.1.2 both parties acknowledge that for the purposes of the Data Protection Legislation, the Supplier is a Processor, and the Work Order is accordingly intended to set out certain appropriate details as to the scope, nature and purpose of processing by the Supplier (as Processor), the duration of the processing and the types of Personal Data and categories of Data Subject (both as defined in the Data Protection Legislation).

12.2 Without prejudice to the generality of clause 12.1, the Controller will ensure that it has all necessary appropriate consents and notices in place to enable lawful transfer of the

Personal Data to the Processor for the duration and purposes of these Terms:

12.2.1 process that Personal Data in accordance with any written instructions of the Controller (unless the Processor is required by Applicable Laws to otherwise process that Personal Data). Where the Processor is relying on Applicable Laws as the basis for processing Personal Data, the Processor shall promptly notify the Controller of this before performing the processing required by the Applicable Laws (unless those Applicable Laws prohibit the Processor from so notifying the Controller);

12.2.2 ensure that it has in place appropriate technical and organisational measures, as may be reviewed and approved by the Controller, to protect against unauthorised or unlawful processing of Personal Data and against accidental loss or destruction of, or damage to, Personal Data, appropriate to the harm that might result from the unauthorised or unlawful processing or accidental loss, destruction or damage and the nature of the Personal Data to be protected, having regard to the state of technological development and the cost of implementing any measures (those measures may include, where appropriate, pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of its systems and services and (only when the Processor is responsible for backing up and / or restoring of Personal Data), (i) ensure the availability of and access to Personal Data can be restored in a timely manner as far as the agreed responsibilities allow/enable after an incident, and (ii) regularly assess and evaluate the effectiveness of the technical and organisational measures adopted by it);

12.2.3 ensure that all personnel who have access to and/or process Personal Data are obliged to keep the Personal Data confidential; and

12.2.4 only transfer any Personal Data outside of the European Economic Area as necessary under these Terms and provided that such transfers are effected in accordance with Data Protection Legislation. For these purposes, the Controller shall promptly comply with any reasonable request of the Processor, including any request to enter into standard data protection clauses adopted by the EU Commission from time to time (where the EU GDPR applies to the transfer) or adopted by the Commissioner from time to time (where the UK Data Protection Legislation applies to the transfer).

12.2.5 the Processor shall ensure that:

12.2.5.1 it complies with its obligations under the Data Protection Legislation by providing

an adequate level of protection to any Personal Data that is transferred; and

12.2.5.2 it complies with reasonable instructions notified to it in advance by the Controller with respect to the processing of the Personal Data;

12.2.5.3 it assists the Controller, at the Controller's cost, in responding to any request from a Data Subject and in ensuring compliance with its obligations under the Data Protection Legislation with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators;

12.2.5.4 it notifies the Controller without undue delay on becoming aware of a Personal Data breach;

12.2.5.5 at the written direction of the Controller, delete or return Personal Data and copies thereof to the Controller on termination of the Work Order (unless required by Applicable Law to store the Personal Data); and

12.2.5.6 it maintains records and information to demonstrate its compliance with this clause 12. and allow for reasonable audits by the Controller or the Controller's designated auditor, for this purpose, on reasonable written notice (at least 4 weeks) and in accordance with Suppliers' information security management system. Audits of compliance with data protection obligations are limited to once per year unless the Controller has a genuine reason to believe that Processor is in material breach of this clause 12 or can demonstrate that it requires copies of applicable documentation to comply with Data Protection Legislation or the requirements of the Commissioner or other applicable regulatory authority. In such case the Controller shall act reasonably in relation to any audit request, and in a manner which results in the minimum of inconvenience to the Processor.

12.3 Unless the Work Order specifically states otherwise, the Controller consents to the Processor appointing a member of its group of companies (or other appropriate and responsible person) as a third-party processor of Personal Data under these Terms. The Processor confirms that it has entered or (as the case may be) will enter with the third-party Processor into a written agreement (in appropriate format to ensure compliance by that third-party processor to obligations which are substantially similar to those set out in this clause 12). As between the Controller and the Processor, the Processor shall

remain fully liable for all acts or omissions of any third-party processor appointed by it pursuant to this clause 12.3.

12.4 Either party may, at any time on not less than thirty (30) days' notice, revise this clause 12 by replacing it with any applicable controller to processor standard clauses required by Applicable Laws; or if agreed between the parties, similar terms forming part of an applicable certification scheme (which shall apply when replaced by a variation to these Terms).

12.5 PCI DSS Compliance

12.5.1 The Supplier will maintain security standards applicable to the Services it provides in alignment with the current version of the PCI DSS standards.

12.5.2 Customer must not store, process, or transmit unencrypted payment card data directly within the environments supported by Supplier.

12.5.3 Cardholder data encrypted outside of the Supplier environment may be stored, processed, and transmitted within the environments supported by Supplier provided Customer shall ensure that neither it, nor any other party on Customer's behalf, has provided Supplier with access to any decryption material or functionality for this data.

12.5.4 For the avoidance of doubt, Supplier is neither responsible nor liable for the security or integrity of any payment card data stored, processed, or transmitted within the Supplier provisioned environments.

12.6 The Customer will ensure that full backups and security copies of data and programmes are made at all appropriate intervals. Supplier will perform backups if, and to the extent that, such activities are expressly included as part of the Services in the applicable Work Order., in which case Supplier will perform such services in accordance with the Work Order. Notwithstanding any other provision in these Terms, Supplier excludes all liability in respect of any backups that subsequently fail where they are due to environmental conditions, human input, or other factors outside of the control of Supplier, its subcontractors, Third-party Suppliers or as otherwise set out in these Terms.

13. CONFIDENTIALITY AND ANNOUNCEMENTS

13.1 Either party (a "Recipient") undertakes to the other party (a "Disclosing Party") to treat as confidential all information, whether commercial, financial, technical or otherwise, in any medium or format, which the Recipient receives from the Disclosing Party, either directly or from any other person, which concerns the business, operations, customers or suppliers of the Disclosing Party and which (a) is marked as confidential, (b) is identified in advance of disclosure by the Disclosing Party as being confidential, or (c) ought reasonably to be understood by the Recipient to be confidential ("Confidential Information"). The terms of these Terms shall constitute Confidential Information of each party.

13.2 This clause 13 shall not apply to any information which: (a) is in or subsequently enters the public domain other than as a result of a breach of this clause 13; (b) has been or is subsequently received by the Recipient from a third-party which is under no confidentiality obligation in respect of that information; (c) has been or is subsequently independently developed by the Recipient without use of the Disclosing Party's Confidential Information; or (d) was previously known to the Recipient free of any obligation to keep it confidential.

13.3 The Recipient may disclose Confidential Information where the Recipient is required to do so by Applicable Law or by any competent regulatory authority. In these circumstances the Recipient shall give the Disclosing Party prompt advance written notice of the disclosure (where lawful and practical to do so) so that the Disclosing Party has sufficient opportunity (where possible) to prevent or control the manner of disclosure by appropriate legal means.

13.4 Neither party shall make nor authorise any public or private announcement nor communication concerning these Terms or refer to or use any business name or trademark of the other party in any promotional communications without the prior written consent of the other party, which shall not be unreasonably withheld or delayed.

14. GENERAL

14.1 These Terms together with any Work Orders and/or change notice agreed between the parties, constitute the entire agreement and understanding of the parties relating to the subject matter of these Terms and supersedes any previous agreement or understanding between the parties in relation to such subject matter. In recognition of the express commitments contained in these Terms, the parties also hereby exclude all statutorily implied terms, to the fullest extent permitted by law. In entering into these Terms, the parties have not relied on any statement, representation, warranty, understanding, undertaking, promise or assurance of any person other than as expressly set out in these Terms. Each party irrevocably and unconditionally waives all claims, rights, and remedies which but for this clause it might otherwise have had in relation to any of the foregoing. Nothing in these Terms excludes liability for fraud or any other liability that cannot be limited or excluded under Applicable Law.

14.2 Neither party may assign, sublicense, transfer or otherwise dispose of any of its rights, or subcontract, transfer or otherwise dispose of any of its obligations, under these Terms without the prior written consent of the other party, which shall not be unreasonably withheld or delayed.

14.3 Any notice or other communication to be given under these Terms to a party shall be in writing and may be delivered or sent by post or facsimile to the party to be served at its registered and or office address or at any other address or to any other addressee as it may have notified to the other party in accordance with this clause. Any notice or other document sent by post shall be sent by prepaid first class recorded delivery

post or by prepaid airmail. In proving service of a notice or document it shall be sufficient to prove that delivery was made and recorded or that the message was properly addressed and despatched, as the case may be.

14.4 Each party shall comply with all Applicable Laws, statutes, regulations, and codes relating to anti-bribery and corruption including without limitation the UK Bribery Act and has and shall have in place all policies and procedures needed to ensure compliance with such requirements.

14.5 Nothing in these Terms shall be deemed to constitute a partnership between the parties, nor constitute either party as the agent of the other party for any purpose.

14.6 Each party undertakes, at the request and cost and expense of the other party, to sign all documents and to do all other acts which may be necessary to give full effect to these Terms.

14.7 No addition to or modification of these Terms will be binding on the parties unless made in writing.

14.8 The rights of each party under these Terms may be exercised as often as necessary, are cumulative and not exclusive of rights or remedies provided by law and may be waived only in writing and specifically. Delay in the exercise or non-exercise of any right is not a waiver of that right.

14.9 A person who is not a party to these Terms has no right to rely upon or enforce any provision of these Terms.

14.10 If any provision of these Terms is found to be invalid or unenforceable then such invalidity or unenforceability will not affect the other provisions of these Terms, which will remain in full force and effect.

14.11 These Terms and any dispute or claim (including noncontractual disputes or claims) arising out of or in connection with it or its subject matter or formation shall be governed by and construed in accordance with the law of England and Wales. Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with these Terms or its subject matter or formation.