Services Agreement Standard Terms

Parties

(1) Supplier as defined in the Order Form.

(2) Customer as defined in the Order Form.

Background

(A) Supplier is in the business of providing the Services.

(B) Customer wishes to receive and Supplier wishes to provide the Services on the terms set out in the Services Agreement.

The Parties agree as follows:

1. Interpretation

1.1 The following definitions and rules of interpretation apply in the Services Agreement:

Applicable Data Protection Laws:

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 European Union or any member state of the European Union to which Supplier is subject, which relates to the protection of personal data.

Annex: any schedule, appendix or other document referenced in or otherwise incorporated into the Order Form and thereby made a part of the Services Agreement.

Applicable Laws: all applicable laws, statutes, regulation and codes from time to time in force in any relevant jurisdiction, including Applicable Data Protection Laws and other data protection laws, and applicable to the Parties in relation to the Services under the Services Agreement (including without limitation export law and those governing the use of networks, scanners, encryption devices, user monitoring and related software).'

Business Day: a day, other than a Saturday, Sunday or UK bank holiday.

Business Hours: the period from 9.00 am to 5:30 pm GMT/BST on any Business Day or as set forth in the Order Form.

Commencement Date: the date of the last signature or as first set forth on the Order Form and agreed by the parties as the effective date of the Services Agreement.

Confidential Information: means any information whether supplied, made available or otherwise accessed or accessible in any form, wholly or in part, and whether or not marked confidential, by either party to the other under or in connection with the Services Agreement and includes (but is not limited to) information relating to software and hardware products, IT infrastructure, samples, equipment, drawings, specifications, information about a party's

clients and including customer characteristics and identities, staff and subcontractors to a party including characteristics and identities, trade secrets, technical information and know-how, performance or process data, cost and financial information, market opportunities, business affairs, methods of doing business, strategic marketing, business plans and any information, operation of digital platform, reports or analysis derived from the Confidential Information, but does not information that is or becomes generally available to the public otherwise than as a result of a breach of this agreement, is already available to a receiving party on a non-confidential basis from a third party or is independently developed by a party without relying on Confidential Information supplied by the other party.

Customer: means the party referred to as Customer on the Order Form and any persons, third party agents, subcontractors, consultants, employees and those acting on its behalf.

Customer's Equipment: any equipment, including tools, systems, cabling or facilities, provided by Customer, its agents, employees, subcontractors or consultants which is used directly or indirectly in relation to the supply of the Services including any such items specified in the Order Form or Annex.

Customer Materials: all documents, information, items and materials in any form, whether owned by Customer or a third party, which are provided by Customer to Supplier in connection with the Services, including the items provided pursuant to clause 5.6(d) or otherwise specified in the Services Agreement.

Customer Personal Data: any personal data which Supplier processes in connection with the Services Agreement, in the capacity of a processor on behalf of Customer.

Customer's System: means the system, application and/or network set forth in the Order Form or an Annex which Customer requires to be security tested.

SaaS Licence: means a non-exclusive, non-transferable right to access and use any hosted software platform made available by Supplier for the delivery of Services, as specified in the applicable Order Form.

SaaS Platform: means any hosted or cloud-based platform, system or environment operated or provisioned by Supplier to deliver the Services, as specified in the applicable Order Form.

SaaS Users: means in respect of SaaS Licence, the permitted users who are designated by Customer to use SaaS Platform.

Deliverables: any output of the Services to be provided by Supplier to Customer as specified in the Order Form.

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

Fees: the monetary amounts due for the Services as set forth in the Order Form.

Fixed Term: means the Services Agreement duration for any Service as set forth in the Order Form.

Good Industry Practice: means the exercise of that degree of skill, diligence and foresight which would reasonably and ordinarily be expected from a skilled and experienced service provider engaged in the provision of services similar to the Services under the same or similar circumstances as those applicable to the Services Agreement and which are in accordance with any codes of practice published by relevant trade associations.

Initial Term: the first and minimum Services Agreement duration for any Service as set forth in the Order Form.

Intellectual Property Rights or **IPRs**: patents, utility models, rights to inventions, copyright and neighbouring and related rights, moral rights, trademarks and service marks, business names and domain names, rights in get-up and trade dress, goodwill and the right to sue for passing off or unfair competition, rights in designs, rights in computer

software, data, 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.

Milestone: a date by which a part or all the Services is to be completed, as set forth in the Order Form.

Monthly Recurring Service Fees: means any monthly recurring fees for the applicable service payable by Customer as detailed on the Order Form.

Order Form(s): shall mean the request on Supplier's standard Order Form from Customer to Supplier for Services to be provided pursuant to the terms of the Services Agreement which agreement, for the avoidance of doubt, applies in each case to a specific Order Form.

Order Form Services Addendum: has the meaning given in clause 7.1.

Service(s): means a Supplier service or multiple Supplier services (which may be packaged) that are ordered by Customer as set forth in the Order Form.

Services Agreement: shall mean these Services Agreement Standard Terms together with and which be read to include a specific Order Form pursuant to which Supplier makes the Services available to Customer, any related Annex and/or any related Order Form Services Addendum.

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

Supplier Personal Data: any personal data that Supplier processes in connection with the Services Agreement, in the capacity of a controller.

Term: means the duration of this Services Agreement as specified in the applicable Order Form, being either a Fixed Term or an Initial Term together with any Extension Term.

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

Working Day: means any day other than a Saturday, Sunday or public holiday in England and Wales.

VAT: value added tax chargeable in the UK.

1.1 Clause, Order Form, any Annex and any other Services Agreement headings shall not affect the interpretation of the Services Agreement.

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

1.3 Any Annex, the Order Form and/or Order Form Services Addendum forms part of the Services Agreement and shall have effect as if set out in full in the body of these Services Agreement Standard Terms, and any reference to the Services Agreement includes all the above.

1.4 A reference to a **company** shall include any company, corporation or other body corporate, wherever and however incorporated or established.

1.5 Unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular.

1.6 Unless the context otherwise requires, a reference to one gender shall include a reference to the other gender.

1.7 The Services Agreement shall be binding on, and inure to the benefit of, the parties to the Services 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.

1.8 Unless expressly provided otherwise in the Services Agreement, a reference to legislation or a legislative provision is a reference to it as amended, extended or re-enacted from time to time.

1.9 A reference to **writing** or **written** includes email.

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

1.11 A reference to **the Services Agreement** or to any other agreement or document is a reference to this agreement or such other agreement or document, in each case as varied or novated from time to time.

1.12 References to clauses and the Order Form or any Annex are to the clauses, Order Form and any Annexes of the Services Agreement and references to paragraphs are to paragraphs of the relevant Order Form or Annex.

1.13 The words **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 words.

2. Structure and scope of the Services Agreement

2.1 The Services Agreement creates a contractual framework between Supplier and Customer under which:

a) Customer requests from Supplier to provide Services pursuant to the terms of the Services Agreement; and

b) Supplier agrees to provide the Services pursuant to the terms of the Services Agreement.

2.2 Each Service specified will be set forth in the Order Form and any applicable Annex.

2.3 In the event of any conflict or ambiguity, except where otherwise provided, the order of precedence for the Services Agreement shall be as follows:

(a) the applicable Annex or Order Form Services Addendum;

(b) the applicable Order Form; and

(c) these Services Agreement Standard Terms.

2.4 The Customer and Supplier may agree to one or more Order Forms, each forming a separate Services Agreement, for the provision of Services.

2.5 The Services Agreement shall become valid and effective when an authorised representative of the Customer signs the Order Form (whether by handwritten or electronic signature) or otherwise provides electronic acceptance through the Supplier's portal. For the avoidance of doubt, the Supplier's issuance of the Order Form through its portal (or other authorised means) shall constitute execution by the Supplier, and no further signature by the Supplier shall be required.

2.6 Each Party warrants to the other Party that it (1) has the full capacity and authority to enter into and perform the Services Agreement and that the Services Agreement is executed by a duly authorised representatives; (2) is the owner, or has the relevant consent from the owner, of all Systems, applications, networks, premises and any other asset that is set out in the Order Form; and (3) will comply with all Applicable Laws.

3. Commencement and duration

3.1 This Services Agreement shall commence on the Commencement Date and shall continue for the Term specified in the applicable Order Form unless terminated earlier in accordance with clause 13 (Termination). The Term may be designated in the Order Form as either:

(a) a Fixed Term, in which case this Services Agreement shall automatically expire at the end of that period, unless the parties agree otherwise in writing; or

(b) an Initial Term, in which case clause 3.2 shall apply.

3.2 Where the Order Form specifies an Initial Term (and where the Services are of a type that can continue and are not specified in the Order Form as non-continuing), this Services Agreement shall automatically renew on expiry of the Initial Term for successive periods (each an "Extension Term") of the same duration as the Initial Term, or such other period as specified in the Order Form, unless either party gives the other not less than 60 days' prior written notice of termination (or such other notice period as specified in the Order Form).

3.3 Where notice of termination is served under clause 3.2:

(a) if there are no incomplete Services under an Order Form as of the date such notice is given, this Services Agreement shall terminate on expiry of the applicable notice period and no later than the end of the relevant Initial Term or Extension Term (as applicable); and

(b) if there are incomplete Services under an Order Form, such Services shall be completed and/or paid for (where completion is not possible due to the Customer's failure to perform under this Agreement) prior to termination, unless otherwise agreed in writing.

3.4 Customer may procure Services by executing an Order Form agreed with Supplier.

3.5 Supplier shall provide the Services from the Commencement Date, or such other date as specified in the applicable Order Form.

4. Provision of Services

4.1 Supplier will provide, and Customer will receive and have use of the Services and any related Deliverables (where applicable, by grant of a SaaS Licence) in accordance with the Services Agreement for the Term, as applicable, set out in the Order Form whereby:

(a) each Service and/or Deliverable specified to be provided will be provided in accordance with the Order Form and any applicable Annex; and

(b) Supplier will provide, deliver or otherwise make available such Service and/or Deliverables with Good Industry Practice skill and care, in a timely manner and in accordance with the other provisions of the Services Agreement.

(c) Supplier shall, where it deems appropriate, appoint a contact person in respect of the Services to be performed, such person shall be designated before the delivery of a relevant Service.

(d) Where applicable, Supplier shall observe all health and safety and security requirements that apply at any of Customer's premises and that have been communicated to Supplier under clause 5.6(e), provided that Supplier shall not be liable under the Services Agreement if, as a result of such observation, it is in breach of any of its obligations under the Services Agreement.

(e) Supplier may use a subcontractor to assist with delivery of Services and will carry out the appropriate due diligence to ensure any such subcontractor has the required qualifications and experience to deliver the Services.

5. Use of the Service(s)

5.1 Customer will:

(a) provide to Supplier all necessary co-operation in relation to the Services Agreement including the Order Form and any applicable Annex; and all necessary access to such information as may be required by Supplier to provide the Services including, but not limited to, relevant Customer staff and/or agents, customer data, security access information and configurations services;

(b) carry out all customer obligations in a timely and efficient manner;

(c) ensure that Customer’s Equipment including network and systems comply with the relevant specification and use restrictions provided by Supplier from time to time and comply with any security, information security and technical procedures and requirements in relation to the Services and/or any Deliverables.

5.2 Customer is responsible for having and maintaining an adequate Customer environment and uninterrupted internet connectivity to receive and/or enable the use of the Services and/or Deliverables. Supplier shall not be liable for any incompatibility, failure, use or misuse by Customer related to Customer’s environment.

5.3 Customer shall not:

(a) infringe any Intellectual Property Rights that belong to or are licensed to Supplier;

(b) create, upload, download, access, store, into the Services and/or any Deliverable any malicious code, programs, viruses, malware or other types of malicious software or material, or links to such software, that are unlawful, insider or confidential information, advertisements or solicitation for any products or services, or could disrupt or harm the operation of such Service and/or Deliverables or incite another to do so; or

(c) copy, reverse engineer, decompile, disassemble or modify a Service and/or any Deliverable or any part, feature, function or user interface thereof, or otherwise reduce to human-perceivable form all or any part of Service and/or any Deliverable, or use or attempt to use any automated program to access any Service and/or any Deliverable, or to search, display, or obtain links to any part of a Service and/or any Deliverable.

5.4 Customer agrees to indemnify Supplier from any losses suffered, or liabilities incurred because of Customer's breach of clause 5.3.

5.5 Customer shall not:

(a) knowingly withhold information which may affect Supplier's ability to provide any of the Services and/or Deliverables to Customer or to others (including, where applicable, SaaS Users), or security or integrity of any of the Services and/or Deliverables;

(b) use any Service and/or Deliverable to impersonate any person, or to misrepresent Customer's or any Platform User's identity;

(c) engage in sending unsolicited messages to any number or users or via the internet by using any Service and/or Deliverable;

(d) use the Service and/or Deliverables in a way which in Supplier reasonable opinion is not within the intended use of such Service or Deliverable;

(e) engage in abusive or excessive usage of any Service and/or Deliverable which is usage significantly in excess of average usage patterns, as determined by Supplier, that adversely affects the speed, responsiveness, stability, availability or functionality of any Service and/or Deliverable for other users;

(f) make any Service and/or Deliverable available to, or use any Service and/or Deliverable for the benefit of, anyone other than Customer, unless and to the extent expressly stated otherwise in the Order Form;

(g) lend, sell, resell, license, sublicense, distribute, make available, rent or lease any Service and/or Deliverable, or include any Service and/or Deliverable in a service or outsourcing offering, unless otherwise agreed in writing with Supplier;

(h) access any Service and/or Deliverable to build a competitive solution or service or to benchmark with a non-Supplier service; or

(i) use any Service and/or Deliverable in Customer's own products or services, commercially exploit or otherwise make any Service and/or Deliverable available to any third party in any way, unless expressly consented to by Supplier.

5.6 Customer shall:

(a) co-operate with Supplier as reasonably requested in all matters relating to the Services;

(b) assign a contact person in respect of the Services to be performed under the Order Form, as identified in the Order Form;

(c) provide, for Supplier, its agents, subcontractors, consultants and employees, in a timely manner and at no charge, access to Customer's premises, office accommodation, data and other facilities as reasonably required by Supplier to carry out the Services, including any such access as is specified in the Order Form;

(d) provide to Supplier in a timely manner all documents, information, items and materials in any form (whether owned by Customer or a third party) and meeting attendance by the assigned contact person, project manager and/or any key staff as set forth in the Order Form or otherwise reasonably requested by Supplier in connection with the Services and ensure that they are accurate and complete;

(e) inform Supplier in writing of all health and safety and security requirements that apply at any of Customer's premises;

(f) ensure that all 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 Applicable Law requirements or standards;

(g) obtain and maintain all necessary licences and consents in accordance with relevant Applicable Law and comply with all relevant legislation as required to enable Supplier to provide the Services;

(h) at the request of Supplier, agree to a service review with Supplier once every 6 months or as otherwise reasonably requested; and

(i) where applicable as designated in the Order Form, in respect of each SaaS Licence granted, appoint SaaS Users, to the maximum number of users as stated in the Order Form, who shall be the only users permitted to access the SaaS Platform and be provided with the Services and/or Deliverables.

5.7 If Supplier's performance of its obligations under the Services Agreement is prevented or delayed by any act or omission of Customer, its agents, subcontractors, consultants or employees or any other third-party supplier then, without prejudice to any other right or remedy it may have, Supplier shall be allowed an extension of time to perform its obligations equal to the delay caused by Customer or other third-party supplier or for as long as Supplier deems at its discretion the prevention or delay necessitates.

5.8 Both Parties shall maintain business continuity and disaster recovery plans to ensure the continuity of the Services in the event of an unforeseen interruption and any other prudent procedures and measures that are reasonably necessary to prevent the disruption of the Services. Customer shall, in the event of an unforeseen interruption, use best efforts to cooperate with Supplier to ensure the uninterrupted provision of Services.

6. Non-solicitation and employment

6.1 Each party shall not, without the prior express written consent of the other party, at any time until the expiry of 24 months after the completion of such Services, solicit or entice away from the other party or directly attempt to employ any person who is, or has been, engaged as an employee, consultant or subcontractor of the other party.

7. Order Form Services Addendum

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 relevant **Order Form Services Addendum** has been formally agreed by both parties. The Order Form Services Addendum shall be a document (or email where permitted by Supplier at its sole discretion) citing to the Order Form and setting out the proposed changes and the effect that those changes will have on the Service(s), Fees, any timetable and/or any other Order Form terms.

7.2 If Supplier wishes to make a material change to the Services provided to Customer it shall provide a draft Order Form Services Addendum to Customer.

7.3 If Customer wishes to make a change to the Services it shall notify Supplier and provide as much detail as Supplier reasonably requires of the proposed changes, including the timing of the proposed change; and Supplier shall, as soon as reasonably practicable after receiving the information, provide a draft Order Form Services Addendum to Customer.

7.4 If the parties agree to the Order Form Services Addendum, they shall sign it and that Order Form Services Addendum shall amend the relevant Order Form. If the parties are unable to agree the Order Form Services Addendum, either party may request termination of the affected Service, such termination to take effect as expressly agreed by the parties; however, termination of a Service under this clause shall not affect Customer's payment obligations (as of the date of any such Service termination) under the Services Agreement.

8. Fees, other charges and payment

8.1 In consideration of the administration and allocation of ready resources for the provision of the Services by Supplier, Customer shall pay the Fees upon invoice including where Services cannot be delivered due to Customer's failure to meet any of its obligations under the Services Agreement.

8.2 Supplier will invoice Customer in accordance with the Order Form or, where not specified in the Order Form, immediately following the Commencement Date of the Order Form on 30-day payment terms.

8.3 All Services shall be used and, in any event, paid for in full as set forth in this Clause 8 or in the Order Form. Any Services which are unused by Customer during the Term will expire and shall not be credited, or refunded unless otherwise expressly agreed by the parties in writing.

8.4 The Fees exclude the following, which shall be payable by Customer monthly in arrears (provided that Supplier has obtained the written consent of Customer, which shall not be unreasonably delayed or withheld), as incurred:

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

(b) the cost to Supplier of any materials or services procured from time to time by Supplier, as it deems appropriate, from third parties for the provision of any Service where such items and their cost are approved by Customer in advance, and for any materials or services reasonably deemed necessary to procure by Supplier, in its absolute discretion, where such items and their costs are notified to Customer in advance.

8.5 The Fees also exclude services related to non-Supplier delay, cancellation and rescheduling charges, for costs related directly to the administration, system, personnel, facilities, third party and/or other allocated resources associated with scheduled Services. The following charges will apply to any Customer short-term cancellation and rescheduling:

(a) cancellation or rescheduling requested between 5 and 10 Working Days before the scheduled start date for delivery of any Services: 50% of the scheduled Service Fees of the cancelled or rescheduled Service(s); or

(b) for cancellation or rescheduling requested within 5 and 10 Working Days before the scheduled start date for delivery of any Services: 100% of the scheduled Service Fees of the cancelled or rescheduled Service(s).

For the avoidance of doubt, where the relevant Service Fees have already been paid by the Customer, the portion of those Service Fees corresponding to the charges set out in (a) or (b) above shall be forfeited and shall not be refundable. Where the relevant Service Fees have not yet been paid, the Supplier shall be entitled to invoice the Customer for such amounts.

8.6 Supplier may choose to increase the Fees on an annual basis with effect from each anniversary of the date of the Services Agreement, to cover, e.g., any increased Supplier costs, in line with the higher of five percent (5%) or the percentage increase in the Consumer Price Index in the preceding 12-month period, and the first such increase shall take effect, at Supplier's discretion, on the first anniversary of the date of the Services Agreement and shall be based on the latest available annual figure for the percentage increase in the Consumer Prices Index.

8.7 Supplier may, at any time during the Term vary the Fees payable by Customer by giving at least 30 days prior written notice in the event of new taxation laws, or the introduction or increase in any taxes, levies, costs or expenses, including any taxes, levies which relate to the Services;

8.8 Supplier will invoice Customer for the Fees as set forth in the Order Form or as set forth in the Services Agreement or as otherwise expressly agreed in writing.

8.9 Customer shall pay each invoice submitted to it by Supplier based on the following terms:

(a) on 30-day terms where indicated by Supplier or any other terms as set forth on the Order Form;

(b) by credit card on immediate receipt of the invoice;

(c) by direct debit with payments taken 14 days after date of invoice, where credit terms are agreed; or

(d) by payment in advance at any time required by Supplier, where Customer's credit score is insufficient to meet the total value of the contract.

8.10 Without prejudice to any other right or remedy that it may have, if Customer fails to pay Supplier any sum due under the Services Agreement on the due date:

(a) All sums payable under the Services Agreement for services delivered and to be delivered shall become due and payable by Customer.

(b) Customer shall pay interest on the overdue sum from the due date until payment of the overdue sum, whether before or after a court judgment. Interest under this clause will accrue each day at 4% a year above

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

(c) Supplier may suspend or cancel part or all the Services if payment is not received within 10 days of the due date until payment has been made in full (subject to any other rights and/or remedies under the Services Agreement).

8.11 All amounts payable to Supplier under the Services Agreement:

(a) are exclusive of any applicable VAT, and Customer shall in addition pay an amount equal to any applicable VAT on those sums on receipt of a VAT invoice; and

(b) 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) and are excluded from Force Majeure clause 15.

9. Intellectual property rights

9.1 In relation to the Services and any Deliverables:

(a) Supplier and its licensors shall retain ownership of all IPRs in the Services and the Deliverables, excluding Customer Materials;

(b) Supplier grants (or shall procure the direct grant to) the Customer a fully paid, worldwide, non-exclusive, royalty-free licence, which may be revoked by the Supplier at any time during the term of the Services Agreement, to copy and modify the Deliverables for the purpose of receiving and using the Services and Deliverables in its business; and

(c) Customer shall not sub-licence, assign or otherwise transfer the rights granted in clause 9.1(b) to any of its customers or other third parties, unless expressly agreed in writing with Supplier.

9.2 In relation to Customer Materials, Customer:

(a) and its licensors shall retain ownership of all IPRs in Customer Materials; and

(b) grants to Supplier a fully paid, non-exclusive, royalty-free, non-transferable licence to copy and modify Customer Materials for the term of the Services Agreement, and as required by law thereafter, for the purpose of providing the Services to Customer.

9.3 Supplier:

(a) warrants that the receipt, use of the Services and the Deliverables by Customer shall not infringe the IPRs of any third party;

(b) shall indemnify Customer against all liabilities, costs, expenses, damages and losses suffered or incurred or paid by Customer arising out of or in connection with any claim brought against Customer for actual or alleged infringement of a third party's Intellectual Property Rights arising out of, or in connection with, the receipt or use of the Services and Deliverables;

(c) shall not be in breach of the warranty at clause 9.3(a), and Customer shall have no claim under the indemnity at clause 9.3(b), to the extent the infringement arises from:

(i) the use of Customer Materials in the development of, or the inclusion of Customer Materials in, the Services or any Deliverable;

(ii) any modification of the Services or any Deliverable, other than by or on behalf of Supplier as authorised by Supplier; and

(iii) compliance with Customer's specifications or instructions, where infringement could not have been avoided while complying with such specifications or instructions and provided that Supplier shall notify Customer if it knows or suspects that compliance with such specification or instruction may result in infringement.

9.4 Customer:

(a) warrants that the receipt and use in the performance of the Services Agreement by Supplier, its agents, employees, subcontractors or consultants of Customer Materials shall not infringe the rights, including any Intellectual Property Rights, of any third party; and

(b) shall indemnify Supplier against all liabilities, costs, expenses, damages and losses suffered or incurred or paid by Supplier arising out of or in connection with any claim brought against Supplier, its agents, employees, subcontractors or consultants for actual or alleged infringement of a third party's Intellectual Property Rights, to the extent that the infringement or alleged infringement arises out of, or in connection with, the receipt or use of Customer Materials in the performance of the Services Agreement.

9.5 If either party (**Indemnifying Party**) is required to indemnify the other party (**Indemnified Party**) under this clause 9, the Indemnified Party shall:

(a) notify the Indemnifying Party in writing of any claim against it in respect of which it wishes to rely on the indemnity at clause 9.3(b) or clause 9.4(b) (as applicable) (**IPRs Claim**);

(b) allow the Indemnifying Party, at its own cost, to conduct all negotiations and proceedings and to settle the IPRs Claim, provided that the Indemnifying Party shall obtain the Indemnified Party's prior approval of any settlement agreement, such not to be unreasonably withheld, delayed, or conditioned;

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

(d) not, without prior consultation with the Indemnifying Party, make any admission relating to the IPRs Claim or attempt to settle it, provided that the Indemnifying Party considers and defends any IPRs Claim diligently, using counsel and in such a way as not to bring the Indemnified Party's reputation into disrepute.

9.6 Neither Party shall use any Intellectual Property Rights except with express prior written consent, which consent shall not be unreasonably withheld.

10. Data protection

10.1 For the purposes of this clause 10, **controller**, **processor**, **data subject**, **personal data**, **personal data breach** and **processing** shall have the meaning given to them in the UK GDPR.

10.2 Both parties will comply with all applicable requirements of Applicable Data Protection Laws. This clause 10 is in addition to, and does not relieve, remove or replace, a party's obligations or rights under Applicable Data Protection Laws.

10.3 Customer consents to, (and shall procure all required consents, from its personnel, representatives and agents, in respect of) all actions taken by Supplier in connection with the processing of Customer Personal Data, provided these are in compliance with the then-current version of Supplier's privacy policy available at *https://www.pentestpeople.com/privacy-policy* (**Privacy Policy**). In the event of any inconsistency or conflict between the Privacy Policy and the Services Agreement, the Privacy Policy will take precedence.

10.4 The subject matter, duration, nature and purpose of the processing, the types of Customer Personal Data, the categories of data subjects and the categories of processors are set out in the Schedules of Processing available at *https://www.pentestpeople.com/schedules-of-processing* (Schedules of Processing), as updated from time to time in accordance with this Agreement.

10.5 Customer will ensure that it has all necessary consents and notices in place to enable lawful transfer of Customer Personal Data to Supplier for the duration and purposes of the Services Agreement.

10.6 Without prejudice to the generality of clause 10.2, Supplier shall, in relation to Customer Personal Data:

(a) process that Customer Personal Data only on the documented instructions of Customer unless Supplier is required by Applicable Laws to otherwise process that Customer Personal Data (Purpose). Where Supplier is relying on Applicable Laws as the basis for processing Customer Personal Data, Supplier shall notify Customer of this before performing the processing required by the Applicable Laws unless those Applicable Laws prohibit the Supplier from so notifying Customer on important grounds of public interest. Supplier shall inform Customer if, in the opinion of Supplier, the instructions of Customer infringe Applicable Data Protection Laws;

(b) implement technical and organisational measures to protect against unauthorised or unlawful processing of Customer Personal Data and against accidental loss or destruction of, or damage to, Customer Personal Data, which Customer has reviewed and confirms are appropriate to the harm that might result from the unauthorised or unlawful processing or accidental loss, destruction or damage and the nature of the data to be protected, having regard to the state of technological development and the cost of implementing any measures;

(c) ensure that any personnel engaged and authorised by Supplier to process Customer Personal Data have committed themselves to confidentiality or are under an appropriate statutory or common law obligation of confidentiality;

(d) assist Customer insofar as this is possible (taking into account the nature of the processing and the information available to Supplier), and at Customer's cost and written request, in responding to any request from a data subject and in ensuring Customer's compliance with its obligations under Applicable Data Protection Laws with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators;

(e) notify Customer without undue delay on becoming aware of a personal data breach involving Customer Personal Data; Where such breach is notifiable to the Information Commissioner's Office (ICO), Supplier shall notify the ICO or other relevant supervisory authority of such breach at the end of any statutorily required notice period where the requisite notice has not been sent earlier either by Customer or Supplier at Customer's instruction;

(f) at the written direction of Customer, delete or return Customer Personal Data and copies thereof to Customer on termination of the Services Agreement unless Supplier is required by Applicable Law to continue to process that Customer Personal Data. For the purposes of this clause 10.6(f) Customer Personal Data shall be considered deleted where it is put beyond further use by Supplier;

(g) will only process personal data in an identifiable form for no longer than is necessary for the purposes for which it is processed, including but not limited to complying with its obligations under the Payment Card Industry Data Security Standard (PCI DSS) rules which prohibits the storage of payment card verification codes once a transaction has been authorised; and

(h) maintain records to demonstrate its compliance with this clause 10, and allow for reasonable audits by Customer or Customer's designated auditor, for this purpose, on reasonable written notice to a maximum of once annually.

10.7 Customer provides its prior, general authorisation for Supplier to:

(a) appoint processors to process Customer Personal Data, provided that Supplier:

(i) Supplier shall ensure that the Services Agreement on which it appoints such processors complies with Applicable Data Protection Laws and is consistent with the obligations imposed on Supplier in this clause 10; and

(ii) Supplier shall remain responsible for the acts and omissions of any such processor as if they were the acts and omissions of Supplier.

(b) transfer Customer Personal Data outside of the UK as required for the Purpose, provided that Supplier shall ensure that all such transfers are made in accordance with Applicable Data Protection Laws. For these purposes, Customer shall promptly comply with any reasonable request of Supplier, 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 ICO from time to time (where the UK GDPR applies to the transfer).

10.8 Either party may, at any time on not less than 30 days' written notice, revise this clause 10 by replacing it with any applicable controller to processor standard clauses or similar agreement forming part of an applicable certification scheme (which shall apply when replaced by Annex to the Services Agreement).

10.9 Supplier's liability for losses arising from breaches of this clause 10 is as set out in Clause 12 (Limitation of Liability).

11. Confidentiality

11.1 Each party undertakes that it shall not at any time use or disclose to any person any Confidential Information of the other party or of any member of the group of companies to which the other party belongs, except as permitted by clause 11.2.

11.2 Each party may disclose Confidential Information:

(a) 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 the Services 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 11; and

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

11.3 No party shall use the other party's confidential information for any purpose other than to exercise its rights and perform its obligations under or in connection with the Services Agreement.

12. Limitation of liability

12.1 Scope of this clause. References to liability in this clause 12 (Limitation of liability) are subject always to clause 12.3 (liabilities which cannot legally be limited), but otherwise include every kind of liability arising under or in connection with the Services Agreement including but not limited to liability in contract, tort (including negligence), misrepresentation, restitution or otherwise.

12.2 No limitation of Customer's payment obligations. Nothing in this clause 12 shall limit Customer's payment obligations under the Services Agreement.

12.3 Liabilities which cannot legally be limited. Nothing in the Services Agreement limits any liability which cannot legally be limited, including but not limited to liability for:

(a) death or personal injury caused by negligence; or

(b) fraud or fraudulent misrepresentation.

12.4 **Cap on liability.** Subject to clause 12.3 (liabilities which cannot legally be limited), and to clause 12.6, the liability of each of the parties shall not exceed an amount equal to the total fees paid or payable by Customer under the Services Agreement in respect of the Term (whichever is greater), per claim and in aggregate.

12.5 **Specific heads of excluded loss.** Subject to clause 12.2 (no limitation of customer's payment obligations), clause 12.3 (liabilities which cannot legally be limited), this clause 12.5 specifies the types of losses that are excluded:

(a) Loss of profits;

(b) Loss of revenues, loss of goodwill;

(c) Loss of agreements, loss of business opportunity;

(d) Loss of business;

(e) Depletion of goodwill or similar losses;

(f) Pure economic loss; and

(g) For any indirect or consequential loss, costs, damages, charges or expenses however arising.

12.6 Each party's total liability to the other for losses for breaches of clause 9 (intellectual property rights), clause 10 (data protection), clauses 5 and 9 (indemnity) and clause 11 (confidentiality), shall be limited to and shall not exceed GBP £1,000,000.

12.7 Customer acknowledges that there is a risk that a Service may lead to the loss or corruption of Customer's data affected by the Services, and that the same is an inherent risk of receiving a Service even when performed in accordance with Good Industry Practice. Customer agrees to back up its data prior to delivery of any Service set forth in the Order Form. Except where otherwise provided herein, Supplier will not be liable for any such loss of data.

12.8 Supplier disclaims and excludes any and all warranties, terms or conditions (not expressly stated in the Services Agreement) as permitted by law, including implied warranties, terms or conditions relating to the acceptable quality and fitness for purpose. Customer is solely responsible for the suitability of the Services chosen.

12.9 Customer warrants that it has the full capacity and authority to instruct Supplier to deliver the Services and will not hold Supplier liable for any violation of the Computer Misuse Act 1990 or any other local applicable laws, rules or regulations.

12.10 Except as expressly provided for in the Services Agreement, Customer hereby acknowledges that Services set forth in the Order Form are delivered on an as is basis and Supplier shall only be liable to the extent set forth in the Services Agreement.

13. Termination

13.1 Either party may immediately terminate the Services Agreement without payment of compensation or other damages caused to the other solely by such termination by giving notice to the other if any one or more of the following occurs:

a) the other party commits a material breach of any term of the Services Agreement and such breach is irremediable or (if such breach is remediable) fails to remedy that breach within 30 days after being notified in writing to do so;

b) 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 (being a company or limited liability partnership) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986, or (being an individual) is deemed either unable to pay its debts or as having no reasonable prospect of so doing, in either case, within the meaning of section 268 of the Insolvency Act 1986, or (being a partnership) has any partner to whom any of the foregoing apply;

c) 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

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;

d) 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;

e) an application is made to court, or an order is made, for the appointment of an administrator, or if a notice of intention to appoint an administrator is given or if an administrator is appointed, over the other party (being a company);

f) the holder of a qualifying floating charge over the assets of that other party (being a company) has become entitled to appoint or has appointed an administrative receiver;

g) 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;

h) 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 14 days;

i) 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 13.1(b) to clause 13.1(h) (inclusive); or

j) the other party suspends or ceases, or threatens to suspend or cease, carrying on all or a substantial part of its business.

13.2 For the purposes of clause 13.1(a) material breach means a breach (including an anticipatory breach) that is serious in the widest sense of having a serious effect on the benefit which the terminating party would otherwise derive from a substantial portion of the Services Agreement.

13.3 Without affecting any other right or remedy available to it, including payment by Customer of all fees due under the Services Agreement, Supplier may terminate the Services Agreement with immediate effect by giving written notice to Customer if Customer is in material breach of any other Supplier Order Form/Services Agreement or fails to pay any amount due under any Services Agreement on the due date for payment and remains in default more than 30 days after being notified to make such payment.

13.4 Customer may send express written notice of its intention to terminate the Services Agreement within 30 days of the date it receives 90 days express written notice from Supplier of any material update to the Standard Terms (under clause 17) where that updated term cannot by law or policy, applicable at the time, be accepted by Customer. All fees otherwise due and payable under the Services Agreement must be paid in accordance with the Services Agreement including, without limitation, all fees for any delivered services.

14. Consequences of termination and survival

14.1 Consequences of termination or expiry. Except as otherwise provided, the termination or expiry of the Services Agreement shall terminate all licences, access and other rights to the Services and/or SaaS Platform and Customer shall deliver any Supplier Equipment in its possession to Supplier and destroy all copies of Supplier Confidential Information. Except as otherwise provided, Supplier shall destroy any copies of Customer confidential information. Customer shall immediately pay to Supplier all of Supplier's outstanding unpaid invoices, invoices to be submitted for Services supplied to the date of termination and related interest and, except where Customer has rightfully terminated for Supplier's material breach, Supplier may submit an invoice payable upon receipt in respect of the Services to be supplied but for which no invoice has been submitted.

14.2 Survival. On termination, where Customer has terminated for Supplier's material breach, or expiry of the Services Agreement, any existing Order Form shall continue until the Services have been completed or, before completion, at Customer's reasonable request. Any provision of the Services Agreement that expressly or by implication is intended to come into or continue in force on or after termination or expiry of the Services Agreement shall remain in full force and effect. Termination or expiry of the Services 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 Services Agreement which existed at the date of termination or expiry.

15. Force majeure

15.1 **Force Majeure Event** means any circumstance, except for Customer's payment obligations, not within a party's reasonable control including, without limitation:

(a) acts of God, flood, drought, earthquake or other natural disaster;

(b) epidemic or pandemic or Government mandated lockdowns or other related restrictions;

(c) terrorist or cyber-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;

(d) nuclear, chemical or biological contamination or sonic boom;

(e) any law or any action taken by a government or public authority, including without limitation imposing an export or import restriction, quota or prohibition, or failing to grant a necessary licence or consent;

(f) collapse of buildings, fire, explosion or accident;

(g) 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);

(h) non-performance by suppliers or subcontractors (other than by companies in the same group as the party seeking to rely on this clause); and

(i) interruption or failure of a utility service.

15.2 Provided it has complied with clause 15.4, if a party is prevented, hindered or delayed in or from performing any of its obligations under the Services Agreement by a Force Majeure Event (**Affected Party**), the Affected Party shall not be

in breach of the Services Agreement or otherwise liable for any such failure or delay in the performance of such obligations.

15.3 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.

15.4 The Affected Party shall:

(a) as soon as reasonably practicable after the start of the Force Majeure Event but no later than ten days from its start, notify the other party 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 Services Agreement; and

(b) use all reasonable endeavours to mitigate the effect of the Force Majeure Event on the performance of its obligations.

15.5 If the Force Majeure Event prevents, hinders or delays the Affected Party's performance of its obligations for a continuous period of more than six weeks, the party not affected by the Force Majeure Event may terminate the Services Agreement by giving 21 days' written notice to the Affected Party.

16. Assignment and other dealings

16.1 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 the Services Agreement, without prior express written consent from Supplier, such consent not to be unreasonably withheld.

16.2 Supplier may mortgage, charge, delegate, assign, novate or otherwise transfer any or all its rights under the Services Agreement. Supplier shall not novate or assign its rights and obligations under the Services Agreement to another service party without prior notice to Customer.

17. Amendment

No amendment or variation of the Services Agreement shall be effective without express written consent signed by the parties (or their authorised representatives) except that Supplier may from time to time update the Services Agreement Standard Terms upon 90 days express written notice to Customer upon which Customer may send express written notice of its intent to terminate the Services Agreement as provided for in clause 13.4.

18. Waiver

18.1 A waiver of any right or remedy under the Services Agreement or by law is only effective if given expressly in writing and shall not be deemed a waiver of any subsequent right or remedy.

18.2 A failure or delay by a party to exercise any right or remedy provided under the Services 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 the Services Agreement or by law shall prevent or restrict the further exercise of that or any other right or remedy.

19. Rights and remedies

The rights and remedies provided under the Services Agreement are in addition to, and not exclusive of, any rights or remedies provided by law.

20. Severance

20.1 If any provision or part-provision of the Services 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 the Services Agreement.

20.2 If any provision or part-provision of the Services Agreement is deemed deleted under clause 20.1 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.

21. Entire Agreement

21.1 The Services Agreement constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, contracts, promises, assurances, warranties, representations and understandings between them, whether written, oral or by conduct, relating to its subject matter.

21.2 Each party agrees 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 the Services Agreement. Each party agrees it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in the Services Agreement.

22. No partnership or agency

22.1 Nothing in the Services Agreement is intended or shall be deemed to establish a 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.

22.2 Each party confirms it is acting on its own behalf and not for the benefit of any other person.

23. Anti-Bribery and Anti-Corruption

Each Party shall, and shall ensure any of its agents, employees, consultants, contractors and subcontractors shall, comply with all applicable laws, statutes, regulation, and codes relating to anti-bribery and anti-corruption including

but not limited to the Bribery Act 2010 and shall establish, maintain and enforce its own policies and procedures to ensure compliance.

24. Anti-Slavery and Human Trafficking

Each Party shall, in performing its obligations under the Services Agreement, comply with all applicable anti-slavery and human trafficking laws, statutes and regulations from time to time in force including the Modern Slavery Act 2015; and each party represents and warrants that it has not been convicted of any offence involving slavery and human trafficking or been the subject of any investigation, inquiry or enforcement proceedings regarding any offence or alleged offence of or in connection with such trafficking.

25. Third party rights

Except as otherwise agreed, the Services Agreement does not give rise to any third-party statutory rights to enforce any of its terms.

26. Notices

26.1 Any notice given to a party under or in connection with the Services Agreement shall be in writing and shall be delivered by e-mail, by hand or by tracked post or courier service at the recipient party's registered office (if a company) or its principal place of business (in any other case).

26.2 Any notice shall be deemed to have been received:

(a) if by e-mail, at the time of transmission (assuming no failure notification or other indication of non-delivery is received);

(b) if delivered by hand, at the time the notice is left at the proper address; or

(c) if sent tracked and signed-for delivery by national courier, at the time such courier confirms delivery.

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 formal method of dispute resolution.

26.4 A notice given under the Services Agreement is valid if received.

27. Governing law, venue and dispute resolution

27.1 The Services Agreement shall be governed and construed in accordance with English law.

27.2 Any dispute arising under or related to the Services Agreement that is not resolved by good faith discussion among the parties, at their discretion, shall be resolved by binding fast-track London Court of International Arbitration (LCIA) arbitration in London with the exception of an action brought in any court having jurisdiction to enforce terms

of an arbitration award under this clause or for injunctive relief or, for Supplier at its discretion, where the sole or primary dispute regards payment by Customer.

28. Counterparts

The Services Agreement Order Form may be executed and delivered electronically (including via the Supplier's portal) or by hardcopy in any number of counterparts, each of which shall constitute a duplicate original, but all counterparts together constitute one Services Agreement Order Form. For the avoidance of doubt, the Supplier's issuance of an Order Form shall constitute execution by the Supplier, and the Order Form shall become effective upon the Customer's execution or electronic acceptance, without the need for a Supplier countersignature.