

Dated

20

OXFORD INNOVATIONS CONSULTING
LIMITED

and

[**COUNTERPARTY NAME TO BE
INSERTED**]

AGREEMENT FOR THE SUPPLY OF SERVICES

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This Agreement is made on [INSERT DATE] 20[INSERT YEAR]

PARTIES

- (1) OXFORD INNOVATIONS CONSULTING LIMITED incorporated and registered in England and Wales with company number 10386645 whose registered office is at Wyche Innovation Centre, Walwyn Road, Upper Colwall, Malvern, Worcestershire, WR13 6PL (the Supplier).
- (2) [FULL COMPANY NAME] incorporated and registered in England and Wales with company number [NUMBER] whose registered office is at [REGISTERED OFFICE ADDRESS] (the Customer).

BACKGROUND

- (1) The Supplier is in the business of providing business management consultancy services.
- (2) The Customer agrees to obtain and the Supplier agrees to provide the Services on the terms set out in this agreement.

THE PARTIES AGREE

1 INTERPRETATION

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

1.1 Definitions

“Affiliate” in relation to a party, any entity that directly or indirectly controls, is controlled by, or is under common control with that party from time to time.

“Applicable Laws” all applicable laws, statutes and regulations from time to time in force.

“Applicable Data Protection Laws” means:

- (a) To the extent the UK GDPR applies, the law of the United Kingdom or of a part of the United Kingdom which relates to the protection of personal data.
- (b) To the extent the EU GDPR applies, the law of the law of the European Union or any member state of the European Union to which the Supplier is subject, which relates to the protection of personal data.

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

“Business Hours” the period from 9.00 am to 5.00 pm on any Business Day.

“Change Order” has the meaning given in clause 7.1.

“Charges” the sums payable for the Services, as set out in Schedule 1.

“Control” has the meaning given in section 1124 of the Corporation Tax Act 2010, and the expression change of Control shall be construed accordingly.

“Customer’s Equipment” any equipment, including tools, systems, cabling or facilities, provided by the Customer, its agents, subcontractors or consultants which is used directly or indirectly in the supply of the Services including any such items specified in Schedule 1.

“Customer Materials” all documents, information, items and materials in any form, whether owned by the Customer or a third party, which are provided by the Customer to the Supplier in connection with the Services, including the items provided pursuant to clause 5.1.4.

“Customer Personal Data” any personal data which the Supplier processes in connection with this agreement, in the capacity of a processor on behalf of the Customer.

“Deliverables” any output of the Services to be provided by the Supplier to the Customer as specified in Schedule 1 and any other documents, products and materials provided by the Supplier to the Customer in relation to the Services (excluding the Supplier’s Equipment)].

“End Date” the date on which the Supplier will cease to provide the Services, as set out in Schedule 1.

“EU GDPR” means the General Data Protection Regulation ((EU) 2016/679), as it has effect in EU law.

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

“Mandatory Policies” the Customer’s business policies listed in Schedule 2, as amended by notification to the Supplier from time to time.

“Milestones” a date by which a part of the Services is to be completed, as set out in Schedule 1.

“Services” the services as set out in Schedule 1.

“Supplier’s Equipment” any equipment, including tools, systems, cabling or facilities, provided by the Supplier to the Customer and used directly or indirectly in the supply of the Services including any such items specified in Schedule 1 but excluding any such items which are the subject of a separate agreement between the parties under which title passes to the Customer.

“Supplier Personal Data” any personal data which the Supplier processes in connection with this agreement, in the capacity of a controller.

“Start Date” the date on which the Supplier will commence provision of the Services, as set out in Schedule 1.

“UK GDPR” has the meaning given to it in section 3(10) (as supplemented by section 205(4)) of the Data Protection Act 2018.

“VAT” value added tax or any equivalent tax chargeable in the UK or elsewhere.

- 1.2 Clause, Schedule and paragraph headings shall not affect the interpretation of this agreement.
- 1.3 A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
- 1.4 The Schedules form part of this agreement and shall have effect as if set out in full in the body of this agreement. Any reference to this agreement includes the Schedules.
- 1.5 A reference to a **company** shall include any company, corporation or other body corporate, wherever and however incorporated or established.
- 1.6 Unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular.
- 1.7 Unless the context otherwise requires, a reference to one gender shall include a reference to the other genders.
- 1.8 This agreement shall be binding on, and enure to the benefit of, the parties to this agreement and their respective personal representatives, successors and permitted assigns, and references to any party shall include that party's personal representatives, successors and permitted assigns.
- 1.9 A reference to legislation or a legislative provision is a reference to it as it is in force as at the date of this agreement.
- 1.10 A reference to legislation or a legislative provision shall include all subordinate legislation made at the date of this agreement under that legislation or legislative provision.
- 1.11 A reference to **writing** or **written** includes email.
- 1.12 Any obligation on a party not to do something includes an obligation not to allow that thing to be done.
- 1.13 A reference to **this agreement** or to any other agreement or document referred to in this agreement is a reference of this agreement or such other agreement or document, in each case as varied from time to time.

1.14 References to clauses and Schedules are to the clauses and Schedules of this agreement and references to paragraphs are to paragraphs of the relevant Schedule.

1.15 Any words following the terms **including, include, in particular, for example** or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.

2 COMMENCEMENT AND DURATION

2.1 This agreement shall commence on the Start Date and shall continue, unless terminated earlier in accordance with clause 14 (Termination), until the End Date when it shall terminate automatically without notice.

2.2 The Supplier shall provide the Services to the Customer in accordance with this agreement from the Start Date as set out in Schedule 1.

3 TUPE

The provisions of 3 relating to TUPE shall apply when this agreement commences.

4 SUPPLIER'S RESPONSIBILITIES

4.1 The Supplier shall use reasonable endeavours to supply] the Services, and deliver the Deliverables to the Customer, in accordance with this agreement in all material respects.

4.2 The Supplier shall use reasonable endeavours to meet any performance dates or Milestones specified in Schedule 1 but any such dates shall be estimates only and time for performance by the Supplier shall not be of the essence of this agreement.

4.3 The Supplier shall appoint a manager for the Services, such person as identified in Schedule 1. That person shall have authority to contractually bind the Supplier on all matters relating to the Services (including by signing Change Orders). The Supplier shall use all reasonable endeavours to ensure that the same person acts as the Supplier's manager throughout the term of this agreement, but may replace

that person from time to time where reasonably necessary in the interests of the Supplier's business.

- 4.4 The Supplier shall use reasonable endeavours to observe all health and safety and security requirements that apply at any of the Customer's premises and that have been communicated to it under clause 5.1.5, provided that it shall not be liable under this agreement if, as a result of such observation, it is in breach of any of its obligations under this agreement.

5 CUSTOMER'S OBLIGATIONS

- 5.1 The Customer shall:

- 5.1.1 co-operate with the Supplier in all matters relating to the Services;
- 5.1.2 appoint a manager for the Services, such person as identified in Schedule 1. That person shall have the authority to contractually bind the Customer on matters relating to the Services (including by signing Change Orders);
- 5.1.3 provide, for the Supplier, its agents, subcontractors, consultants and employees, in a timely manner and at no charge, access to the Customer's premises, office accommodation, data and other facilities as reasonably required by the Supplier including any such access as is specified in Schedule 1;
- 5.1.4 provide to the Supplier in a timely manner all documents, information, items and materials in any form (whether owned by the Customer or third party) required under Schedule 1 or otherwise reasonably required by the Supplier in connection with the Services and ensure that they are accurate and complete;
- 5.1.5 inform the Supplier of all health and safety and security requirements that apply at the Customer's premises. If the Customer wishes to make a change to those requirements which will materially affect provision of the Services, it can only do so via the change control procedure set out in clause 7 (Change control)];
- 5.1.6 ensure that all the Customer's Equipment is in good working order and suitable for the purposes for which it is used in relation to the Services and conforms to all relevant United Kingdom standards or requirements;
- 5.1.7 obtain and maintain all necessary licences and consents and comply with all relevant legislation as required to enable the Supplier to provide the Services,

including in relation to the installation of the Supplier's Equipment, the use of all Customer Materials and the use of the Customer's Equipment insofar as such licences, consents and legislation relate to the Customer's business, premises, staff and equipment, in all cases before the date on which the Services are to start;

5.1.8 keep, maintain and insure the Supplier's Equipment in accordance with the Supplier's instructions from time to time and shall not dispose of or use the Supplier's Equipment other than in accordance with the Supplier's written instructions or authorisation;

5.1.9 [ANY OTHER RELEVANT OBLIGATIONS].

5.2 If the Supplier's performance of its obligations under this agreement is prevented or delayed by any act or omission of the Customer, its agents, subcontractors, consultants or employees, then, without prejudice to any other right or remedy it may have, the Supplier shall be allowed an extension of time to perform its obligations equal to the delay caused by the Customer.

6 NON-SOLICITATION

6.1 Except in respect of any transfer of employees of the Supplier to the Customer pursuant to the Transfer of Undertakings (Protection of Employment) Regulations 2006 (SI 2006/246), the Customer shall not, without the prior written consent of the Supplier, at any time from the date of this agreement to the expiry of twelve (12) months after the termination or expiry of this agreement, solicit or entice away from the Supplier or employ or attempt to employ any person who is, or has been, engaged as an employee, consultant or subcontractor of the Supplier in the provision of the Services.

6.2 Any consent given by the Supplier in accordance with clause 6.1 shall be subject to the Customer paying to the Supplier a sum equivalent to [20%] of the then current annual remuneration of the Supplier's employee, consultant or subcontractor or, if higher, [20%] of the annual remuneration to be paid by the Customer to that employee[, consultant or subcontractor].

7 CHANGE CONTROL

- 7.1 Either party may propose changes to the scope or execution of the Services but no proposed changes shall come into effect until a Change Order has been signed by both parties. A Change Order shall be a document setting out the proposed changes and the effect that those changes will have on:
- 7.1.1 the Services;
 - 7.1.2 the Supplier's existing charges;
 - 7.1.3 the timetable of the Services; and
 - 7.1.4 any of the terms of this agreement.
- 7.2 If the Supplier wishes to make a change to the Services it shall provide a draft Change Order to the Customer.
- 7.3 If the Customer wishes to make a change to the Services:
- 7.3.1 it shall notify the Supplier and provide as much detail as the Supplier reasonably requires of the proposed changes, including the timing of the proposed changes; and
 - 7.3.2 the Supplier shall, as soon as reasonably practicable after receiving the information at clause 7.3.1, provide a draft Change Order to the Customer.
- 7.4 If the parties:
- 7.4.1 agree to a Change Order, they shall sign it and that Change Order shall amend this agreement; or
 - 7.4.2 are unable to agree a Change Order, either party may require the disagreement to be dealt with in accordance with the dispute resolution procedure in clause 28 (Multi-tiered dispute resolution procedure).
- 7.5 The Supplier may charge for the time it spends on preparing and negotiating Change Orders which implement changes proposed by the Customer pursuant to clause 7.3 on a time and materials basis at the Supplier's daily rates.

8 CHARGES AND PAYMENT

- 8.1 In consideration of the provision of the Services by the Supplier, the Customer shall pay the Charges.

The Supplier shall be entitled to charge an overtime rate of [PERCENTAGE]% of the daily fee rate of its staff on a pro rata basis for any time worked by individuals whom it engages on the Services outside Business Hours; and

- 8.2 The Charges exclude the following which shall be payable by the Customer monthly in arrears, following submission of an appropriate invoice:

- 8.2.1 the cost of hotel, subsistence, travelling and any other ancillary expenses reasonably incurred by the individuals whom the Supplier engages in connection with the Services; and

- 8.2.2 the cost to the Supplier of any materials or services procured by the Supplier from third parties for the provision of the Services as such items and their cost are approved by the Customer in advance from time to time.

- 8.3 The Supplier may increase the Charges on an annual basis with effect from each anniversary of the date of this agreement in line with the percentage increase in the Retail Prices Index in the preceding 12-month period, and the first such increase shall take effect on the first anniversary of the date of this agreement and shall be based on the latest available figure for the percentage increase in the Retail Prices

- 8.4 The Supplier shall invoice the Customer for the Charges at the intervals specified, or on the achievement of the Milestones indicated, in Schedule 1. If no intervals are so specified the Supplier shall invoice the Customer at the end of each month for Services performed during that month.

- 8.5 The Customer shall pay each invoice submitted to it by the Supplier within [30] days of receipt to a bank account nominated in writing by the Supplier from time to time.

- 8.6 Without prejudice to any other right or remedy that it may have, if the Customer fails to pay the Supplier any sum due under this agreement on the due date:

- 8.6.1 the Customer shall pay interest on the overdue sum from the due date until payment of the overdue sum, whether before or after judgment. Interest under this clause 8.7.1 will accrue each day at 4% a year above the Bank of England's base

rate from time to time, but at 4% a year for any period when that base rate is below 0%;

8.6.2 the Supplier may suspend all or part of the Services until payment has been made in full.

8.7 All sums payable to the Supplier under this agreement:

8.7.1 are exclusive of VAT, and the Customer shall in addition pay an amount equal to any VAT chargeable on those sums on delivery of a VAT invoice; and

8.7.2 shall be paid in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law).

9 **INTELLECTUAL PROPERTY RIGHTS**

9.1 In relation to the Deliverables:

9.1.1 the Supplier and its licensors shall retain ownership of all Intellectual Property Rights in the Deliverables, excluding the Customer Materials;

9.1.2 the Supplier grants the Customer, or shall procure the direct grant to the Customer of, a fully paid-up, worldwide, non-exclusive, royalty-free, perpetual and irrevocable licence to copy and modify the Deliverables (excluding the Customer Materials) for the purpose of receiving and using the Services and the Deliverables in its business; and

9.1.3 the Customer shall not sub-license, assign or otherwise transfer the rights granted in clause 9.1.2 to any third party (including any Affiliates) without the prior written consent of the Supplier.

9.1.3.1 If the Supplier's consent is given in accordance with 9.1.3 above, the Customer shall ensure that the third party to which the Deliverables are sub-licensed enters into appropriate confidentiality undertakings in relation to their receipt of the Deliverables, such confidentiality undertakings to be no less stringent than those set out in this agreement.

9.2 In relation to the Customer Materials, the Customer:

9.2.1 and its licensors shall retain ownership of all Intellectual Property Rights in the Customer Materials; and

9.2.2 grants the Supplier a fully paid-up, worldwide, non-exclusive, royalty-free, perpetual, and irrevocable licence to copy and modify the Customer Materials for the purpose of providing the Services to the Customer and for use in the Supplier's business, including with other of the Supplier's customers.

9.3 The Supplier:

9.3.1 warrants that the receipt and use of the Services and the Deliverables by the Customer and any permitted sub-licensees shall not infringe the rights, including any Intellectual Property Rights, of any third party;

9.3.2 shall not be in breach of the warranty at clause 9.3.1 to the extent the infringement arises from:

9.3.2.1 the use of the Customer Materials in the development of, or the inclusion of the Customer Materials in any Deliverable;

9.3.2.2 any modification of the Deliverables or Services, other than by or on behalf of the Supplier; and

9.3.2.3 compliance with the Customer's specifications or instructions

9.4 The Customer:

9.4.1 warrants that the receipt and use of the Customer Materials in the performance of this agreement by the Supplier, its agents, subcontractors or consultants shall not infringe the rights, including any Intellectual Property Rights, of any third party; and

9.4.2 shall indemnify the Supplier in full against all liabilities, costs, expenses, damages and losses (including any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other reasonable professional costs and expenses) suffered or incurred by the Supplier arising out of or in connection with any claim brought against the Supplier, its agents, subcontractors or consultants for actual or alleged infringement of a third party's Intellectual Property Rights arising out of, or in connection with, the receipt or use in the performance of this agreement of the Customer Materials.

9.5 The Supplier shall:

- 9.5.1 notify the Customer in writing of any claim against it in respect of which it wishes to rely on the indemnity at clause 9.4.2 (as applicable) (IPRs Claim);
- 9.5.2 allow the Customer, at its own cost, to conduct all negotiations and proceedings and to settle the IPRs Claim, always provided that the Customer shall obtain the Supplier's prior approval of any settlement terms, such approval not to be unreasonably withheld;
- 9.5.3 provide the Customer with such reasonable assistance regarding the IPRs Claim as is required by the Customer, subject to reimbursement by the Customer of the Supplier's costs so incurred; and
- 9.5.4 not, without prior consultation with the Customer, make any admission relating to the IPRs Claim or attempt to settle it, provided that the Customer considers and defends any IPRs Claim diligently, using competent counsel and in such a way as not to bring the reputation of the Supplier into disrepute.

10 COMPLIANCE WITH LAWS AND POLICIES

- 10.1 In performing its obligations under this agreement, the Supplier shall comply with:
 - 10.1.1 the Applicable Laws; and
 - 10.1.2 the Mandatory Policies, provided that the Customer shall give the Supplier not less than [NUMBER] months' notice of any change to such policies.
- 10.2 Changes to the Services required as a result of changes to the Applicable Laws or the Mandatory Policies shall be agreed via the change control procedure set out in clause 7 (Change control).

11 DATA PROTECTION

- 11.1 Both parties will comply with all applicable requirements of the Applicable Data Protection Laws. This clause 11 is in addition to, and does not relieve, remove or replace, a party's obligations or rights under Applicable Data Protection Laws.

12 CONFIDENTIALITY

- 12.1 Each party undertakes that it shall not at any time during this agreement, and for a period of two years after termination or expiry of this agreement, disclose to any

person any confidential information concerning the business, affairs, customers, clients or suppliers of the other party or of any member of the group of companies to which the other party belongs, except as permitted by clause 12.2.

12.2 Each party may disclose the other party's confidential information:

12.2.1 to its employees, officers, representatives, contractors, subcontractors or advisers who need to know such information for the purposes of exercising the party's rights or carrying out its obligations under or in connection with this agreement. Each party shall ensure that its employees, officers, representatives, contractors, subcontractors or advisers to whom it discloses the other party's confidential information comply with this clause 12; and

12.2.2 as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.

12.3 No party shall use any other party's confidential information for any purpose other than to exercise its rights and perform its obligations under or in connection with this agreement.

13 **LIMITATION OF LIABILITY**

13.1 The Supplier has obtained insurance cover in respect of its own legal liability for individual claims not exceeding £[AMOUNT] per claim. The limits and exclusions in this clause reflect the insurance cover the Supplier has been able to arrange and the Customer is responsible for making its own arrangements for the insurance of any excess loss.

13.2 References to liability in this clause 13 include every kind of liability arising under or in connection with this agreement including but not limited to liability in contract, tort (including negligence), misrepresentation, restitution or otherwise.

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

13.4 Nothing in this this clause 13 shall limit the Customer's payment obligations under this agreement.

13.5 Nothing in this agreement shall limit the Customer's liability under the following clauses:

- 13.5.1 Clause 9.4 (IPR indemnities); and
- 13.5.2 Paragraph 1.4 of Schedule 4 (TUPE on entry).
- 13.6 Nothing in this agreement limits any liability which cannot legally be limited, including but not limited to liability for:
 - 13.6.1 death or personal injury caused by negligence;
 - 13.6.2 fraud or fraudulent misrepresentation; and
 - 13.6.3 breach of the terms implied by section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession).
- 13.7 Subject to clause 13.3 (no limitations in respect of deliberate default) and clause 13.6 (liabilities which cannot legally be limited), the Supplier's total liability to the Customer:
 - 13.7.1 for damage to property caused by the negligence of its employees and agents in connection with this agreement shall not exceed £5 million for any one event or series of connected events; and
 - 13.7.2 for all other loss or damage which does not fall within subclause (a) or (b) shall not exceed £[AMOUNT].
- 13.8 Subject to clause 13.3 (no limitations in respect of deliberate default), clause 13.5 (liability under identified clauses) and clause 13.6 (liabilities which cannot legally be limited), the Customer's total liability to the Supplier:
 - 13.8.1 for damage to property caused by the negligence of its employees and agents in connection with this agreement shall not exceed £[AMOUNT LINKED TO RELEVANT INSURANCE POLICY] for any one event or series of connected events;
 - 13.8.2 for loss arising from the Supplier's failure to comply with its data processing obligations under clause 11 (Data protection) shall not exceed £[AMOUNT]; and
 - 13.8.3 for all other loss or damage which does not fall within subclause (a) or (b) shall not exceed £[AMOUNT].
- 13.9 The caps on the Customer's liabilities shall not be reduced by:

- 13.9.1 amounts awarded or agreed to be paid under:
 - 13.9.1.1 Clause 9 (IPR indemnities); and
 - 13.9.1.2 Schedule 4 (TUPE on entry).
- 13.9.2 amounts awarded by a court or arbitrator, using their procedural or statutory powers in respect of costs of proceedings or interest for late payment.
- 13.10 Subject to clause 13.3 (No limitations in respect of deliberate default), clause 13.4 (No limitation on the customer's payment obligations), clause 13.5 (liability under identified clauses) and clause 13.6 (Liabilities which cannot legally be limited), this clause 13.10 specifies the types of losses that are excluded:
 - 13.10.1 loss of profits;
 - 13.10.2 loss of sales or business;
 - 13.10.3 loss of agreements or contracts;
 - 13.10.4 loss of anticipated savings;
 - 13.10.5 loss of use or corruption of software, data or information;
 - 13.10.6 loss of or damage to goodwill; and
 - 13.10.7 indirect or consequential loss.
- 13.11 Unless the Customer notifies the Supplier that it intends to make a claim in respect of an event within the notice period, the Supplier shall have no liability for that event. The notice period for an event shall start on the day on which the Customer became, or ought reasonably to have become, aware of the event having occurred and shall expire two months from that date. The notice must be in writing and must identify the event and the grounds for the claim in reasonable detail.

14 **TERMINATION**

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

- 14.1.1 the other party commits a material breach of any term of this agreement and (if such breach is remediable) fails to remedy that breach within a period of thirty days after being notified in writing to do so;
- 14.1.2 the other party repeatedly breaches any of the terms of this agreement in such a manner as to reasonably justify the opinion that its conduct is inconsistent with it having the intention or ability to give effect to the terms of this agreement;
- 14.1.3 the other party suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 as if the words "it is proved to the satisfaction of the court" did not appear in sections 123(1)(e) or 123(2) of the Insolvency Act 1986;
- 14.1.4 the other party commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with any of its creditors other than (being a company) for the sole purpose of a scheme for a solvent amalgamation of that other party with one or more other companies or the solvent reconstruction of that other party;
- 14.1.5 the other party applies to court for, or obtains, a moratorium under Part A1 of the Insolvency Act 1986;
- 14.1.6 a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of that other party (being a company) other than for the sole purpose of a scheme for a solvent amalgamation of that other party with one or more other companies or the solvent reconstruction of that other party;
- 14.1.7 an application is made to court, or an order is made, for the appointment of an administrator, or a notice of intention to appoint an administrator is given or if an administrator is appointed, over the other party (being a company, partnership or limited liability partnership);
- 14.1.8 the holder of a qualifying floating charge over the assets of that other party (being a company or limited liability partnership) has become entitled to appoint or has appointed an administrative receiver;

- 14.1.9 a person becomes entitled to appoint a receiver over all or any of the assets of the other party or a receiver is appointed over all or any of the assets of the other party;
- 14.1.10 a creditor or encumbrancer of the other party attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of the other party's assets and such attachment or process is not discharged within fourteen days;
- 14.1.11 any event occurs, or proceeding is taken, with respect to the other party in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clause 14.1.3 to clause 14.1.10 (inclusive);
- 14.1.12 the other party suspends or ceases, or threatens to suspend or cease, carrying on all or a substantial part of its business; or
- 14.1.13 the other party's financial position deteriorates so far as to reasonably justify the opinion that its ability to give effect to the terms of this agreement is in jeopardy.
- 14.2 For the purposes of clause 14.1.1 material breach means a breach (including an anticipatory breach) that is serious in the widest sense of having a serious effect on the benefit which the terminating party would otherwise derive from:
- 14.2.1 a substantial portion of this agreement; or
- 14.2.2 any of the obligations set out in clauses 6, 10, 11, 12; and
- in deciding whether any breach is material no regard shall be had to whether it occurs by some accident, mishap, mistake or misunderstanding.
- 14.3 Without affecting any other right or remedy available to it, the Supplier may terminate this agreement with immediate effect by giving written notice to the Customer if:
- 14.3.1 the Customer fails to pay any amount due under this agreement on the due date for payment and remains in default not less than [NUMBER] days after being notified in writing to make such payment; or
- 14.3.2 there is a change of Control of the Customer.

15 OBLIGATIONS ON TERMINATION AND SURVIVAL

15.1 Obligations on termination or expiry

On termination or expiry of this agreement:

- 15.1.1 the Customer shall immediately pay to the Supplier all of the Supplier's outstanding unpaid invoices and interest and, in respect of the Services supplied but for which no invoice has been submitted, the Supplier may submit an invoice, which shall be payable immediately on receipt;
- 15.1.2 the Customer shall, within a reasonable time, return all of the Supplier's Equipment. If the Customer fails to do so, then the Supplier may enter the Customer's premises and take possession of the Supplier's Equipment. Until they have been returned or repossessed, the Customer shall be solely responsible for their safe keeping; and
- 15.1.3 the Supplier shall on request return any of the Customer Materials not used up in the provision of the Services.

15.2 Survival

- 15.2.1 On termination or expiry of this agreement, the following clauses shall continue in force: clause 1 (Interpretation), clause 6 (Non-solicitation), clause 9 (Intellectual property rights), clause 12 (Confidentiality), clause 13 (Limitation of liability), clause 15 (Consequences of termination), clause 19 (Waiver), clause 21 (Severance), clause 23 (Conflict), clause 28 (Multi-tiered dispute resolution procedure), clause 29 (Governing law) and clause 30 (Jurisdiction).
- 15.2.2 Termination or expiry of this agreement shall not affect any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination or expiry, including the right to claim damages in respect of any breach of the agreement which existed at or before the date of termination or expiry.

16 FORCE MAJEURE

- 16.1 Force Majeure Event means any circumstance not within a party's reasonable control including, without limitation:

- 16.1.1 acts of God, flood, drought, earthquake or other natural disaster;

- 16.1.2 epidemic or pandemic;
- 16.1.3 terrorist attack, civil war, civil commotion or riots, war, threat of or preparation for war, armed conflict, imposition of sanctions, embargo, or breaking off of diplomatic relations;
- 16.1.4 nuclear, chemical or biological contamination or sonic boom;
- 16.1.5 any law or any action taken by a government or public authority, including imposing an export or import restriction, quota or prohibition, or failing to grant a necessary licence or consent;
- 16.1.6 collapse of buildings, fire, explosion or accident; and
- 16.1.7 any labour or trade dispute, strikes, industrial action or lockouts (other than in each case by the party seeking to rely on this clause, or companies in the same group as that party); and
- 16.1.8 interruption or failure of utility service.
- 16.2 Provided it has complied with clause 16.4, if a party is prevented, hindered or delayed in or from performing any of its obligations under this agreement by a Force Majeure Event (Affected Party), the Affected Party shall not be in breach of this agreement or otherwise liable for any such failure or delay in the performance of such obligations. The time for performance of such obligations shall be extended accordingly.
- 16.3 The corresponding obligations of the other party will be suspended, and its time for performance of such obligations extended, to the same extent as those of the Affected Party.
- 16.4 The Affected Party shall:
 - 16.4.1 as soon as reasonably practicable after the start of the Force Majeure Event but no later than three days from its start, notify the other party in writing of the Force Majeure Event, the date on which it started, its likely or potential duration, and the effect of the Force Majeure Event on its ability to perform any of its obligations under the agreement; and
 - 16.4.2 use all reasonable endeavours to mitigate the effect of the Force Majeure Event on the performance of its obligations.

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

17 ASSIGNMENT AND OTHER DEALINGS

- 17.1 This agreement is personal to the Customer and the Customer shall not assign, transfer, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any of its rights and obligations under this agreement.
- 17.2 The Supplier may at any time assign, mortgage, charge, declare a trust over or deal in any other manner with any or all of its rights under this agreement, provided that the Supplier gives prior written notice of such dealing to the Customer.

18 VARIATION

Subject to clause 7 (Change control), no variation of this agreement shall be effective unless it is in writing and signed by the parties (or their authorised representatives).

19 WAIVER

- 19.1 A waiver of any right or remedy under this agreement or by law is only effective if given in writing and shall not be deemed a waiver of any subsequent right or remedy.
- 19.2 A failure or delay by a party to exercise any right or remedy provided under this agreement or by law shall not constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict any further exercise of that or any other right or remedy. No single or partial exercise of any right or remedy provided under this agreement or by law shall prevent or restrict the further exercise of that or any other right or remedy.

20 RIGHTS AND REMEDIES

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

21 SEVERANCE

- 21.1 If any provision or part-provision of this agreement is or becomes invalid, illegal or unenforceable, it shall be deemed deleted, but that shall not affect the validity and enforceability of the rest of this agreement.
- 21.2 If any provision or part-provision of this agreement is deemed deleted under clause 21.1 the parties shall negotiate in good faith to agree a replacement provision that, to the greatest extent possible, achieves the intended commercial result of the original provision.

22 ENTIRE AGREEMENT

- 22.1 This agreement constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.
- 22.2 Each party agrees that it shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in this agreement. Each party agrees that it shall have no claim for innocent or negligent misrepresentation based on any statement in this agreement.

23 CONFLICT

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

24 NO PARTNERSHIP OR AGENCY

- 24.1 Nothing in this agreement is intended to, or shall be deemed to, establish any partnership or joint venture between any of the parties, constitute any party the agent of another party, or authorise any party to make or enter into any commitments for or on behalf of any other party.
- 24.2 Each party confirms it is acting on its own behalf and not for the benefit of any other person.

25 **THIRD PARTY RIGHTS**

- 25.1 Unless it expressly states otherwise, this agreement does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this agreement.
- 25.2 The rights of the parties to rescind or vary this agreement are not subject to the consent of any other person.

26 **NOTICES**

- 26.1 Any notice or other communication given to a party under or in connection with this agreement shall be in writing and shall be:
- 26.1.1 delivered by hand or by pre-paid first-class post or other next working day delivery service at its registered office (if a company) or its principal place of business (in any other case); or
- 26.1.2 sent by email to the address specified in Schedule 1.
- 26.2 Any notice or communication shall be deemed to have been received:
- 26.2.1 if delivered by hand, at the time the notice is left at the proper address;
- 26.2.2 if sent by pre-paid first-class post or other next working day delivery service, at 9.00 am on the second Business Day after posting; or
- 26.2.3 if sent by email, at the time of transmission, or, if this time falls outside business hours in the place of receipt, when business hours resume. In this clause 26.2.3, business hours means 9.00am to 5.00pm Monday to Friday on a day that is not a public holiday in the place of receipt.
- 26.3 This clause does not apply to the service of any proceedings or any documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

27 **COUNTERPARTS**

- 27.1 This agreement may be executed in any number of counterparts, each of which shall constitute a duplicate original, but all the counterparts shall together constitute the one agreement.

- 27.2 Transmission of an executed counterpart of this agreement (but for the avoidance of doubt not just a signature page) by email (in PDF, JPEG or other agreed format) shall take effect as the transmission of an executed “wet-ink” counterpart of this agreement. If this method of transmission is adopted, without prejudice to the validity of the agreement thus made, each party shall on request provide the other with the “wet-ink” hard copy original of their counterpart.
- 27.3 No counterpart shall be effective until each party has executed and delivered at least one counterpart.

28 MULTI-TIERED DISPUTE RESOLUTION PROCEDURE

- 28.1 If a dispute arises out of or in connection with this agreement or the performance, validity or enforceability of it (Dispute) then except as expressly provided in this agreement, the parties shall follow the procedure set out in this clause:
- 28.1.1 either party shall give to the other written notice of the Dispute, setting out its nature and full particulars (Dispute Notice), together with relevant supporting documents. On service of the Dispute Notice, the [EMPLOYEE TITLE] of the Customer and [EMPLOYEE TITLE] of the Supplier shall attempt in good faith to resolve the Dispute;
- 28.1.2 if the [EMPLOYEE TITLE] of the Customer and [EMPLOYEE TITLE] of the Supplier are for any reason unable to resolve the Dispute within [30] days of service of the Dispute Notice, the Dispute shall be referred to the [SENIOR OFFICER TITLE] of the Customer and [SENIOR OFFICER TITLE] of the Supplier who shall attempt in good faith to resolve it; and
- 28.1.3 if the [SENIOR OFFICER TITLE] of the Customer and [SENIOR OFFICER TITLE] of the Supplier are for any reason unable to resolve the Dispute within [30] days of it being referred to them, the parties will attempt to settle it by mediation in accordance with the CEDR Model Mediation Procedure. Unless otherwise agreed between the parties, the mediator shall be nominated by CEDR. To initiate the mediation, a party must serve notice in writing (ADR notice) to the other party to the Dispute, requesting a mediation. A copy of the ADR notice should be sent to CEDR. The mediation will start not later than [NUMBER] days after the date of the ADR notice.

- 28.2 The commencement of mediation shall not prevent the parties commencing or continuing court proceedings in relation to the Dispute under clause 30 (Jurisdiction) which clause shall apply at all times.

OR

No party may commence any court proceedings under clause 30 (Jurisdiction) (in relation to the whole or part of the Dispute until [NUMBER] days after service of the ADR notice, provided that the right to issue proceedings is not prejudiced by a delay.

- 28.3 If the Dispute is not resolved within [NUMBER] days after service of the ADR notice, or either party fails to participate or to continue to participate in the mediation before the expiration of the said period of [NUMBER] days, or the mediation terminates before the expiration of the said period of [NUMBER] days, the Dispute shall be finally resolved by the courts of England and Wales in accordance with clause 30 (Jurisdiction).

29 GOVERNING LAW

This agreement and any dispute or claim (including non-contractual 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.

30 JURISDICTION

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 this agreement or its subject matter or formation.

This agreement has been entered into on the date stated at the beginning of it.

SCHEDULE 1

Services Details

1. Services [LIST SERVICES PROVIDED UNDER THIS AGREEMENT INC ANY PROJECT NAME]
2. Start Date:
3. End Date:
4. Charges:
5. Payment Arrangements (clause 8.4):
6. Customer Materials: [SPECIFY]
7. Customer's Equipment: [SPECIFY]
8. Customer resources to be made available: [SPECIFY]
9. Supplier's Equipment: [SPECIFY]
10. Milestones: [SPECIFY]
11. Timetable: [SET OUT TIMETABLE]
12. Deliverables: [SPECIFY]
13. Customer's manager: [NAME AND TITLE]
14. Supplier's manager: [NAME AND TITLE]
15. Email addresses:

Supplier:

Customer:

Mandatory Policies

[LIST [AND ATTACH] THE MANDATORY POLICIES HERE]

The Mandatory Policies are:

- [Modern Slavery and Human Trafficking Policy]
- [Corporate and Social Responsibility Policy]
- [Data and Privacy Policy]
- [Ethics and Anti-Bribery Policy]
- [Expenses Policy]
- [Health and Safety Policy]
- [Security Policy]

TUPE on entry

1 TUPE on entry

1.1 In this Schedule 4 the following definitions apply:

“Effective Date” the date of this agreement.

“Employees” those employees whose contract of employment transfer to the Supplier from the Customer as at the Effective Date, being those employees who are listed in paragraph 2 of this Schedule 4.

“Employee Liability Information” in respect of each of the Employees:

- (a) the identity and age of the Employee;
- (b) those particulars of employment that an employer is obliged to give the Employee under section 1 of the Employment Rights Act 1996;
- (c) information about any disciplinary action taken against the Employee and any grievances raised by the Employee, where a Code of Practice issued under Part IV of the Trade Union and Labour Relations (Consolidation) Act 1992 relating exclusively or primarily to the resolution of disputes or any other applicable code or statutory procedure applied, within the previous two years;
- (d) information about any court or tribunal case, claim or action either brought by the Employee against the Customer within the previous two years or where the Customer has reasonable grounds to believe that such action may be brought against the Supplier arising out of the Employee's employment with the Customer; and
- (e) information about any collective agreement which will have effect after the [Effective Date] in relation to the Employee pursuant to regulation 5(a) of the Employment Regulations.

“Employment Regulations” the Transfer of Undertakings (Protection of Employment) Regulations 2006 (SI 2006/246).

- 1.2 The Customer and the Supplier believe that, pursuant to the Employment Regulations, at the Effective Date, the Supplier will become the employer of the Employees.
- 1.3 The Customer represents, warrants and undertakes to the Supplier that:
- 1.3.1 no persons are employed or engaged in the provision of the Services other than the Employees;
- 1.3.2 none of the Employees has given or received notice terminating their employment or will be entitled to give notice as a result of the provisions of this agreement;
- 1.3.3 full particulars of the terms of employment of all the Employees (including all remuneration, incentives, bonuses, expenses and other payments and benefits whatsoever payable other than the pension benefits of any Employees disclosed in accordance with [DETAIL]) are set out in paragraph 2 of this Schedule 4;
- 1.3.4 there is not in existence any contract of employment with directors or employees of the Customer (or any contract for services with any individual) relating to the Services which cannot be terminated by three months' notice or less without giving rise to the making of a payment in lieu of notice or a claim for damages or compensation (other than a statutory redundancy payment or statutory compensation for unfair dismissal);
- 1.3.5 in relation to each of the Employees (and so far as relevant to each of its former employees who were employed or engaged in the provision of the Services) the Customer has:
- 1.3.5.1 complied with all obligations imposed on it by Articles of the Treaty on the Functioning of the European Union, European Commission Regulations and Directives and all statutes, regulations and codes of conduct relevant to the relations between it and its employees or it and any recognised trade union or appropriate representatives;
- 1.3.5.2 maintained adequate and suitable records regarding the service of each of its employees;
- 1.3.5.3 calculated and paid all holiday pay for periods of holiday taken under regulation 13 of the Working Time Regulations 1998 (SI 1998/1833) in accordance with the

Directive 2003/88/EC of the European Parliament and of the Council of 4 November 2003 concerning certain aspects of the organisation of working time;

- 1.3.5.4 complied with all collective agreements and customs and practices for the time being dealing with such relations or the conditions of service of its employees; and
- 1.3.5.5 complied with all relevant orders and awards made under any statute affecting their conditions of service;
- 1.3.6 the Customer has not been involved in any industrial or trade disputes in the last [three] years and to the best of the Customer's knowledge, information and belief there are no circumstances which may result in any industrial dispute involving any of the Employees and none of the provisions of this agreement including the identity of the Supplier is likely to lead to any industrial dispute;
- 1.3.7 there is not outstanding any agreement or arrangement to which the Customer is party in relation to the Employees for profit sharing or for payment to any of the Employees of bonuses or for incentive payments or other similar matters;
- 1.3.8 the Customer has not entered into any recognition agreement with a trade union in relation to the Employees nor has it done any act which may be construed as recognition;
- 1.3.9 the Customer has complied with all recommendations made by the Advisory Conciliation and Arbitration Service in relation to the Employees and with all awards and declarations made by the Central Arbitration Committee in relation to the Employees;
- 1.3.10 [there is no agreement, arrangement, scheme or obligation (whether legal or moral) for the payment of any pensions, allowances, lump sums or other like benefits on redundancy, on retirement or on death or during periods of sickness or disablement for the benefit of any of the Employees or former employees employed or engaged in the provision of the Services or for the benefit of dependants of such persons;]
- 1.3.11 no amounts due to or in respect of any of the Employees (including PAYE and National Insurance [and pension contributions]) are in arrears or unpaid;
- 1.3.12 no monies or benefits other than in respect of contractual emoluments are payable to any of the Employees and there is not at present a claim, occurrence or state or

affairs which may hereafter give rise to a claim against the Customer arising out of the employment or termination of employment of any of the Employees for compensation for loss of office or employment or otherwise and whether under contract or any statute or regulations or otherwise;

- 1.3.13 the Customer has provided the Employee Liability Information to the Supplier regarding each of the Employees either in writing or by making it available to the Supplier in a readily accessible form;
- 1.3.14 the Employee Liability Information contains information as at a specified date not more than 14 days before the date on which the information was provided to the Supplier;
- 1.3.15 the Customer has notified the Supplier in writing of any change in the Employee Liability Information since the date on which it was provided; and
- 1.3.16 the Employee Liability Information was provided not less than 28 days before the Effective Date.
- 1.3.17 [the Customer has agreed to, and co-operated with, pre-transfer consultation by the transferee in accordance with Part IV of TULRCA, if required.]
- 1.4 The Customer shall indemnify the Supplier in full for and against all claims, costs, expenses or liabilities whatsoever and howsoever arising incurred or suffered by the Supplier including all legal expenses and other professional fees (together with any VAT thereon) in relation to:
 - 1.4.1 the termination by the Customer of the employment of any of the Employees;
 - 1.4.2 anything done or omitted to be done in respect of any of the Employees which is deemed to have been done by the Supplier by virtue of the Employment Regulations; and
 - 1.4.3 any claim made at any time by any employee of the Customer other than the Employees who claim to have become an employee of or have rights against the Supplier by virtue of the Employment Regulations (Claims);

provided that such costs, claims, expenses and liabilities are not payable as a result of any act or omission of the Supplier.

- 1.5 The Customer shall procure that its employees, agents and successors in title shall promptly:
 - 1.5.1 take such action in connection with the Claims as the Supplier shall from time to time reasonably request;
 - 1.5.2 provide free of charge all such assistance and information as the Supplier may reasonably request relating to the Claims to enable the Claims to be pursued;
 - 1.5.3 subject to any restriction imposed by law, provide the Supplier, its legal and other advisers with access to all documents, records or other information held by the Supplier relating to the Claims;
 - 1.5.4 provide the Supplier and/or its professional advisers and experts with access from time to time to such members of staff as may be necessary to assist the Supplier with the preparation of its cases in relation to the Claims;
 - 1.5.5 permit and require such employees as the Supplier and/or its professional advisers may reasonably request to meet with the Supplier and/or its legal advisers in normal working hours to prepare witness statements for trial, attend meetings with Counsel or experts and/or to attend any court hearing or trial in connection with the Claims for so long and as frequently as the Supplier and/or its legal or other professional advisers may reasonably require;
 - 1.5.6 provide such other assistance as the Supplier may reasonably request in order to ensure the due and timely prosecution of the Claims;
 - 1.5.7 resist in connection with the Claims any request for documents, information, access to relevant premises or to employees of the business by any third party without first informing the Supplier and obtaining its agreement to any approval of the request; and
 - 1.5.8 preserve and not waive legal professional privilege or any other privilege attaching to any of the documents or other information relating to the Claims in their possession without first obtaining the Supplier's consent to such waiver, such consent not to be unreasonably withheld.
- 1.6 All salaries and other emoluments including holiday pay, taxation and National Insurance contributions and contributions to retirement benefit schemes relating to

the Employees shall be borne by the Customer up to and including the Effective Date and by the Supplier with effect from the Effective Date.

1.7 The Supplier shall indemnify the Customer in full for and against all claims, costs expenses or liabilities whatsoever and howsoever arising, incurred or suffered by the Customer including all legal expenses and other professional fees (together with any VAT thereon) in relation to:

1.7.1 any failure by the Supplier to comply with its obligations pursuant to the Employment Regulations; and

1.7.2 anything done or omitted to be done by the Supplier in respect of any of the Employees whether before or after the Effective Date.

2 List of Employees

Employee name	Benefit

Signed by [NAME
OF DIRECTOR]
for and on behalf
of OXFORD
INSIGHTS

.....

Director

Signed by [NAME
OF DIRECTOR]
for and on behalf

.....

Director

of [NAME OF
CUSTOMER]

DRAFT