

Master Services Agreement

Delaware Digital LLP

and

[CLIENT NAME]

we commit. we deliver.



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THIS MASTER SERVICES AGREEMENT ("Agreement") is dated _____ and made by and between:

- (1) **Delaware Digital LLP** incorporated and registered in England and Wales with registered number OC414273 whose registered office is at 83 Baker Street, London W1U 6AG ("**Delaware**"); and
- (2) **[insert name]** incorporated and registered in **[England and Wales]** with company number **[insert number]** whose registered office is at **[insert registered address]** ("**Client**").

Whereas:

- (A) Delaware provides a range of Services and Deliverables with a view to achieving a business solution which meets the identified requirements of the Client.
- (B) The Client wishes to engage Delaware generally and Delaware agrees, to provide such of the Services and/or the Deliverables as may be required from time to time on the terms set out in this Agreement.
- (C) This Agreement and specific Statements of Work set out the terms that will govern the provision of all the Services and/or Deliverables to the Client by Delaware.

Agreed Terms

1 Agreed Terms and Interpretation

1.1 Definitions

The following definitions and rules of interpretation apply in this Agreement:

Defined Term	Meaning
"Agreement"	means this agreement and any Schedules (including any Appendices to such Schedules), as amended or updated from time to time;
"Affiliate"	means: (a) with respect to the Client, any person directly or indirectly controlling, controlled by, or under common control with such Party. The terms "controlling" and "controlled" mean the possession, directly or indirectly, of the power to direct, or cause the direction of, the management or policy of a person, whether through the ownership of voting securities, by contract, or otherwise; (b) with respect to Delaware, Delaware Consulting International and any company affiliated with Delaware Consulting International and trading under the banner of "delaware" or "delaware consulting." Delaware Consulting International means Delaware Consulting International CV, a cooperative company with limited liability organised and existing under the laws of Belgium, whose registered office is at Uitbreidingstraat 2, 2600 Berchem, Belgium, registered with the Crossroads Bank for



Defined Term	Meaning
	Enterprises under the number 0817.544.902 (RLE Antwerp);
“Applicable Laws”	means all applicable laws, statutes, regulations from time to time in force;
“Business Day”	means a day that banks are generally open for business in the United Kingdom excluding Saturdays, Sundays and United Kingdom Bank Holidays;
“Client Data”	means all data, including, without limitation, Client Personal Data, owned by or licensed to the Client and processed using the Services;
“Client Personal Data”	has the meaning given to it in clause 10.2;
“Client Personnel”	means the Client's and any Client Affiliate's employees and sub-contractors involved in the receipt of the Services identified in this Agreement and/or in any Statement of Work;
“Commencement Date”	means [DATE];
“Confidential Information”	means any and all information (whether in written, oral, or electronic or other format) which relates to technical, financial and business affairs, customers, suppliers, employees, products, developments, operations, processes, data, trade secrets, design rights, know-how and personnel and includes (i) in respect of each Party, the information of its Affiliates; and (ii) information of a third party in respect of which the disclosing Party is obliged to keep confidential, in each case which is disclosed to or otherwise learned by a Party or any of its Affiliates in the course of or in connection with this Agreement and/or any Statement of Work (including such information received during negotiations, site visits and meetings in connection with this Agreement and/or any Statement of Work) provided that: (iii) a reasonable person would consider such information to be confidential based upon the nature and context of the information; and/or (iv) the information is marked confidential, proprietary or with words of similar import or otherwise indicated as confidential at the time of disclosure;
“Data Protection Legislation”	all applicable data protection and privacy legislation, regulations and guidance including: (i) 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; and (ii) to the extent to the EU GDPR applies, the law of the European Union or any member state of the European Union to which Delaware is subject, which relates to the protection of personal data;
“Data Subject”	shall have the meaning given to it in the Data Protection Legislation;



Defined Term	Meaning
“Delaware Consultants”	means Delaware's and its Affiliate's employees and contractors engaged in providing one or more of the Services identified in this Agreement and/or in any Statement of Work;
“Deliverables”	means anything done, created or provided by Delaware in the course of providing the Services or in connection with a relevant Statement of Work and as identified as a Deliverable in the relevant Statement of Work;
“Dependency”	means a matter or circumstance which Delaware requires from the Client in order to provide the Services and/or the Deliverables including as set out in clause 6 (Client Dependencies) and in a Statement of Work;
“Employee Liabilities”	any and all liabilities (including pension liabilities) connected with or arising from TUPE or otherwise connected with or arising from the employment of employees or the use or engagement of temporary, agency or other individual workers including any requirement to inform or consult such individuals or their representatives;
“EU GDPR”	means the General Data Protection Regulation ((EU) 2016/679), as it has effect in EU law;
“Intellectual Property Rights”	means all patents, rights to inventions, copyright and related rights, moral rights, trademarks and service marks, business names and domain names, rights in get-up, goodwill and the right to sue for passing off, rights in designs, rights in computer software, database rights, rights to use, and protect the confidentiality of, Confidential Information (including know-how, trade secrets and inventions (whether patentable or not)) 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;
“Loss”	means all losses, liabilities (including provision for contingent liabilities), fines, damages, costs and expenses including legal fees on a solicitor/client basis and disbursements and costs of investigation, litigation, settlement, judgment, interest and penalties (and “Losses” shall be construed accordingly);
“Party”	means either party to this Agreement (and/or where applicable either party to a Statement of Work) and “Parties” shall mean both of them;
“Personal Data”	shall have the meaning given to it in the Data Protection Legislation;



Defined Term	Meaning
“Personal Data Breach”	shall have the meaning given to it in the Data Protection Legislation;
“Process”	shall have the meaning given to it in the Data Protection Legislation (and the terms “Processes”, “Processing” and “Processed” shall be construed accordingly);
“Rates”	means the daily charge out rates agreed between the Parties as set out in the Statement of Work, which Delaware may increase, on an annual basis, to reflect any increase in Delaware's costs;
“Service Commencement Date”	means the date in the Statement of Work on which Delaware is scheduled to commence the provision of the relevant Services or (if not stated or if earlier) the date on which Delaware started to provide such Services;
“Services”	means those services to be provided by Delaware pursuant to a Statement of Work;
“Standard Contractual Clauses”	means (i) to the extent the UK GDPR applies, the European Commission's standard contractual clauses or any contractual clauses published by the UK Information Commissioner's Office for use in connection with data transfers outside of the United Kingdom; and (ii) to the extent the EU GDPR applies, the European Commission's standard contractual clauses, in each case as valid from time to time;
“Statement of Work” or “SOW”	means a statement of work substantially in the form of the template Statement of Work set out in Schedule 1 in each case signed by Delaware and the Client;
“SOW Term”	means the period over which the Services and the Deliverables are provided as set out in a Statement of Work;
“TUPE”	means the Transfer of Undertakings (Protection of Employment) Regulations 2006; and
“UK GDPR”	has the meaning given to it in section 3(10) (as supplemented by section 205(4)) of the Data Protection Act 2018.

- 1.2 A person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
- 1.3 The Schedules and any Appendices 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 and any Appendices.
- 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 This Agreement shall be binding on, and enure to the benefit of, the Parties to this Agreement, their successors and permitted assigns, and references to any Party shall include that Party's successors and permitted assigns.
- 1.8 A reference to a statute or statutory 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 A reference to this Agreement or to any other agreement or document referred to in this Agreement is a reference to this Agreement or such other agreement or document as varied or novated (in each case, other than in breach of the provisions of this Agreement) from time to time.
- 1.11 References to clauses, Schedules and Appendices are to the clauses, Schedules and Appendices of this Agreement and references to paragraphs are to paragraphs of the relevant Schedule or Appendix.
- 1.12 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.
- 1.13 Titles or headings used in this Agreement or in any Statement of Work are solely for ease of reference and do not and shall not control the meaning or interpretation of any provision.
- 1.14 In relation to each Statement of Work:
- 1.14.1 terms defined in a Statement of Work shall have the meanings given to such terms in a Statement of Work;
- 1.14.2 unless the context otherwise requires, terms defined in this Agreement shall have the same meanings where used in a Statement of Work; and
- 1.14.3 the rules of interpretation set out in this clause 1.1 shall apply.

2 Term

- 2.1 This Agreement shall commence on the Commencement Date and shall continue for a period of five (5) years, or until this Agreement is terminated in accordance with the terms of clause 12 (Termination).
- 2.2 Each Statement of Work shall continue for the SOW Term unless terminated earlier in accordance with that Statement of Work and/or clause 12 (Termination).

3 Statements of Work

- 3.1 Upon execution of this Agreement, Delaware and the Client or any Client Affiliate shall be at liberty to execute individual Statements of Work pursuant to this Agreement. Such Statements of Work may be executed either at the time of signature of this Agreement or afterwards, and the execution of the same shall constitute an order for a project. Any Statement of Work agreed by the Parties



shall be substantially in the form of the template Statement of Work set out in Schedule 1.

- 3.2 Where an Affiliate of the Client purchases Services by entering into a Statement of Work with Delaware, all references in this Agreement and/or any Statement of Work to “the Client” will mean the particular Client Affiliate that enters into such Statement of Work. The Client Affiliate identified will be bound by the terms and conditions of this Agreement but only for purposes of the applicable Statement of Work and Delaware shall only be responsible under each Statement of Work to the Client or the Client Affiliate (as applicable), whichever has signed the Statement of Work with Delaware.
- 3.3 Each Statement of Work shall constitute a separate agreement which incorporates by reference the terms of this Agreement and forms the entire agreement between the Parties relating to the subject matter set out in that Statement of Work. Unless otherwise agreed between authorised representatives of both Parties, each Statement of Work will exist independently of any other Statement of Work and expiry or termination of one Statement of Work will not affect the existence of any other Statement of Work. A Statement of Work shall not amend the terms of this Agreement, unless expressly agreed otherwise by the Parties in writing.
- 3.4 Each Party warrants to the other Party that it has full power and authority to execute, deliver and perform its obligations under this Agreement and respective Statements of Work and that this Agreement and respective Statements of Work are executed by a duly authorised representative.
- 3.5 The Client shall have no obligation to enter into a Statement of Work. Delaware shall have no obligation to provide the Services and the Client shall have no right to receive the Services, pursuant to a Statement of Work until both Parties have signed the Statement of Work.
- 3.6 Once a Statement of Work has been agreed and signed, no amendment shall be made to it except in accordance with clause 15 (Change Control) or clause 22 (Variation).

4 Programme Plan

- 4.1 Delaware will provide the Services described in a Statement of Work to the Client in accordance with the agreed scope set out in such Statement of Work. No terms, provisions or conditions of any purchase order, acknowledgement, invoice or other business form that either Party may use in connection with the transactions contemplated by this Agreement and/or any Statement of Work shall have any effect on or shall otherwise modify the rights, duties, or obligations of either Party under this Agreement and/or any Statement of Work, regardless of any failure of a receiving Party to object to such terms, provisions or conditions.
- 4.2 Delaware shall provide the Services from the date set out in the relevant Statement of Work, with reasonable skill and care and in accordance with generally accepted industry standards. To that end, Delaware shall, when applicable:
- 4.2.1 use reasonable endeavours to provide to the Client all the Services and the Deliverables identified in each executed Statement of Work; and



- 4.2.2 competently and efficiently perform the Services as are more specifically defined in the respective Statements of Work.
- 4.3 Delaware shall provide Delaware Consultants with the requisite skill, experience, qualifications and knowledge reasonably necessary to perform the tasks assigned to them in the relevant Statement of Work.
- 4.4 Delaware is responsible for the day-to-day management of the Delaware Consultants. With this responsibility, Delaware has the right to withdraw or re-assign a Delaware Consultant during the course of this Agreement, provided that Delaware uses reasonable endeavours to: (i) promptly notify the Client of any Delaware Consultant assignment changes when known to Delaware; and (ii) mitigate any impact on project progress. None of the Delaware Consultants shall be considered an employee of the Client.
- 4.5 Delaware shall be responsible for the selection of Delaware Consultants, including, at its sole discretion, engaging subcontractors to carry out such Services. If the Client is dissatisfied with a Delaware Consultant involved in the provision of the Services, on reasonable grounds including where such person's performance has had a detrimental impact on the Services, the Client may serve a notice on Delaware detailing the grounds in question and its effect upon the Client. Following such written notification, Delaware shall take reasonable steps to address the Client's concerns in respect of such person within ten (10) days of such notice. If following such period the Client remains dissatisfied with such person on reasonable grounds (disclosed to Delaware) then Delaware shall provide suitable replacement personnel within a reasonable period of time.
- 4.6 Delaware will be solely responsible for the conduct of the Delaware Consultants, including compliance with any applicable Client policies, written copies of which have been disclosed in writing by the Client to Delaware prior to the commencement of the relevant Statement of Work.

5 Performance Remedies

- 5.1 Subject to clauses 5.2 and 5.3, the Client agrees to give Delaware a reasonable opportunity to remedy any error or defect caused solely by Delaware in the provision by Delaware of the Services or Deliverables to the Client. Delaware shall use all reasonable endeavours to implement such remedy as soon as reasonably practicable after any such failure or shortcoming caused by Delaware is identified and reported to it by the Client in writing during the period of the relevant Statement of Work.
- 5.2 Delaware shall have no liability or obligation pursuant to clause 5.1 unless the Client provides to Delaware in writing a reasonably detailed description of the error or defect caused by Delaware in the provision of the Services or the Deliverables on which the Client seeks to rely within a reasonable time frame and in any case not later than fifteen (15) Business Days from the date on which the Client became aware or ought reasonably to have become aware of such error or defect.
- 5.3 For the avoidance of doubt, the Parties agree that Delaware shall have no liability or obligation pursuant to clause 5.1, following expiry or termination of the relevant Statement of Work under which the relevant Services and/or Deliverables have been provided.



- 5.4 Except as provided in this Agreement and/or any Statement of Work, there are no express warranties, representations, undertakings or conditions (statutory or otherwise) made by either Party and all warranties, representations, undertakings and conditions (statutory or otherwise) implied to be made by either Party, including implied warranties as to satisfactory quality and fitness for a particular purpose, are hereby excluded to the maximum extent permitted by Applicable Laws.

6 Client Dependencies

- 6.1 The Client acknowledges that Delaware's performance is dependent on the Client's performance of the responsibilities identified as being those of the Client set out in this Agreement and/or as may be set out or referred to in any Statement of Work and on timely decisions and approvals by the Client.

- 6.2 In addition to its other obligations under this Agreement and/or any Statement of Work, the Client shall perform the following Dependencies in a timely manner at no charge or cost to Delaware. Where reasonably required by Delaware, the Client shall provide:

6.2.1 reasonable access to office facilities including space, communications/phone and office applications;

6.2.2 remote access to the Client's systems and development environments as necessary to provide the Services;

6.2.3 approval to remote working, where this does not adversely impact the Deliverables;

6.2.4 access to appropriately skilled and qualified Client Personnel (including senior management and potential users of the Services and/or Deliverables):

6.2.4.1 who have the aptitude, management skills and appropriate business understanding to identify requirements and assess recommended solutions; and

6.2.4.2 to meet any staffing requirements set out in the relevant Statement of Work and/or as otherwise agreed with Delaware as being reasonably required to liaise with Delaware Consultants in relation to the performance of each Party's obligations under this Agreement and/or any Statement of Work.

- 6.3 In the event of such access to Client Personnel as set out in clause 6.2.4 proving difficult, Delaware's Project Manager will make a formal request to the Client's Project Manager for such access (such Project Managers shall be identified in the relevant Statement of Work). If suitable access is not provided by the time specified in such request, all time scales will be adjusted accordingly and any actual additional costs incurred by Delaware may be charged to the Client.

- 6.4 The Client shall also:

6.4.1 obtain and maintain all necessary licences and consents and comply with all relevant legislation as required to enable Delaware to provide the Services; and



- 6.4.2 provide to Delaware in a timely manner all documents, information, items and materials in any form (whether owned by the Client or a third party) required under a Statement of Work or otherwise reasonably required by Delaware in connection with the Services and ensure that they are accurate and complete.
- 6.5 The Client will be responsible for assessing recommendations and advice given by Delaware and for approving a course of action. The Client shall at all times provide prompt day to day decision making and problem resolution. It is expected that Client Personnel are empowered such that day to day decisions and/or problems will be resolved within a maximum of five (5) Business Days. If this timeframe is not met, the overall project timetable may be impacted.
- 6.6 Delaware shall be entitled to rely upon the accuracy and completeness of all information provided by, and upon the decisions and approvals of the Client, in connection with the Services.
- 6.7 Delaware shall not be in breach of this Agreement and shall not be liable for any failure to deliver the Services or perform its obligations under this Agreement or any Statement of Work where such failure is caused by the Client's failure to fulfil, or to procure the fulfilment of, any Dependency or any of its other obligations under this Agreement and/or the relevant Statement of Work (including the obligations set out in this clause 6). Where any delay is caused in whole or in part by any act or omission of the Client, the Client Personnel or any third party, without prejudice to any other right or remedy it may have, Delaware shall be given a reasonable extension of time for provision of the Services and/or Deliverables as well as reimbursement of costs incurred by Delaware due to such delay, including the costs of personnel assigned to perform work for the Client.
- 6.8 The Client recognises that Delaware needs positive customer endorsements to generate repeat business and will take reasonable steps to comply with requests from Delaware for customer reference endorsements.

7 Fees and Payment Terms

- 7.1 The Client agrees to pay Delaware for the Services and the Deliverables and work performed, in accordance with the payment provisions set out in each Statement of Work, which in each case is based on the Rates, unless otherwise set out in the Statement of Work. Delaware may increase the Rates, on an annual basis, to reflect any increase in its costs.
- 7.2 Save where otherwise agreed by the Parties under any Statement of Work, and in addition to the fees due under the relevant Statement of Work, the Client agrees to reimburse Delaware for travel, living and other expenses incurred in connection to this Agreement and/or any Statement of Work, and any taxes incurred on such expenses, provided that such expenses were incurred in accordance with Delaware's current expenses policy, a copy of which shall be provided to the Client on request.
- 7.3 Save where otherwise agreed by the Parties under the relevant Statement of Work, Delaware shall invoice the Client in arrears on a monthly basis following the end of each month in relation to the delivery of the Services and the Deliverables for that month. The Client shall promptly provide Delaware with the Client's relevant purchase order number for Delaware to include in its invoices.



- 7.4 The Client shall pay Delaware's invoices by BACS within thirty (30) days of receipt by the Client, provided that the invoice has not been disputed, in writing, by the Client acting reasonably and in good faith. If the Client disputes an invoice (an "**Invoice Dispute**") the Client shall notify Delaware, giving reasonable details of the disputed items and reasons for non-payment within ten (10) Business Days of receipt of the same ("**Invoice Dispute Notice**"). All disputed invoice amounts may be withheld and shall not become due until the Invoice Dispute has been resolved. Where only part of an invoice is disputed, the undisputed amount shall be payable on the due date for payment.
- 7.5 The Parties shall use all reasonable endeavours to resolve an Invoice Dispute promptly. If the Invoice Dispute is not resolved within thirty (30) days of receipt by Delaware of the Invoice Dispute Notice (or if no Invoice Dispute Notice has been received but the full amount of an invoice has not been paid within fourteen (14) days of the invoice due date), Delaware may escalate the dispute in accordance with clause 29 (Dispute Resolution) and may, without prejudice to any of its other rights or remedies available under this Agreement and/or any Statement of Work or at law, suspend performance of the Services upon no less than five (5) Business Days prior notice.
- 7.6 Subject to clauses 7.3 and 7.4 above, if payment is not made to Delaware within thirty (30) days of an invoice receipt by the Client, Delaware has the right to charge interest at the rate of 4% a year above the Bank of England's base rate from time to time on any outstanding balances due and 4% a year for any period when the base rate is below 0% (with interest accruing daily), until such payment is made by the Client. Delaware's right to charge interest shall be without prejudice to any other action that Delaware may take against the Client (including Delaware's right (upon notice to the Client) to suspend the delivery of the Services under any Statement of Work and/or give notice to terminate under clause 12 (Termination)).
- 7.7 All invoices shall be in United Kingdom sterling and are exclusive of any taxes. Delaware's invoices shall reflect and the Client shall pay, all applicable sales, use, excise, value added or other similar taxes or duties in connection with this Agreement and/or any Statement of Work excluding taxes on Delaware's income.
- 7.8 All sums payable to Delaware under this Agreement and/or any Statement of Work shall be paid in full without any set-off, counterclaim, deduction or withholding.

8 Confidentiality

- 8.1 During the term of this Agreement, and for two (2) years following the expiry or termination of this Agreement and all Statements of Work entered into under this Agreement, subject to clause 8.4 below, each Party shall keep the other Party's Confidential Information strictly confidential and neither Party shall (without the other Party's prior written approval):
- 8.1.1 disclose the other Party's Confidential Information to any other person other than:



- 8.1.1.1 to the Parties to this Agreement; or
 - 8.1.1.2 to a Party's Affiliates, its and their directors, employees, self-employed contractors and professional advisers (and, in the case of Delaware, to the Delaware Consultants and in the case of the Client, the Client Personnel) who reasonably require the information for the purposes of this Agreement and/or the relevant Statement of Work and each Party must ensure that its Affiliates and its and their directors, employees, self-employed contractors and professional advisers (and, in the case of Delaware, the Delaware Consultants and in the case of the Client, the Client Personnel) keep the other Party's Confidential Information strictly confidential; or
- 8.1.2 use the other Party's Confidential Information other than for the delivery of the Services in relation to this Agreement and/or any Statement of Work.
- 8.2 For the avoidance of doubt, Confidential Information shall remain at all times the exclusive property of the owning Party or its licensors.
- 8.3 The Parties agree that the obligations of confidentiality set out in clause 8.1 shall not apply to the following information, to the extent that:
 - 8.3.1 it is already within the public domain at the time of its disclosure between the Parties;
 - 8.3.2 it is rightfully disclosed by a third party who is authorised to make such disclosure without restriction;
 - 8.3.3 it enters the public domain after it has been disclosed without the recipient being in breach of any obligation;
 - 8.3.4 it was already known before its receipt or was independently generated by the recipient; and
 - 8.3.5 the recipient is required to disclose such Confidential Information by law or by any governmental or other regulatory authority (including the rules of any stock exchange or listing authority), provided that, to the extent permitted under Applicable Laws, the disclosing Party will give the other Party reasonable advance written notice of any intended disclosures of this type.
- 8.4 The Parties agree that monetary damages may not be a sufficient remedy if either Party is in breach of this clause 8 and the Party whose Confidential Information was unlawfully disclosed shall be entitled to seek any legal remedy or relief to prevent any breach, or anticipated breach by the other Party.

9 Intellectual Property Rights

- 9.1 Neither this Agreement nor any Statement of Work assigns or otherwise transfers to either Party any Intellectual Property Rights of the other Party. Neither Party may assert ownership over the other Party's (or any of its Affiliates') Intellectual Property Rights. If either Party acquires, by operation of law, title to Intellectual Property Rights that is inconsistent with the allocation of title set out in this clause



- 9 it shall, immediately upon request of the other Party, assign in writing such Intellectual Property Rights to the other Party.
- 9.2 Except as expressly stated otherwise in a Statement of Work, all Intellectual Property Rights in the Services and Deliverables are and shall remain the property of Delaware (and/or its third-party licensors).
- 9.3 Subject to payment of Delaware's invoices in accordance with clause 7 (Fees and Payment Terms), Delaware grants to the Client and the Client Affiliates a non-exclusive, non-transferable (except to the Client's Affiliates), royalty-free, right to use the Services and Deliverables ("**Delaware IP**") (excluding any software licensed separately by Delaware to the Client pursuant to its standard licence terms) for the Client's internal business purposes. As between Delaware and the Client, Delaware IP shall be deemed Delaware's Confidential Information for the purposes of clause 8 (Confidentiality).
- 9.4 For the avoidance of doubt, the Delaware IP and more particularly the Deliverables, shall exclude any third party software, which shall be licensed directly by the Client from the relevant licensor under its standard licence terms. Delaware shall not be liable to the Client for any loss, damage or delay arising from the Client's purchase, licensing or use of any such third party software (or the lack of availability of such third party software or any defects therein).
- 9.5 The Client shall not, and shall procure that the Client Personnel shall not, except as expressly permitted in the Statement of Work:
- 9.5.1 modify, translate, create or attempt to create derivative copies of or copy the Delaware IP (whether in whole or in part); or
- 9.5.2 sub-license, assign, share, sell, rent, lease, transmit, grant a security interest in or otherwise transfer (i) the Delaware IP or (ii) any of the Client's rights to use any of the same.
- 9.6 The Intellectual Property Rights in the Client Data are and shall remain the property of the Client. The Client grants to Delaware a non-exclusive, limited licence for the term of the applicable Statement of Work to use and process the Client Data to the extent necessary to enable Delaware to comply with its obligations and exercise its rights under the Statement of Work.
- ## 10 Data Protection
- 10.1 Both Parties will comply with all applicable requirements of the Data Protection Legislation.
- 10.2 The Parties do not intend, under this Agreement and/or any relevant Statement of Work, that Delaware will be Processing any Client Personal Data (as defined below) on a planned, substantial or regularly recurring basis. However, the Parties anticipate that on occasion Delaware may be required to Process Client Personal Data on a temporary basis incidental to Delaware's provision of the Services. Notwithstanding the foregoing, the Parties acknowledge that for the purposes of the Data Protection Legislation, where and to the extent Delaware does Process any Personal Data on behalf of the Client and/or any Client Affiliates under or in relation to this Agreement and/or any relevant Statement of Work ("**Client Personal Data**"), the Client is the Data Controller and Delaware is the Data Processor (where Data Controller and Data Processor have the meanings as defined in the Data Protection Legislation). Schedule 2 sets out the anticipated scope, nature and purposes of any incidental Processing of Client Personal Data that may be undertaken by Delaware under this Agreement (including under any



relevant Statement of Work), the likely duration of the Processing and the anticipated types of Client Personal Data and categories of Data Subject (both as defined in the Data Protection Legislation). Prior to entering into a Statement of Work the Parties shall review the contents of Schedule 2 and where appropriate for that relevant Statement of Work the Parties will document in the Statement of Work any amendments, supplements or updates to the description of any "Processing, Personal Data and Data Subjects" as necessary for that relevant Statement of Work.

- 10.3 Without prejudice to the generality of clause 10.1, the Client will ensure that it has all necessary appropriate consents and notices in place to enable lawful transfer of the Client Personal Data to Delaware for the duration and purposes of this Agreement and/or any Statement of Work.
- 10.4 Without prejudice to the generality of clause 10.1, Delaware shall, where and to the extent that Delaware does Process any Client Personal Data in connection with the performance by Delaware of its obligations under this Agreement and/or any Statement of Work:
 - 10.4.1 Process that Client Personal Data only on the written instructions of the Client unless Delaware is required by Applicable Laws to Process Client Personal Data ("**Applicable Data Processing Laws**"). Where Delaware is relying on Applicable Data Processing Laws as the basis for Processing Client Personal Data, Delaware shall promptly notify the Client of this before performing the Processing required by the Applicable Data Processing Laws unless those Applicable Data Processing Laws prohibit Delaware from so notifying the Client;
 - 10.4.2 ensure that it has in place appropriate technical and organisational measures, to protect against unauthorised or unlawful Processing of Client Personal Data and against accidental loss or destruction of, or damage to, Client Personal Data, appropriate to the harm that might result from the unauthorised or unlawful Processing or accidental loss, destruction or damage and the nature of the data to be protected, having regard to the state of technological development and the cost of implementing any measures (those measures may include, where appropriate, pseudonymising and encrypting Client Personal Data, ensuring confidentiality, integrity, availability and resilience of its systems and services and regularly assessing and evaluating the effectiveness of the technical and organisational measures adopted by it);
 - 10.4.3 ensure that all personnel who have access to and/or Process Client Personal Data are obliged to keep the Client Personal Data confidential;
 - 10.4.4 not transfer Client Personal Data outside of the United Kingdom or the European Economic Area unless it has in place a written agreement with the relevant data recipient which incorporates the Standard Contractual Clauses or an alternative mechanism to ensure that the said transfer complies with the Data Protection Legislation;
 - 10.4.5 taking into account the nature of Processing and information available to Delaware, at the Client's cost assist the Client to:



- 10.4.5.1 respond to any request from a Data Subject exercising its rights under the Data Protection Legislation; and
 - 10.4.5.2 ensure compliance with its obligations under the Data Protection Legislation with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators;
 - 10.4.6 notify the Client without undue delay on becoming aware of a Personal Data Breach affecting the Client Personal Data;
 - 10.4.7 at the written direction of the Client, Delaware shall delete or return Client Personal Data and all copies of Client Personal Data to the Client on termination or expiry of this Agreement and/or any Statement of Work unless required by Applicable Laws to retain the Client Personal Data (in which case Delaware shall inform the Client as to the reason for retaining the Client Personal Data under Applicable Laws); and
 - 10.4.8 make available to the Client, at the reasonable cost of the Client, all information necessary to demonstrate Delaware's compliance with the obligations imposed on it under this clause and/or the Data Protection Legislation and allow for and contribute to audits, including inspections, conducted by the Client or another auditor mandated by the Client (but not being a competitor of Delaware) for the purposes of demonstrating such compliance. Delaware may apply its reasonable charges associated with the provision of information and access as aforesaid.
- 10.5 With regard to sub-clause 10.4.8, Delaware shall immediately inform the Client if in its opinion, an instruction received from the Client infringes the Data Protection Legislation.
- 10.6 If Delaware wishes to appoint a third party Data Processor of Client Personal Data under this Agreement, it may only do so subject to:
- 10.6.1 obtaining the Client's prior written approval, not to be unreasonably withheld or delayed; and
 - 10.6.2 Delaware entering into a written agreement with the third party Data Processor, which imposes obligations on the third party Data Processor which are no less onerous than those set out in this clause 10.

The Client hereby consents to Delaware's appointment and use of the permitted sub-processors set out in Schedule 2.

11 Non-Solicitation

- 11.1 Neither Party shall, without the prior written consent of the other Party, directly solicit or induce employees of the other Party (including any Delaware Consultant or Client Personnel where applicable) who have been directly involved in any Statement of Work executed under this Agreement (whether in the delivery of the Services and/or the Deliverables or in the ordering of them pursuant to this Agreement) to terminate their respective employment or engagement or to act as a contractor or agent for the other Party during the term of this Agreement and for six (6) months following the expiry or termination of this Agreement, save that such restriction shall not apply to any employee (including any Delaware



Consultant or Client Personnel where applicable) who answers a general recruitment advert of the other Party.

- 11.2 In the case of breach of clause 11.1, without prejudice to any other right or remedy arising, the breaching Party shall be required to pay the non-breaching Party a sum equivalent to 50% of the then current annual remuneration of the non-breaching Party's relevant employee, consultant or subcontractor or, if higher, 50% of the annual remuneration to be paid by the breaching Party to that relevant employee, consultant or subcontractor.

12 Termination

- 12.1 Without prejudice to any rights that have accrued under this Agreement or under any Statement of Work or any of its other rights or remedies, either Party may at any time terminate this Agreement with immediate effect by giving written notice to the other Party if the other Party commits a material breach of any term of this Agreement and such breach is irremediable or (if such breach is remediable) fails to remedy that breach within a period of thirty (30) days after being notified in writing to do so.
- 12.2 Without prejudice to any rights that have accrued under this Agreement or under any Statement of Work or any of its other rights or remedies, either Party may at any time terminate a Statement of Work with immediate effect by giving written notice to the other Party if the other Party commits a material breach of any term of that Statement of Work and such breach is irremediable or (if such breach is remediable) fails to remedy that breach within a period of thirty (30) days after being notified in writing to do so. If Delaware exercises its rights under this clause 12.2 in relation to any Statement of Work, it may also, at its sole discretion, terminate any or all other existing Statements of Work with effect from the same date.
- 12.3 For the avoidance of doubt, a breach for late payment under clause 7 (Fees and Payment Terms) by the Client, shall be considered a material breach for the purposes of clauses 12.1 and 12.2 above.
- 12.4 Without prejudice to any rights that have accrued under this Agreement or under any Statement of Work or any of its other rights or remedies, either Party may at any time terminate this Agreement and/or any Statement of Work with immediate effect by giving written notice to the other Party if:
- 12.4.1 the other Party has a winding up petition presented or enters into liquidation, whether compulsorily or voluntarily (otherwise than for the purposes of amalgamation or reconstruction without insolvency), or makes an arrangement with its creditors, or petitions for an administration order, or has a receiver or manager appointed over any of its assets, or generally becomes unable to pay its debts within the meaning of Section 123 of the Insolvency Act 1986;
 - 12.4.2 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 12.4.1; or
 - 12.4.3 the other Party suspends or ceases, or threatens to suspend or cease, to carry on all or a substantial part of its business.



- 12.5 Unless agreed otherwise in the relevant Statement of Work, either Party may terminate any Statement of Work for convenience, upon giving ninety (90) days' written notice to the other Party.
- 12.6 Either Party may terminate this Agreement and/or any Statement of Work in accordance with clause 28 (Force Majeure).

13 Consequences of Termination

- 13.1 Expiry or termination of this Agreement and/or any other Statement of Work by either Party shall not terminate any Statement of Work outstanding at the date of expiry or termination, and any outstanding Statement of Work shall continue for the relevant SOW Term or until the Statement of Work has been terminated.
- 13.2 In the event of expiry or termination of this Agreement, the terms and conditions of this Agreement shall continue to apply to any Statement of Work outstanding at the date of expiry or termination as if this Agreement had not expired or been terminated.
- 13.3 Expiry or termination of a Statement of Work will not affect the terms of this Agreement or the delivery of any other Statement of Work.
- 13.4 Upon expiry or termination of this Agreement or any expiry or termination of a Statement of Work, the Client shall promptly (and in any event within fourteen (14) days of such expiry or termination) pay to Delaware all of Delaware's outstanding unpaid invoices and interest and, in respect of the Services supplied under this Agreement or relevant Statement of Work but for which no invoice has been submitted, Delaware may immediately submit an invoice, which shall be payable immediately on receipt. In the case where a fixed price engagement is terminated part-way through a milestone (as defined in the relevant Statement of Work), the Client shall pay for the Services performed on a time and materials basis up to and including the date of expiry or termination.
- 13.5 In the event of expiry or termination of this Agreement for any reason each Party shall promptly (and in any event within fourteen (14) days of such expiry or termination) return or destroy all Confidential Information in the possession of that Party which belongs to the other Party and to the extent technically and legally practicable, erase all the Confidential Information which is stored in electronic form on systems and data storage services provided by third parties. Each Party may retain, subject to this Agreement, copies of the Confidential Information required to comply with any Applicable Laws.
- 13.6 Any expiry or termination of this Agreement and/or any Statement of Work for any reason shall be without prejudice to any other rights or remedies either Party may be entitled to at law or under this Agreement and/or any Statement of Work. Expiry or termination shall also not affect any accrued rights or liabilities of either Party nor the coming into force or the continuance in force of any provision of this Agreement and/or a Statement of Work which is expressly or by implication intended to come into or continue in force on or after such expiry or termination, including the right to claim damages in respect of any breach of this Agreement and/or any Statement of Work which existed at or before the date of expiry or termination. For the avoidance of doubt, the terms of clauses 1, 3.2, 3.3, 7.1, 7.3, 7.4, 7.5, 7.7, 7.8, 8, 9, 10, 11, 13, 14, 16, 17, 19, 26, 27, 29 and 30 shall survive such expiry or termination, and continue in effect to the benefit of, and be binding upon, both Parties and their successors and assigns.



14 Limitation of Liability

- 14.1 Nothing in this Agreement shall limit or exclude the liability of either Party for:
- 14.1.1 death or personal injury caused by its negligence;
 - 14.1.2 fraud or fraudulent misrepresentation;
 - 14.1.3 breach of the terms implied by section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession); or
 - 14.1.4 any other liability which cannot be limited or excluded by Applicable Laws.
- 14.2 Subject to clause 14.1, in no event shall either Party be liable to the other Party, whether arising under tort (including negligence), contract, for breach of statutory duty or otherwise, whether or not foreseeable and even if advised in advance of the possibility of such damages arising under or in connection with this Agreement and/or any Statement of Work for any loss (whether direct or indirect) of:
- 14.2.1 profits;
 - 14.2.2 sales or business opportunities;
 - 14.2.3 agreements or contracts;
 - 14.2.4 anticipated savings;
 - 14.2.5 damage to goodwill or reputation;
 - 14.2.6 data or loss of use or corruption of data or information; or
 - 14.2.7 special, indirect or consequential losses or damages of any kind.
- 14.3 Subject to clauses 14.1, 14.2 and 14.5, Delaware's total aggregate liability for all claims or Losses whether in contract, tort (including negligence), for breach of statutory duty, or otherwise, for any claim arising or series of related claims flowing from the same incident or series of connected incidents under any Statement of Work shall not exceed 100% of the fees paid by the Client in the six (6) months prior to the incident giving rise to such claim or Losses under the relevant Statement of Work, subject always to Delaware's total aggregate liability cap in respect of this Agreement and all Statements of Work entered into under this Agreement as set out in clause 14.5. Save that solely in respect of any claims or Losses arising in the first six (6) months of any Statement of Work, Delaware's total aggregate liability under such Statement of Work for all claims or Losses whether in contract, tort (including negligence), for breach of statutory duty for any claim arising or series of related claims flowing from the same incident or series of connected incidents under any Statement of Work shall not exceed 100% of the fees payable by the Client from the effective date of the relevant Statement of Work until the date of such incident giving rise to such claim or Loss under the relevant Statement of Work.
- 14.4 Subject to clauses 14.1, 14.2 and 14.5, Delaware's total aggregate liability for all claims or Losses whether in contract, tort (including negligence), for breach of



statutory duty or otherwise, for any claim arising or series of related claims flowing from the same incident or series of connected incidents under this Agreement shall not exceed £200,000 (two hundred thousand pounds sterling), subject always to Delaware's total aggregate liability cap in respect of this Agreement and all Statements of Work entered into under this Agreement as set out in clause 14.5.

- 14.5 Notwithstanding the limits on liability in clauses 14.3 and 14.4 and subject to clauses 14.1 and 14.2, in no event shall Delaware's total aggregate liability for all claims or Losses whether in contract, tort (including negligence), for breach of statutory duty, or otherwise, arising under or in connection with this Agreement and all Statements of Work exceed £1,000,000 (one million pounds sterling).
- 14.6 The Parties agree that:
- 14.6.1 the same liability for Losses should never arise under more than any one of clauses 14.3, 14.4 and 14.5; and
- 14.6.2 accordingly, no double recovery of any Losses shall be permitted by or on behalf of the Client.
- 14.7 Each Party shall use all reasonable endeavours to mitigate any loss or damage suffered arising out of or in connection with this Agreement and respective Statements of Work.

15 Change Control

- 15.1 Either Party may propose changes to the scope or execution of the Services and/or the Deliverables, but no proposed changes shall come into effect until a relevant change order has been signed by both Parties ("**Change Order**"). A Change Order agreed by the Parties shall be substantially in the form of the template Change Order set out in Schedule 3 and will include the proposed changes and the effect that those changes will have on:
- 15.1.1 the Services and/or the Deliverables;
- 15.1.2 the fees payable for the Services and/or the Deliverables;
- 15.1.3 the timetable for the Services and/or the Deliverables; and
- 15.1.4 any of the other terms of this Agreement and/or the relevant Statement of Work.
- 15.2 If either Party wishes to make a change:
- 15.2.1 it shall notify the other Party and provide as much detail as the other Party reasonably requires of the proposed changes, including the timing of the proposed change; and
- 15.2.2 the other Party shall, as soon as reasonably practicable after receiving the information at clause 15.2.1, provide a draft Change Order to the other Party.
- 15.3 If the Parties:



- 15.3.1 agree to a Change Order, they shall sign it and that Change Order shall amend this Agreement and/or the relevant Statement of Work; or
- 15.3.2 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 29 (Dispute Resolution).

16 TUPE

- 16.1 The Parties do not anticipate that there will be a relevant transfer for the purposes of TUPE on commencement or cessation of the Services. However, if there is such a transfer:
 - 16.1.1 the Parties shall co-operate in agreeing a list of transferring employees prior to the transfer date and shall co-operate in seeking to ensure the orderly transfer of the transferring employees; and
 - 16.1.2 the Parties warrant to each other that they will comply with their respective obligations under TUPE including but not limited to providing employee liability information, providing measures information, providing all relevant information to any transferring employees or their representatives and carrying out any required consultation.
- 16.2 If there is a relevant transfer to Delaware on commencement of the Services, or as a result of any expansion of the Services:
 - 16.2.1 the Client warrants that at the time of the transfer the relevant employees are employed on terms, conditions and rate of pay in accordance with market norms made on an arm's length basis;
 - 16.2.2 where the transferring employees are employed by a third party ("**Outgoing Service Provider**"), the Client shall procure that the Outgoing Service Provider complies with its obligations under TUPE in respect of the transferring employees; and
 - 16.2.3 the Client will indemnify Delaware against any Employee Liabilities: (i) arising out of or in connection with all employment claims by any transferring employees in respect of anything done or omitted to be done by the Client or Outgoing Service Provider in relation to the transferring employee's employment prior to the transfer date, (ii) arising out of or in connection with failure by the Client or the Outgoing Service Provider to comply with its obligations under TUPE (including any failure to consult and/or provide such information as is required under TUPE) except where such failure arises from the failure of Delaware to comply with its duties under regulation 13 of TUPE, and (iii) in respect of any potential transferring employees not notified to Delaware in writing in advance of the Service Commencement Date, including the properly payable statutory or contractual costs of redundancy or payment in lieu of notice; and
 - 16.2.4 the Client or Outgoing Service Provider (as applicable) will be responsible for the payment of all wages and benefits up to the transfer date and Delaware will be responsible for the payment of all wages and benefits from the transfer date.
- 16.3 If there is a relevant transfer to the Client on cessation of the Services:



- 16.3.1 Delaware will indemnify the Client against any Employee Liabilities: (i) arising out of or in connection with all employment claims by any transferring employees in respect of anything done or omitted to be done by Delaware in relation to such transferring employee's employment prior to the transfer date, (ii) arising out of or in connection with failure by Delaware to comply with its obligations under TUPE (including any failure to consult and/or provide such information as is required under TUPE) except where such failure arises from the failure of the Client or Outgoing Service Provider to comply with their duties under regulation 13 of TUPE, and (iii) in respect of any potential transferring employees not notified to the Client in writing in advance of cessation of the Services, including the properly payable statutory or contractual costs of redundancy or payment in lieu of notice;
- 16.3.2 Delaware will be responsible for the payment of all wages and benefits up to the transfer date and the Client will be responsible for the payment of all wages and benefits from the transfer date.
- 16.4 In addition to the foregoing clauses in relation to TUPE, each Party will also be responsible for and indemnify the other against all other Employee Liabilities arising out of or in connection with the provision of the Services.

17 Conflicts

- 17.1 If there is any conflict, ambiguity or inconsistency between the various parts of this Agreement, a Statement of Work and a Schedule (including any Appendices or documents referred to in a Schedule) the following order of precedence shall apply:
- 17.1.1 the clauses of this Agreement;
- 17.1.2 the Schedules;
- 17.1.3 any Appendices or documents referred to in the Schedules;
- 17.1.4 the Statement of Work;
- 17.1.5 any exhibits or any other document referred to in the Statement of Work or any other document attached to the Statement of Work,

unless a document with a lower order of precedence expressly and specifically (with reference to this clause 17.1) amends a document with a higher order of precedence.

18 Independent Contractor

- 18.1 Any services that Delaware and the Delaware Consultants perform for the Client, and Delaware's relationship to the Client in all matters relating to this Agreement and/or any Statement of Work, is that of an independent contractor.
- 18.2 No provision of this Agreement and/or any Statement of Work creates a partnership between Delaware and the Client, nor makes one Party the agent of the other Party for any purpose. Neither the Client nor Delaware has authority or power to bind, to agree in the name of, or to create a liability for the other in any way or for any purpose.



- 18.3 Each Party warrants to the other Party that it is validly incorporated, organised and subsisting in accordance with the Applicable Laws of its place of incorporation.

19 Entire Agreement

- 19.1 This Agreement and each Statement of Work represents the entire agreement between the Parties concerning its subject matter, and supersedes all prior agreements, commitments and understandings, whether oral or written, concerning such subject matter. Each Party acknowledges that no promises, representations, inducements, agreements or warranties, other than those set out in this Agreement or the relevant Statement of Work, have been made to induce the execution of this Agreement or the relevant Statement of Work by said Party, provided that this clause 19.1 will not limit the liability of either Party for misrepresentations made fraudulently or dishonestly.
- 19.2 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 and/or Statement of Work. Each Party agrees that it shall have no claim for innocent or negligent misrepresentation based on any statement in this Agreement.

20 Assignment

- 20.1 This Agreement and any Statement of Work shall continue for the benefit of, and be binding upon, the successors and the expressly permitted assignees of the Parties. Subject to clause 20.2, neither Party shall assign this Agreement and/or any Statement of Work or delegate any of its rights or duties under this Agreement and/or any Statement of Work to any third party without the prior written consent of the other Party which shall not be unreasonably withheld or delayed.
- 20.2 Notwithstanding clause 20.1, Delaware shall be permitted to sub-contract its obligations under any Statement of Work to any third party, provided that such sub-contracting shall not relieve Delaware of its obligations to the Client under such Statement of Work, and Delaware shall remain liable to the Client accordingly for any actions of such sub-contractor.
- 20.3 Notwithstanding clause 20.1, either Party may, upon reasonable written notice to the other, assign this Agreement and all Statements of Work to an Affiliate or in connection with the sale of all or substantially all of its business (by way of a sale of shares or assets, or merger).

21 Third Party Rights

No term of this Agreement and/or any Statement of Work is intended to confer a benefit on, or to be enforceable by, any person who is not a Party to this Agreement and/or the relevant Statement of Work.

22 Variation

Subject to clause 15 (Change Control), no variation of this Agreement and/or any Statement of Work shall be effective unless it is in writing and signed by the Parties (or their authorised representatives).



23 Counterparts

- 23.1 This Agreement and/or any Statement of Work may be executed in any number of counterparts, each of which when executed and delivered shall constitute a duplicate original, but all the counterparts shall together constitute the one Agreement or the one Statement of Work.
- 23.2 Transmission of an executed counterpart of this Agreement and/or any Statement of Work or the executed signature page of a counterpart of this Agreement and/or any Statement of Work by email (in PDF, JPEG or other agreed format) shall take effect as delivery of an executed counterpart of this Agreement and/or any Statement of Work. If either method of delivery is adopted, without prejudice to the validity of this Agreement and/or any Statement of Work, each Party shall provide the other with the original of such counterpart as soon as reasonably possible after.
- 23.3 No counterpart shall be effective until each Party has executed and delivered at least one counterpart.

24 Modification and Waiver

- 24.1 No modification, course of conduct, amendment, supplement to, or waiver of, this Agreement and/or any Statement of Work shall be binding upon the Parties unless made in writing and duly signed by both Parties.
- 24.2 Any delay by either Party in enforcing any provision of this Agreement and/or any Statement of Work shall not be construed as a waiver of the same. The waiver by either Party of any default or breach of this Agreement and/or any Statement of Work shall not constitute a waiver of any other or subsequent default or breach.

25 Severability

In the event that any one or more provisions in this Agreement and/or any Statement of Work shall be held to be invalid, illegal or unenforceable, the remaining provisions of this Agreement and/or any Statement of Work shall be unimpaired, and both Parties shall work in good faith to replace the invalid, illegal or unenforceable provision with an equivalent, but valid, legal and enforceable, provision.

26 Rights and remedies

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

27 Notice

- 27.1 Any notice given to a Party under or in connection with this Agreement and/or any Statement of Work shall be in writing and shall be delivered by email to the email address specified below or by hand or by pre-paid first-class post or other next Business Day delivery service at its registered office (if a company) or its principal place of business (in any other case).
- 27.2 Any notice shall be deemed to have been received:
- 27.2.1 if delivered by email, at the time of transmission, or, if this time falls outside business hours, when business hours resume. In this clause 27.2.1, business hours means 9.00am to 5.00pm on a Business Day;



- 27.2.2 if delivered by hand, on signature of a delivery receipt;
- 27.2.3 if sent by pre-paid first-class post or other next Business Day delivery service, at 9.00am on the second Business Day after posting or at the time recorded by the delivery service.
- 27.3 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.
- 27.4 For the purposes of this clause 27, each Party's email address for the service of notices is as follows:
- 27.4.1 Delaware: legal@delaware.co.uk
- 27.4.2 Client: [INSERT EMAIL].

28 Force Majeure

Other than for payment of fees due, neither Party shall have any liability to the other for failure to perform its obligations, delay or loss occasioned by circumstances which are outside that Party's reasonable control to prevent, including war, acts of terrorism, strike, lock-out, industrial dispute, fire, explosion, natural disaster, flood, work stoppages or work shortages (save in relation to work stoppages or work shortages of either Party), transportation strikes or slowdowns, hurricane, power outages, fuel shortages, interruption or failure of utility services, cyber-attack, acts of government, declared public health emergencies, disease, epidemics, pandemics, illness and death ("**Force Majeure Event**"). The Party affected shall give the other Party written notice of such Force Majeure Event as soon as reasonably practicable. If such delay or failure continues for at least ninety (90) days following receipt of such notice, either Party will be entitled to terminate this Agreement and/or any relevant Statement of Work by notice in writing.

29 Dispute Resolution

If a dispute arises from or in connection with any Statement of Work or this Agreement (a "**Dispute**") it shall be determined in accordance with the following procedure:

29.1 Internal Resolution

Delaware's Project Manager and the Client's Project Manager (each as set out in the Statement of Work) shall use all reasonable endeavours in good faith to resolve any Dispute and failing the same, either Party may refer the Dispute in writing for further review to one of the Project Board (as set out in the Statement of Work), setting out the nature and full particulars of the Dispute, together with relevant supporting documents (the "**Dispute Notice**"). The Parties shall ensure that the Project Board shall, for a period of 15 days from the date of sending of the Dispute Notice (the "**Resolution Period**"), use all reasonable endeavours to reach a reasonable resolution of the Dispute. If the Dispute is not so resolved during the Resolution Period, the Dispute shall be dealt with in accordance with clauses 29.2 and 29.3.

29.2 Mediation

In the case that the Dispute is not resolved under clause 29.1 by the end of the Resolution Period, the Parties will attempt to settle the Dispute by mediation. 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. The mediation will start not later than twenty-eight (28) days after the date of the ADR Notice.

29.3 No Party may commence any court proceedings under this clause 29.3 in relation to the whole or part of the Dispute until twenty-eight (28) days after service of the ADR Notice, provided that the right to issue proceedings is not prejudiced by a delay.

29.4 If the Dispute is not resolved within twenty-eight (28) 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 twenty-eight (28) days, or the mediation terminates before the expiration of the said period of twenty-eight (28) days, the Dispute shall be finally resolved by the courts of England and Wales in accordance with clause 29.3.

29.5 **Courts**

If the Parties have not resolved the Dispute in accordance with clauses 29.1 or 29.2, then the courts of England and Wales shall have jurisdiction to settle the Dispute. Neither Party may initiate any legal action until the mediation process at clause 29.2 has been completed, unless such Party has reasonable cause to do so to avoid damage to its business, Intellectual Property Rights or Confidential Information or to protect or preserve any urgent right of action it may have.

30 Governing Law and Jurisdiction

30.1 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 interpreted in accordance with the laws of England and Wales. The Parties agree to submit to the exclusive jurisdiction of the courts of England and Wales.



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

Signed for and on behalf of DELAWARE DIGITAL LLP

Signature	
Name	
Title	
Date	

Signed for and on behalf of [INSERT NAME]

Signature	
Name	
Title	
Date	



Schedule 1
Statement of Work Template



Schedule 2

Processing, Personal Data, Data Subjects and Sub-Processors

(A)	Scope, subject matter, nature and purpose of the Processing of Client Personal Data under this Agreement	Scope of Processing The scope of Processing is incidental in nature to the main purpose of this Agreement, involving temporary access (including in some cases remote access to Client's IT systems) and Processing of Client Personal Data only to such nature and extent as necessary in the particular circumstances. Subject matter / purpose Delaware's Processing of any Client Personal Data under this Agreement and/or any Statement of Work is incidental to Delaware providing the Services and performing its other obligations set out in this Agreement and any Statement of Work. Nature The nature and purpose of Processing of Client Personal Data will be such incidental access to Client Personal Data as Delaware may be granted on a temporary basis in connection with its performance of the Agreement and/or any relevant Statement of Work. Depending upon the nature of the incidental temporary Processing required, the activities Delaware may undertake could include temporary access (including remote access into Client systems) and analysis of Client Personal Data (which in turn may involve temporary storage and retrieval of Client Personal Data).
(B)	Duration of the Processing of Client Personal Data under this Agreement	On a temporary basis as and when may be required from time to time and as is merely incidental to Delaware's provision of the Services and complying with its other obligations under this Agreement and/or any relevant Statement of Work.
(C)	Type of Client Personal Data Processed under this Agreement	The Client Personal Data that Delaware may be required to Process under this Agreement and/or any Statement of Work will be determined by the Client (either alone or in conjunction with Delaware). Depending on the circumstances, the Client Personal Data could include: • Identification information (e.g. name or other unique identifier); • Contact information (e.g. email address, postal address, telephone contact numbers); and • Information about or relating to products or services provided to or for the benefit of a Data Subject.
(D)	Categories of data subjects of the Client Personal Data Processed	The Client Personal Data that Delaware may be required to Process on a temporary basis under this Agreement and/or any Statement of Work and, accordingly, the categories of Data Subjects concerned will be determined by the Client.



	under this Agreement	Depending on the circumstances, the categories of Data Subjects could include: • Past, present and prospective employees and personnel of the Client or the Client's Affiliates; • Past, present and prospective customers of the Client or the Client's Affiliates or individuals who receive the benefit of products and services provided by the Client or the Client's Affiliates; and • Past, present and prospective suppliers to the Client or the Client's Affiliates and their employees and personnel.
(E)	Permitted Sub-Processors	Delaware's Affiliates, including: • DBR Consultoria E Tecnologia Ltda, a company incorporated under the laws of Brazil with company registration number 23.172.519/0001-52 whose registered office is at Barueri, State of São Paulo, at Avenue Ipanema, No. 165, 16th floor, 18 do Forte Empresarial, Alphaville 06472-002, Brazil • Delaware Consulting Malaysia SDN BHD, a company incorporated under the laws of Malaysia with company registration number 201501040733 whose registered office is at Taman Plaza, Kelana Jaya, 47301 Petaling Jaya, Selangor, Malaysia • Delaware Managed Services and IT Consulting, Inc., a company incorporated under the laws of the Philippines with company registration number CS201421841 whose registered office is at 1202, Eco Tower, 32nd Street corner 9th Avenue, Bonifacio Global City, Taguig City, Metro Manila, Philippines • Delaware ITO SAS, a company incorporated under the laws of Morocco with company registration number 559051 whose registered office is at Casablanca Nearshore Park, 1100 Bd. Al Qods, SHORE 1 Plateau 601, Sidi Maarouf, Casablanca 20270, Morocco • Delaware Digital Private Limited, a company incorporated under the laws of India with company registration number U62020DL2023FTC412962 whose registered office is at 219 Basement L/P Vinoba Puri Nagar-II, New Delhi-110024, India



Schedule 3
Change Order Template

Change request reference	[Insert]
Title of change	[Insert]
Requesting Party	[Delaware/Client]
Date of change request	[Insert]
Description of change	[Insert]
Effect on Services/Deliverables	[Insert]
Effect on price (if any) for the Services/Deliverables	[Insert]
Effect on timetable (if any) for the Services/Deliverables	[Insert]
Effect on the Agreement/Statement of Work	[Insert]

Relevant contact names in relation to change	[Insert]
Emails	[Insert]
Telephone numbers	[Insert]
Signature of Delaware	[Insert]
Signature of the Client	[Insert]

delaware