

THE CUSTOMER'S ATTENTION IS PARTICULARLY DRAWN TO THE PROVISIONS OF CLAUSE 27 (LIMITATION OF LIABILITY).

1. Interpretation

The following definitions and rules of interpretation apply in these Conditions.

1.1. Definitions:

"Acceptance"	means the date on which the Software is deemed Accepted under the provisions of clause 10.3, 10.3.1 or 10.3.2.2.2 as applicable.
"Business Day"	a day other than a Saturday, Sunday or public holiday in England, when banks in London are open for business.
"Charges"	the charges payable by the Customer for the supply of the Services in accordance with clause 23.
"Commencement Date"	means the date on which the Supplier and the Customer sign the Statement of Work, or such earlier Commencement Date as specified in the Statement of Work.
"Conditions"	these terms and conditions as amended from time to time in accordance with clause 31.6.
"Contract"	the contract between the Supplier and the Customer for the supply of Services in accordance with these Conditions.
"Control"	has the meaning given in section 1124 of the Corporation Tax Act 2010, and the expression change of control shall be construed accordingly.
"Customer"	the person or firm who purchases Services from the Supplier as set out in the Statement of Work.
"Customer Default"	has the meaning set out in clause 21.1.
"Customer IT Estate"	means any IT infrastructure of the Customer which the Supplier's team members require granted access to in order to provide the Services, subject to Clause 9.1, and as set out in the Statement of Work, including any Customer Software.

"Customer Materials"	all documents, information and materials provided by or on behalf of the Customer to the Supplier, including any Customer source code, and including any materials which are specified in a Statement of Work.
"Customer Software"	means any customer software which the Supplier's team require access to in order to provide the Services, as set out in the Statement of Work.
"Customer System"	means the Customer's hardware and equipment and operating environment as listed in the Technical Specification in combination with which the Software Code will run.
"Data Services"	means the data science services and/or data engineering services to be provided to the Customer in each case as set out in the Statement of Work.
"Data Services Completion Date"	means the date specified in the Implementation Plan for completion of the Data Services, completion being defined by reference to acceptance in accordance with clause 4.1.3.
"Deliverables"	the deliverables set out in the Statement of Work in respect of each element of the Services, to be produced by the Supplier for the Customer including the Software, save where the deliverables are in the form of a report or stream of data, in which case excluding the Software.
"Implementation Plan"	means the plan specifying the dates of the completion of each phase of the Data Services, as set out in or referenced in the Statement of Work, as it may be varied from time to time.
"Intellectual Property Rights"	patents, utility models, rights to inventions, copyright and neighbouring and related rights, moral rights, trade marks 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, 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"

in respect of Data Services means a phase comprising a set of tasks as shown in the Implementation Plan.

"Order"

the Customer's order for Services as set out in the Customer's purchase order form, the Customer's written acceptance of a quotation by the Supplier, or overleaf, as the case may be.

"Progress Meeting"

means a meeting held between the parties to discuss progress of the Services.

"POSIT Software"

any Third Party Software the licensor of which is RStudio Inc. or any of its group companies, affiliates, agents or distributors.

"Services"

means each of the Data Services and the Training Services, including all relevant Deliverables, to be supplied by the Supplier to the Customer as set out in the Statement of Work.

"Software Code"

means the bespoke software code to be developed by the Supplier as a deliverable of the Data Services including any Third Party Software.

"Specification"

the description or specification of the Services set out in or referenced in the Statement of Work.

"Statement of Work"

means the statement of work signed by each of the Supplier and the Customer as varied from time to time in accordance with clause 12.

"Supplier"

Jumping Rivers Ltd, registered in England and Wales with company number 10113980.

"Supplier Materials"	has the meaning set out in clause 18.1.8.
"Supplier Methodology"	know-how, tools, ideas, concepts, methods and techniques, and software and source code which are: (i) developed by the Supplier and generated independently of any Services or Deliverables; (ii) developed by the Supplier in the course of or as a result of carrying out the Services, but which are not developed specifically as part of the Deliverables; and (iii) any improvements thereto that may be developed during the provision of the Services.
"Technical Specification"	the specification of the Software Code contained or referenced in the Specification or the Statement of Work which the Customer agrees will meet the Customer's business requirements.
"Test Data"	means data supplied by the Customer for the purpose of testing the interaction between the Software Code and the Customer System to demonstrate Acceptance.
"Third Party Software"	means: (i) all third party software owned by a third party but legally licensed to the Supplier for use in developing the Software Code, including any of the same listed in the Statement of Work; (ii) any such third party software which is incorporated in the Software and is made available to the Customer by way of licence in accordance with clause 8.4.
"Training Equipment"	means any hardware provided by the Supplier to the Customer and its delegates for use in the provision of the Training Services, including any specific items set out in the Statement of Work.
"Training Services"	means the training services to be provided to the Customer as set out in the Statement of Work.
"Virus"	any thing or device (including any software, code, file or programme) which may: (i) prevent, impair or otherwise adversely affect the operation of any

computer software, hardware or network, any telecommunications service, equipment or network or any other service or device;

(ii) prevent, impair or otherwise adversely affect access to or the operation of any programme or data, including the reliability of any programme or data (whether by re-arranging, altering or erasing the programme or data in whole or part or otherwise); or

(iii) adversely affect the user experience, including worms, trojan horses, viruses and other similar things or devices.

"Vulnerability"

any weakness in the computational logic (for example, code) found in software and hardware components that, when exploited, results in a negative impact to confidentiality, integrity, or availability, and the term Vulnerabilities shall be construed accordingly.

1.2. Interpretation:

1.2.1. Unless expressly provided otherwise in this Contract, a reference to legislation or a legislative provision is a reference to it as amended, extended or re-enacted from time to time and shall include all subordinate legislation made from time to time.

1.2.2. 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.

1.2.3. A reference to "writing" or "written" includes email but not fax.

2. **Basis of contract**

2.1. The Order constitutes an offer by the Customer to purchase Services in accordance with these Conditions.

2.2. The Order shall only be deemed to be accepted when the Supplier issues a signed and dated Statement of Work, at which point the Contract shall come into existence.

2.3. Any descriptive matter or advertising issued by the Supplier, and any descriptions or illustrations contained on the Supplier's website or other quotation materials or testimonials, are issued or published for the sole purpose of giving an approximate idea of the Services described in them. They shall not form part of the Contract or have any contractual force.

- 2.4. These Conditions apply to the Contract to the exclusion of any other terms that the Customer seeks to impose or incorporate, or which are implied by law, trade custom, practice or course of dealing.
- 2.5. Any quotation given by the Supplier shall not constitute an offer, and may be withdrawn at any time, and the Supplier is under no obligation to accept a quotation.

3. **Applicability of these Conditions**

- 3.1. These Conditions apply to all Services provided to the Customer as follows:-
 - 3.1.1. Part I of these Conditions applies to the provision of Data Services;
 - 3.1.2. Part II of these Conditions applies to the provision of Training Services; and
 - 3.1.3. Part III of these Conditions applies to all Services.

Part I – Data Services

4. **Supply of Data Services**

- 4.1. Subject to payment of all Charges, the Supplier shall:
 - 4.1.1. supply the Data Services to the Customer in accordance with the Technical Specification in all material respects, and warrants that the Data Services will be provided using reasonable care and skill;
 - 4.1.2. comply with the provisions of the Implementation Plan; and
 - 4.1.3. shall use reasonable endeavours to meet any performance dates specified in the Implementation Plan, including the Milestones and Data Services Completion Date but any such dates shall be estimates only and time shall not be of the essence for performance of the Data Services and/or the provision of the Deliverables and/or Software.
- 4.2. The Customer recognises the collaborative nature of the Data Services, and agrees to co-operate with the Supplier in order to enable the Supplier to perform the same.
- 4.3. Data Services may involve the provision by the Supplier of its personnel to work on a consultancy basis for the Customer under the Customer's direction and control. Where this is the case, it will be set out in the Statement of Work and in such cases the Customer is responsible for the management and supervision of all personnel undertaking Data Services, and therefore for the Deliverables produced by consultants.
- 4.4. The Customer agrees to accept the Supplier's advice on the technical feasibility of the Data Services, having regard to the applicable Customer environment. Where the Supplier advises that the Deliverables to be produced as part of the Data Services are not technically feasible then it shall be entitled to terminate the Contract with immediate effect, by notice in writing, and shall have no liability to the Customer for any losses arising in these circumstances.

- 4.5. Subject to clause 4.6, the Supplier warrants that the Software Code will, at Acceptance, perform in material respects in accordance with the Technical Specification.
- 4.6. The Customer acknowledges that the only warranties in relation to the Third-Party Software or the supply thereof, are those contained in the licence from the third-party supplier(s) of the same, and that to the extent that any of such warranties are given to the Supplier, it will pass on the benefit of such warranties to the Customer.
- 4.7. The sole remedy for breach of the warranty under clause 4.5 shall be correction of any defects by the Supplier within a reasonable time from notification by the Customer of the defect that constitutes such breach.
- 4.8. The warranties set out in clauses 4.5 and 4.6 are in lieu of all other express or implied warranties or conditions, including implied warranties or conditions of satisfactory quality and fitness for a particular purpose, in relation to this Contract. Without limitation, the Supplier specifically denies any implied or express representation that the Supplier Software Code will be fit:
- 4.8.1. to operate in conjunction with any hardware items or software products other than the Customer System; or
- 4.8.2. to operate uninterrupted or error-free.
- 4.9. The Supplier does not warrant or guarantee that it will be able to rectify all defects.
- 4.10. Any unauthorised modifications, use or improper installation of the Software Code by, or on behalf of, the Customer shall render all the Supplier's warranties and obligations under this Contract null and void.
- 4.11. The Supplier shall not be obliged to rectify any particular defect if attempts to rectify such defect other than normal recovery or diagnostic procedures have been made by the Customer's personnel or third parties without the permission of the Supplier.

5. **Termination of Data Services Statement of Work**

- 5.1. Where the Statement of Work includes Data Services, then either party may terminate the Data Services element of the Statement of Work by giving the other party at least ninety (90) days' written notice, such notice to be given no sooner than the expiry of the payment period (30 days) of the next quarterly invoice or, where specified, such notice period as set out in the Statement of Work.
- 5.2. On termination of the Contract in accordance with clause 5.1, the Customer will pay the Supplier in full for all Charges and expenses due for Services and Deliverables provided, work in progress, and irrevocably committed to before the date of termination, which may be invoiced with effect from termination and are payable with immediate effect.

6. **Personnel**

- 6.1. The Customer acknowledges and agrees that:
- 6.1.1. the Services shall be performed by such personnel as the Supplier may from time to time notify to the Customer, and the Supplier reserves the right to make changes to the personnel engaged in the provision of the

Data Services from time to time (and the Supplier shall, where reasonably practicable in the circumstances, give reasonable notice of any such change);

- 6.1.2. the Supplier's personnel will from time to time take annual leave, compassionate leave, sick leave, maternity/paternity leave and other forms of absence, or may cease to be employed by the Supplier. The Supplier will give the Customer advance notice of such events, where it is possible and practicable to do so. In the case of long term absence or Supplier personnel leaving the employment of the Supplier, then the Supplier will at its discretion provide replacement personnel having a similar level of qualification and experience, subject always to availability of suitable alternatives.
- 6.1.3. the Customer agrees that the Services may be provided by the Supplier's personnel operating from a combination of the Supplier's premises, the Customer's premises, and by remote working by the relevant personnel.
- 6.2. The Supplier will be fully responsible and liable for the acts and omissions of its employees, subcontractors and any employees of such sub-contractors arising out of the provision of the Data Services.
- 6.3. This Contract constitutes a contract for the provision of services and is not a contract of employment and accordingly the Supplier will be fully responsible for and will indemnify the Customer on a full indemnity basis for and in respect of any PAYE, income tax (excluding VAT) and National Insurance and social security contributions and any other liability, deduction, contribution, assessment or claim for tax arising from or made in connection with the performance of the Data Services by the Supplier's personnel.

7. Support and Maintenance

- 7.1 Subject to clause 7.2, this Contract does not apply to any future maintenance or support of the Customer System and Software, and any support and maintenance agreement is subject to separate commercial negotiation and legal terms as between the Supplier and the Customer.
- 7.2 Where the Statement of Work does include support and/or maintenance of the Software then this will be referenced in the Statement of Work and will be provided in accordance with the service level agreement set out or referred to therein.

8. Software and Third Party Software

- 8.1. The Supplier grants to the Customer a non-transferable, non-exclusive licence to use the Software ('**Licence**') for an indefinite term and for its own internal purposes, provided that:
 - 8.1.1. the Customer does not provide or otherwise make available the Software or any part or copies or any related documentation in any form to any third party (including but not limited to any group companies or affiliates of the Customer); and
 - 8.1.2. the Customer does not transfer or assign this Licence without the Supplier's prior written consent.

- 8.2. The Customer hereby undertakes as a condition of this Licence not to copy, adapt, vary or modify the Software without the Supplier's prior written consent and not to give access to the Software through any network of computers to users who are not employees or agents of the Customer.
- 8.3. The Customer acknowledges that all proprietary rights in the Third Party Software, including but not limited to any title or ownership rights, patent rights, copyrights, database rights and trade secret rights, will at all times and for all purposes vest and remain vested in the relevant third party supplier.
- 8.4. Where the Software incorporates any Third Party Software, then the Supplier shall provide this to the Customer under the standard licence terms provided by the relevant third parties ("**Third-Party Licences**"), copies of which shall be provided to or made available to the Customer, and the Customer agrees to be bound to the relevant third parties by such licence terms.
- 8.5. The Customer shall comply with the Third-Party Licences and shall indemnify and hold the Supplier harmless against any loss or damage which it may suffer or incur as a result of the Customer's breach of such terms howsoever arising. The Supplier may treat the Customer's breach of any Third-Party Licence as a breach of this Contract.
- 8.6. In particular, where any POSIT Software is licensed to the Customer, then that POSIT Software is supplied subject to your acceptance of the End User Licence the text of which can be found at <https://www.rstudio.com/about/eula> (as updated by RStudio Inc. from time to time) and which creates a direct relationship between you and RStudio Inc of 250 Northern Avenue, Boston, MA, USA ("**RStudio**"). Your execution of this Contract confirms your acceptance of the End User Licence and the other conditions set out in this section.
- 8.7. In particular, the Customer acknowledges and agrees the export and re-export restrictions that apply to POSIT Software, and that it will not export or re-export POSIT Software in so far as this is restricted by the End User Licence Agreement.
- 8.8. The Customer will provide the Supplier with a valid email address and will keep the Supplier updated with any changes in your email address. The Customer authorises the Supplier to share its email address and details with RStudio which are required for it to be able to obtain support, updates, upgrades and to communicate with RStudio directly. The Customer acknowledges and agrees that RStudio may cease support of any older version of the POSIT Software in accordance with the RStudio Support Program as the same may be updated from time to time and set forth at <https://www.rstudio.com/>
- 8.9. RStudio provides technical support and maintenance services directly to end users for which the applicable fees have been paid and in accordance with RStudio's published Maintenance and Support Program as the same may be updated from time to time as set forth at <https://www.rstudio.com/>.
- 8.10. The Supplier shall have no liability for the failure of RStudio to provide any update or technical support or maintenance services or for any defects in the POSIT Software. Any issues in relation to the POSIT Software or its maintenance should be referred directly to RStudio in accordance with the End User Licence or support agreement as the case may be.

9. **Customer IT Estate, Customer Software and Customer System**

- 9.1. The Customer shall ensure that the Supplier and each of its team that will be working on the provision of the Data Services shall have such access as required to the Customer's IT Estate and Customer Software, subject to: (i) the Supplier and its personnel complying with the Customer's policies and procedures for accessing and using the Customer IT Estate; and (ii) this access being no more than strictly necessary to provide the Services. The Customer is responsible for ensuring that it grants no more access to the Customer IT Estate and Customer System than is strictly necessary for the Supplier to perform the Services, and the Supplier shall not be liable for any loss or damage caused to the Customer IT Estate and Customer System where unnecessary access has been provided.
- 9.2. The Customer warrants that, in respect of the Customer IT Estate, Customer Software and the Customer System:
- 9.2.1. the operating system and any other software with which the Software Code will be used is either the property of the Customer or is legally licensed to the Customer;
 - 9.2.2. the Technical Specification reflects the Customer's business practices, the Customer acknowledges that this affects the design and construction of the Software and Deliverables;
 - 9.2.3. the Customer IT Estate, Customer Software and Customer System are free from Viruses and Vulnerabilities, and the Customer shall take reasonable steps not to introduce either of the same to the Supplier's Software Code, network infrastructure or information systems during the course of the provision of the Services;
 - 9.2.4. the Customer has all necessary licences and permissions to allow the Supplier and its personnel to access the Customer Software; and
 - 9.2.5. no part of the Customer IT Estate or Customer System will obtain reverse remote access and/or monitor any of the Supplier's systems when the Supplier is connected by remote access.
- 9.3. The Customer shall indemnify the Supplier in respect of any claims against the Supplier by third parties and all related costs, expenses and damages (in each case on an indemnity basis), arising from any breach of the warranties at clause 9.2, including but not limited to in the event of any actual or alleged violations of third party proprietary rights or software licences.

10. **Acceptance Testing**

- 10.1. Before handing over any Software which integrates with the Customer System, and in certain circumstances on the completion of a relevant Milestone, the Supplier shall carry out tests to ensure that such Software is in operable condition and is capable of meeting the Technical Specification once installed. The criteria and data for these tests will be determined by the Supplier.
- 10.2. The Supplier may, in the process of testing, discover errors within Test Data and/or with the Customer's data sources. The Customer is fully responsible for the availability, accuracy and functionality of all Test Data and data sources. Where the Customer's Test Data and/or data sources are not available, accurate or functioning

then the Supplier reserves the right to amend the Technical Specification, Charges and Implementation Plan to the extent caused by such failure, and will do so by giving notice to the Customer. If the Test Data includes any data which necessitates any amendments to the Technical Specification, then such amendments will be charged to the Customer at the Supplier's then current rates. Any assistance requested by the Customer in the preparation of Test Data will be chargeable by the Supplier at its then current rates.

- 10.3. When the Supplier has completed the tests described at 10.1 then the Software will be handed over to the Customer ("**Handover**"). The Customer shall have a period of 30 days from Handover to notify the Supplier of any non-compliance against the Technical Specification. If the Customer does not notify the Supplier of any non-compliance then the Software shall be deemed Accepted. If the Customer does notify of non-compliance, then:

10.3.1. the Supplier shall review the alleged defect or non-compliance in the Software, and in the event of it finding that this is a non-material error against the Technical Specification then the Software shall be deemed Accepted;

10.3.2. if the Supplier finds a material error against the Technical Specification then the Supplier shall remedy the defects/deficiencies and perform a further handover of the Software to the Customer, and:

10.3.2.1. the Customer shall have a further period of 30 days from this further handover to notify the Supplier of any non-compliance against the Technical Specification. If the Customer does not notify the Supplier of any non-compliance then the Software shall be deemed Accepted;

10.3.2.2. if the defect remains, then the Customer shall, by written notice to the Supplier, choose at its discretion:

10.3.2.2.1. to fix (without prejudice to the Customer's other rights and remedies) a new date for carrying out further tests on the Software on the same terms and conditions. If the Software fails such further tests then the Customer may request a repeat test under this clause;

10.3.2.2.2. to Accept the Software subject to such change of acceptance criteria, amendment of the Technical Specification and/or reduction in the Charges as, after taking into account all the relevant circumstances, is reasonable; or

10.3.2.2.3. if the Supplier is unable to correct material defects within a period of three months from initial handover, to reject the Software as not being in conformity with the Contract, in which event the Customer may terminate this Contract.

- 10.4. The Customer takes sole responsibility for determining that the Software and Customer System are ready for operational use in the Customer's business before it is so used.

11. **Implementation Plan**

- 11.1. Both parties shall use their reasonable endeavours to perform their obligations under this Contract in accordance with the Implementation Plan.
- 11.2. The Supplier shall be given an extension of the timetable of any one or more of the stages in the Implementation Plan, or any of its other performance obligations under this Contract, if one or more of the following events occurs:
- 11.2.1. a variation to the Software is made at the Customer's request under the change control procedures set out in clause 12;
 - 11.2.2. a force majeure event occurs as described in clause 31.1;
 - 11.2.3. a delay is caused in whole or in part by an action or omission of the Customer or its employees, agents or third-party contractors.
- 11.3. The Implementation Plan, or performance obligation, shall be deemed amended accordingly in accordance with the extension which the Supplier deems is reasonably necessary based on the relevant event.

12. **Contract Management and Change**

- 12.1. The Supplier and the Customer will each nominate a Project Manager authorised to make and communicate decisions relating to the Data Services, who will be responsible for:
- 12.1.1. organising monthly Progress Meetings at which they will both review the progress of the Data Services and attempt to resolve any problems;
 - 12.1.2. providing all information reasonably required by the other for the performance of its obligations.
- 12.2. The Supplier's Project Manager will prepare a monthly progress report in writing and deliver it to the Customer's Project Manager in time for discussion at the Progress Meeting. This report will include a report on the progress of the Data Services together with other matters as the Customer's Project Manager may reasonably require.
- 12.3. The minutes of the Progress Meeting will be distributed by email within seven working days. These will be deemed correct and accepted as such unless any objections are raised before commencement of the business of the next Progress Meeting.
- 12.4. The Customer may by giving written notice to the Supplier at any time prior to Handover of the Software pursuant to clause 10.3, request a change to the Software.
- 12.5. Within seven working days of receipt of such notice, the Supplier shall, at its standard rates then in force, prepare for the Customer a written quote of any increase or decrease in the Charges, and of any effect that the requested change would have on the Statement of Work, the Technical Specification and the Implementation Plan.
- 12.6. Within seven working days of receipt of the written quote referred to in clause 12.5, the Customer shall inform the Supplier in writing of whether or not the Customer wishes the requested change to be made. If the change is required, the Supplier

shall not make the requested change until the parties have agreed and signed a written agreement ("**Change Agreement**") specifying, in particular, any changes to the Implementation Plan and Charges.

- 12.7. The Customer acknowledges and agrees that the Supplier shall be entitled to impose a Change Agreement where a change is required to the Statement of Work, the Technical Specification and/or the Implementation Plan as a result of any failure by the Customer to perform its obligations under this Contract. To give effect to such unilateral change, the Supplier shall be required to issue a change notice to the Customer in writing, setting out any increase or decrease in the Charges, and of any effect that the requested change would have on the Statement of Work, the Technical Specification and the Implementation Plan.

Part II – Training Services

13. Provision of Training Services

- 13.1. The Supplier shall supply the Training Services to the Customer in accordance with the Specification in all material respects.
- 13.2. The Supplier shall use reasonable endeavours to meet any performance dates specified in the Statement of Work, but any such dates shall be estimates only and time shall not be of the essence for performance of the Services.
- 13.3. The Supplier warrants to the Customer that the Training Services will be provided using reasonable care and skill.
- 13.4. The Supplier makes no representation, warranty, or guarantee that any of the Training Services will meet the Customer's specific requirements. The Supplier makes reasonable efforts to ensure that the course content is reasonably complete, accurate, and up-to-date, but does not however, make any representation, warranty or guarantee (whether express or implied) that the course content is complete, accurate, or up-to-date. Training content is intended as a training course in the chosen subject and no course of this nature can cover every nuance of a subject

14. Bespoke and Standard Training

- 14.1. Where identified in the Statement of Work, the Supplier will provide bespoke Training Services, which will be a training course which is provided on an exclusive basis to the Customer's staff, agents and personnel as delegates.
- 14.2. From time to time the Supplier will make available standard training courses. Where the Statement of Work includes a number of registrations for standard training courses, this will allow the Customer's delegates to register for these standard training courses, which can be booked via the Supplier's website. Alternatively, the Customer's delegates may book individual places for standard training courses via the website, in which case the provision of these Conditions shall apply.
- 14.3. The Supplier uses reasonable endeavours to accurately describe the course content and target audience for standard training but these are not tailored to the Customer's

requirements. If you are unsure whether a course is suitable for your delegates, please contact us on training@jumpingrivers.com.

- 14.4. The Customer is responsible for ensuring that its delegates comply with the provision of these Conditions in respect of Training Services.
- 14.5. Unless otherwise stated, or where the Training Equipment is being supplied by the Supplier, the Customer is responsible for ensuring that all delegates bring a laptop (which is able to access standard wireless networks) with the necessary software pre-installed. A list of required software is maintained at <https://jr-packages.github.io/>. The laptop should be able to access standard wireless networks.

15. **Cancellation**

- 15.1. If any of the Customer's delegates are unable to attend any training course then the Customer must notify the Supplier as soon as reasonably practicable, and the Customer shall be entitled to transfer the place to another delegate without charge. In the event that there are no other delegates available then the Customer is eligible for a refund if the timeframes in clause 15.2 are met.
- 15.2. If the Customer wishes to cancel any element of the Training Services (whether in whole or for individual delegates) then:
 - 15.2.1. in the event of a booking for bespoke training:
 - 15.2.1.1. given the bespoke nature of the courses, and time costs incurred by the Supplier in creating the bespoke course, these are non-cancellable by the Customer.
 - 15.2.2. In the event of a booking for standard training:
 - 15.2.2.1. the Supplier will refund the fee per delegate less a £25 administration fee if it receive notices of cancellation at least 45 days prior to the course date;
 - 15.2.2.2. the Supplier will refund 50% of the fee per delegate if it receives notice of cancellation between 25 and 44 days before the course date, less a £25 administration fee;
 - 15.2.2.3. the Supplier will not issue a refund if cancellation is received less than 25 days before the date of the course or delegates simply fail to attend. This is because the Supplier is unable to re-allocate its time and resource on this limited notice.
- 15.3. The Supplier may be required to cancel the Training Services for circumstances outside of its control, in particular due to the unforeseen unavailability of its personnel (for example due to illness, interruption or failure of transport networks, , labour or trade dispute, strikes, industrial action or lockouts). Where cancelled by the Supplier in accordance with this clause, the Supplier will re-schedule the Training Services. The Supplier will not be liable for any expenses or out of pocket costs incurred by the Customer and its personnel in relation to their attendance at any cancelled and/or re-scheduled Training Services.

- 15.4. The cancellation fees at clause 15.2 have been calculated based on the Supplier's loss based on the period of notice it receives of cancellation, and take into account its likely ability to re-allocate resource and re-sell the available time.

16. **Provision and use of Training Equipment**

- 16.1. Where the Supplier provides Training Equipment for use by the Customer's delegates to receive the benefit of the Training Services, then the Customer is responsible for risk, loss and damage to that Training Equipment from the point in time that it is delivered into the Customer's possession until it is returned to or collected by the Supplier.
- 16.2. Where Training Equipment is delivered in advance of the Training Services, then the Customer will check the same on receipt, and notify the Supplier if the Training Equipment is not in good working order or is otherwise damaged. The Supplier is not responsible for any failure or delay in providing the Training Services where caused by a failure of the Customer to inspect and notify of any such damage.
- 16.3. All Training Equipment remains the property of the Supplier, but the Training Equipment is at the risk of the Customer at all times whilst on the Customer's premises and/or in the Customer's or its delegates possession, and the Customer shall indemnify the Supplier for any and all loss to the Training Equipment whilst in the Customer's possession or control.
- 16.4. The Customer shall not dispose of or use the Training Equipment other than in accordance with the Customer's written instructions or authorisation.

17. **Charges for Training Equipment**

- 17.1. Where set out in the Statement of Work, the Customer shall be responsible for payment to the Supplier of the following Charges (which are invoiced and payable in accordance with clause 23):
- 17.1.1. Rental Fees (the cost of provision of the Training Equipment for the period of provision of the Training Services); and
- 17.1.2. Holdings Fees (a deposit for each item of Training Equipment, which may be retained in accordance with clause 17.3).
- 17.2. On conclusion of the Training Services, the Customer is responsible for returning all Training Equipment to the Supplier by way of courier, at the Customer's cost and risk, save where the Supplier has agreed to collect the Training Equipment from the Customer.
- 17.3. The Holding Fees may be retained at the Supplier's discretion (in whole or part, and without prejudice to any other remedy under the Contract or at law) in the event that:
- 17.3.1. Training Equipment is returned late (whereby the Supplier may deduct from the Holding Fees by a standard daily hire rate for further use to reflect and loss it has incurred by being unable to re-allocate the Training Equipment);
- 17.3.2. Training Equipment is returned damaged (meaning save for reasonable wear and tear, in a state otherwise than that which it was sent to the Customer in), faulty or broken, in which case the Supplier may deduct

from the Holding Fee to reflect the depreciation in value of the item of Training Equipment;

- 17.3.3. Training Equipment is not returned despite remaining in the Customer's possession within a period of 20 days from conclusion of the Training Services, or where the Contract is terminated and the Training Equipment remains in the Customer's possession, in all such cases the Supplier will treat the Training Equipment as lost and will be entitled to retain all of the Holding Fees.
- 17.4. All Intellectual Property Rights (in particular copyright) in the Training Services and in all course content belongs to the Supplier, or has been licensed to the Supplier specifically for use in the course.
- 17.5. The Supplier retains ownership of all Deliverables provided in relation to the Training Services (including all training materials and manuals) and grants the Customer a fully paid-up, worldwide, non-exclusive, royalty-free perpetual and irrevocable licence to use the same in so far as strictly necessary for the purpose of receipt of the Services.
- 17.6. Other than for the purposes of its delegates completing the relevant training course, the Customer warrants and undertakes that it shall not, and shall procure that no delegates shall:
 - 17.6.1. use any of the course content for any other purpose whatsoever;
 - 17.6.2. make copies of any elements of the content other than to assist in their own private study;
 - 17.6.3. take photographs or videos of the delivery of any of the Training Services, including but not limited to taking pictures of training content; and
 - 17.6.4. shall not share any content with any other person.

Part III – Terms applicable to all Services

18. Customer's obligations

- 18.1. The Customer shall:
 - 18.1.1. ensure that the terms of the Order and any information it provides in the Statement of Work, Technical Specification and Specification are complete and accurate;
 - 18.1.2. co-operate with the Supplier in all matters relating to the Services;
 - 18.1.3. act diligently and in good faith in providing any consent or approval which the Supplier requires before moving on to any next phase of the Services;
 - 18.1.4. provide the Supplier, its employees, agents, consultants and subcontractors, with access to the Customer's premises, office accommodation and other facilities as reasonably required by the Supplier;

- 18.1.5. take reasonable steps to ensure the health and safety of any of the Supplier's staff whilst working at the Customer's premises;
- 18.1.6. provide the Supplier with such information and materials as the Supplier may reasonably require in order to supply the Services, and ensure that such information is complete and accurate in all material respects;
- 18.1.7. obtain and maintain all necessary licences, permissions and consents which may be required for the Services before the date on which the Services are to start;
- 18.1.8. keep all materials, equipment, documents and other property of the Supplier ("**Supplier Materials**") at the Customer's premises in safe custody at its own risk, maintain the Supplier Materials in good condition until returned to the Supplier, and not dispose of or use the Supplier Materials other than in accordance with the Supplier's written instructions or authorisation; and
- 18.1.9. comply with any additional obligations as set out in the Specification, Statement of Work or Technical Specification.

19. **Customer Materials**

- 19.1. The Customer will provide the Supplier with copies of all Customer Materials as reasonably required by the Supplier to complete the Services.
- 19.2. All Customer Materials will be and remain owned by the Customer and the Supplier will use all reasonable endeavours to ensure the Customer Materials are not lost or damaged while in its possession or under its control, provided that the Customer shall ensure it has its own copies and backup of all Customer Materials in order to mitigate any loss by the Supplier.
- 19.3. If requested, the Supplier will return Customer Materials to the Customer upon completion of the Services or on termination of any Statement of Work or the Contract.
- 19.4. The Customer warrants and represents that:-
 - 19.4.1. it has all necessary licences and permissions to share the Customer Materials with the Supplier; and
 - 19.4.2. use by the Supplier of the Customer Materials do not infringe the intellectual property rights or any other rights of any third party.
- 19.5. The Customer will indemnify the Supplier against any and all claims and reimburse the Supplier fully for any loss, liability, expense or cost (including legal fees) incurred by the Supplier as a result of or arising from any breach of the warranties at clause 19.4.

20. **Changes to Specification and Technical Specification**

The Supplier reserves the right to amend the Specification and Technical Specification for any aspect of the Services if necessary to comply with any applicable law or regulatory requirement, or if the amendment will not materially

affect the nature or quality of the Services, and the Supplier shall notify the Customer in any such event.

21. **Customer Default**

21.1. If the Supplier's performance of any of its obligations under the Contract is prevented or delayed by any act or omission by the Customer or failure by the Customer to perform any relevant obligation, or by any material error or malfunction of any part of the Customer's IT Estate, Customer Software or Customer Materials, the Customer's data sources, or any other software, hardware or systems for which the Supplier is not responsible ("**Customer Default**"):

21.1.1. without limiting or affecting any other right or remedy available to it, the Supplier shall have the right to suspend performance of the Services until the Customer remedies the Customer Default, and to rely on the Customer Default to relieve it from the performance of any of its obligations in each case to the extent the Customer Default prevents or delays the Supplier's performance of any of its obligations;

21.1.2. the Supplier shall not be liable for any costs or losses sustained or incurred by the Customer arising directly or indirectly from the Supplier's failure or delay to perform any of its obligations as set out in this clause 21;

21.1.3. the Customer shall reimburse the Supplier on written demand for any costs or losses sustained or incurred by the Supplier arising directly or indirectly from the Customer Default; and

21.1.4. where the Supplier continues to work on the Services beyond the initial timeframe identified in the Statement of Work, then the Supplier shall be entitled to charge for all extra time at its then standard daily rates.

22. **Regulatory Requirements**

Provided that the Supplier performs the Services in accordance with this Contract, nothing in this Contract shall make the Supplier responsible for ensuring that the use of the Deliverables, the Software or any other output of the Services will not result in the breach of any applicable law, regulation or code of practice which applies to the Customer's business.

23. **Charges and payment**

23.1. The Charges for the Services shall be calculated in accordance with the Statement of Work, and are subject to clause 23.2, payable at the invoice stages, in accordance with the payment terms and currency set out in the Statement of Work.

23.2. Where the Statement of Work does not set out invoice stages, currency and/or payment terms then the Supplier shall be entitled to invoice the Customer for each element of the Services when that element has been completed, and all invoices will be issued in pounds sterling (GBP) and are payable in full, without deduction or set-off within 30 days of the invoice date.

23.3. The Charges do not include expenses, and in addition the Supplier shall be entitled to charge the Customer for any expenses reasonably incurred by the individuals whom the Supplier engages in connection with the Services including cost of

couriers, travelling expenses, hotel costs, subsistence and any associated expenses, and for the cost of services provided by third parties and required by the Supplier for the performance of the Services, and for the cost of any materials. Invoices for expenses will be issued monthly, as appropriate, and will include relevant receipts. The Supplier may agree a limit on individual expenses which cannot be charged without advance agreement via email of the Customer, and where this is the case such limit will be set out in the Statement of Work.

- 23.4. Where the contract includes maintenance and/or support services, then the Supplier reserves the right to increase the Charges on an annual basis with effect from each anniversary of the commencement of maintenance and/or support services. The Supplier will give the Customer written notice of any increase at least 120 days before commencement of the relevant renewal term.
- 23.5. All amounts payable by the Customer under the Contract are exclusive of amounts in respect of value added tax chargeable from time to time (**VAT**). Where any taxable supply for VAT purposes is made under the Contract by the Supplier to the Customer, the Customer shall, on receipt of a valid VAT invoice from the Supplier, pay to the Supplier such additional amounts in respect of VAT as are chargeable on the supply of the Services at the same time as payment is due for the supply of the Services.
- 23.6. If the Customer fails to make a payment due to the Supplier under the Contract by the due date, then, without limiting the Supplier's other remedies under the contract or at law:
- 23.6.1. the Supplier may suspend any part of the Services (whether the subject of the non-payment or otherwise); and
- 23.6.2. the Customer shall pay interest on the overdue sum from the due date until payment of the overdue sum, whether before or after judgment. Interest under this clause 23.6 will accrue each day at 4% a year above the Bank of England's base rate from time to time, but at 4% a year for any period when that base rate is below 0%.
- 23.7. All amounts due under the Contract 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).
- 23.8. If and when this Contract or any Statement of Work is terminated, the Supplier shall be entitled to raise a final invoice to the Customer (which is payable immediately on receipt) for all Services completed and all work in progress up to the termination date. All invoices which are then outstanding, become immediately due and payable by the Customer on demand in the event of termination.

24. **Intellectual property rights**

- 24.1. Subject to clauses 8.3 and 24.2, all Intellectual Property Rights in or arising out of or in connection with the Services are, subject to and with effect from the Customer having paid in full for all Services provided under the Contract, hereby assigned to and shall be owned by the Customer.
- 24.2. The Supplier retains all Intellectual Property Rights in the Supplier Methodology.
- 24.3. The Customer retains ownership of all Intellectual Property Rights in all Customer Materials, but grants the Supplier a fully paid-up, worldwide, non-exclusive,

royalty-free perpetual and irrevocable licence to use and modify the same in so far as strictly necessary for the purpose of providing the Services.

25. **Intellectual Property Indemnity**

- 25.1. The Supplier warrants that it is either the sole and exclusive owner or an authorised licensee or user of all intellectual property rights and interests in the Services (including the Software and all Deliverables).
- 25.2. The Supplier shall, at its own expense, defend or cause to be defended or, at its option, settle any claim or action brought against the Customer on the issue of infringement of any United Kingdom or Republic of Ireland intellectual property right in the Deliverables ('Claim'). Subject to the other conditions of this clause, the Supplier will pay any final judgment entered against the Customer with respect to any Claim, and fully indemnify the Customer in respect of all costs and expenses relating to the Claim provided that the Customer:
 - 25.2.1. notifies the Supplier in writing of the Claim immediately on becoming aware of it;
 - 25.2.2. grants sole control of the defence of the Claim to the Supplier; and
 - 25.2.3. gives the Supplier complete and accurate information and full assistance to enable the Supplier to settle or defend the Claim.
- 25.3. The costs and fees of any separate legal representation for the Customer will be the Customer's sole responsibility.
- 25.4. If any part of the Deliverables becomes the subject of any Claim or if a Court judgment is made that the Deliverables do infringe, or if the use or licensing of any part of the Deliverables are restricted, the Supplier may at its option and expense may:
 - 25.4.1. obtain for the Customer the right to continue to use the relevant Deliverable; or
 - 25.4.2. replace or modify the Deliverables so that any alleged or adjudged infringement is removed; or
 - 25.4.3. if the use of the Deliverables is prevented by permanent injunction, accept its return and refund an amount equal to the sum paid by the Customer for the Deliverables subject to straight line depreciation over a five-year period.
- 25.5. The Supplier will have no liability under this clause for:
 - 25.5.1. any infringement arising from the combination of the Deliverables with other deliverables (including software) not supplied by the Supplier; or
 - 25.5.2. the modification of the Deliverables unless the modification was made or approved expressly by the Supplier.
- 25.6. In no circumstances will the Supplier be liable under this indemnity where the Customer fails to comply with this clause 25, or incurs costs without the Supplier's prior written authorisation. This clause 25 sets out the entire remedy of the Customer

in respect of intellectual property infringement of the outputs of the Services, including the Software.

26. **Data protection**

In this clause 26:

"Applicable Data Protection Laws" means to the extent the UK GDPR (having the meaning set out in the Data Protection Act 2018) applies, the law of the United Kingdom or of a part of the United Kingdom, and to the extent EU GDPR (meaning the General Data Protection Regulation ((EU) 2016/679)) applies, the law of the European Union or any member state of the European Union to which the Supplier is subject;

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

the terms **"controller"**, **"processor"**, **"data subject"**, **"personal data"**, **"personal data breach"** and **"processing"** shall have the meaning given to them in the UK GDPR.

- 26.1. Both parties will comply with all applicable requirements of Applicable Data Protection Laws. This clause is in addition to, and does not relieve, remove or replace, a party's obligations or rights under Applicable Data Protection Laws.
- 26.2. The parties have determined that, for the purposes of Applicable Data Protection Laws the Supplier shall act as a data processor in performing the Services in accordance with its [Data Protection Policy] ("**Privacy Policy**").
- 26.3. By entering into this Contract, the Customer consents to (and shall procure all required consents, from its personnel, representatives and agents, in respect of) all actions taken by the Supplier in connection with the processing of Customer Personal Data, provided these are in compliance with the then-current version of the Privacy Policy. In the event of any inconsistency or conflict between the terms of the Privacy Policy and this Contract, the Privacy Policy will take precedence.
- 26.4. Without prejudice to the generality of clause 26.1, the Customer will ensure that it has all necessary appropriate consents and notices in place to enable lawful transfer of the Customer Personal Data to the Supplier and for the lawful collection of the same by the Supplier for the duration and purposes of the Contract.
- 26.5. The Privacy Policy sets out the scope, nature and purpose of processing by the Supplier, the duration of the processing and the types of personal data and categories of data subject.
- 26.6. The Customer hereby provides its prior, general authorisation for the Supplier to:
 - 26.6.1. appoint processors to process the Customer Personal Data, provided that the Supplier:
 - 26.6.1.1. shall ensure that the terms on which it appoints such processors comply with Applicable Data Protection Laws, and are consistent with the obligations imposed on the Supplier in this clause;

- 26.6.1.2. shall remain responsible for the acts and omission of any such processor as if they were the acts and omissions of the Supplier; and
 - 26.6.1.3. shall inform the Customer of any intended changes concerning the addition or replacement of the processors, thereby giving the Customer the opportunity to object to such changes provided that if the Customer objects to the changes and cannot demonstrate, to the Supplier's reasonable satisfaction, that the objection is due to an actual or likely breach of Applicable Data Protection Law, the Customer shall indemnify the Supplier for any losses, damages, costs (including legal fees) and expenses suffered by the Supplier in accommodating the objection.
- 26.6.2. transfer Customer Personal Data outside of the UK as required for the Purpose, provided that the Supplier shall ensure that all such transfers are effected in accordance with Applicable Data Protection Laws. For these purposes, the Customer shall promptly comply with any reasonable request of the 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 UK Information Commissioner from time to time (where the UK GDPR applies to the transfer).
- 27. **Limitation of liability: THE CUSTOMER'S ATTENTION IS PARTICULARLY DRAWN TO THIS CLAUSE.**
- 27.1. The limits and exclusions in this clause reflect the insurance cover the Supplier has been able to arrange and the Customer is responsible for making its own arrangements for the insurance of any excess loss.
- 27.2. References to liability in this clause 27 include every kind of liability arising under or in connection with the Contract including liability in contract, tort (including negligence), misrepresentation, restitution or otherwise.
- 27.3. Nothing in this clause 27 shall limit the Customer's payment obligations under the Contract.
- 27.4. Nothing in the Contract limits any liability which cannot legally be limited, including but not limited to liability for:
 - 27.4.1. death or personal injury caused by negligence;
 - 27.4.2. fraud or fraudulent misrepresentation; and
 - 27.4.3. breach of the terms implied by section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession).
- 27.5. Subject to clause 27.4 (Liabilities which cannot legally be limited), the Supplier's total liability to the Customer for all loss or damage shall not exceed the total amount of the Charges paid by the Customer under the Statement of Work to which the claim relates

- 27.6. Subject to clause 27.3 (No limitation of customer's payment obligations) and clause 27.4 (Liabilities which cannot legally be limited), this clause 27.6 sets out the types of loss that are wholly excluded:
- 27.6.1. loss of profits.
 - 27.6.2. loss of sales or business.
 - 27.6.3. loss of agreements or contracts.
 - 27.6.4. loss of anticipated savings.
 - 27.6.5. loss of use or corruption of software, data or information.
 - 27.6.6. loss of or damage to goodwill; and
 - 27.6.7. indirect or consequential loss.
- 27.7. The Supplier has given commitments as to compliance of the Services with relevant Specifications in this Contract. In view of these commitments, the terms implied by sections 3, 4 and 5 of the Supply of Goods and Services Act 1982 are, to the fullest extent permitted by law, excluded from the Contract.
- 27.8. This clause 27 shall survive termination of the Contract.

28. **Termination**

- 28.1. Without affecting any other right or remedy available to it, either party may terminate the Contract with immediate effect by giving written notice to the other party if:
- 28.1.1. the other party commits a material breach of any term of the Contract and (if such a breach is remediable) fails to remedy that breach within 20 days of that party being notified in writing to do so;
 - 28.1.2. the other party takes any step or action in connection with its entering administration, provisional liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), applying to court for or obtaining a moratorium under Part A1 of the Insolvency Act 1986, being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver appointed to any of its assets or ceasing to carry on business or, if the step or action is taken in another jurisdiction, in connection with any analogous procedure in the relevant jurisdiction;
 - 28.1.3. the other party suspends, or threatens to suspend, or ceases or threatens to cease to carry on all or a substantial part of its business; or
 - 28.1.4. the other party's financial position deteriorates to such an extent that in the terminating party's opinion the other party's capability to adequately fulfil its obligations under the Contract has been placed in jeopardy.
- 28.2. Without affecting any other right or remedy available to it, the Supplier may terminate the Contract with immediate effect by giving written notice to the Customer if:
- 28.2.1. the Customer fails to pay any amount due under the Contract on the due date for payment; or

- 28.2.2. there is a change of control of the Customer.
- 28.3. Without affecting any other right or remedy available to it, the Supplier may suspend the supply of Services under the Contract or any other contract between the Customer and the Supplier if:
 - 28.3.1. the Customer fails to pay any amount due under the Contract on the due date for payment;
 - 28.3.2. the Customer becomes subject to any of the events listed in clause 28.2.3 or clause 28.2.4, or the Supplier reasonably believes that the Customer is about to become subject to any of them; and
 - 28.3.3. the Supplier reasonably believes that the Customer is about to become subject to any of the events listed in clause 28.2.2.

29. **Consequences of termination**

- 29.1. On termination or expiry of the Contract:
 - 29.1.1. the Customer shall immediately pay to the Supplier all of the Supplier's outstanding unpaid invoices and interest and, in respect of Services supplied but for which no invoice has been submitted, the Supplier shall submit an invoice, which shall be payable by the Customer immediately on receipt;
 - 29.1.2. the Customer shall return all of the Supplier Materials, Training Equipment and any deliverables which have not been fully paid for. If the Customer fails to do so, then the Supplier may enter the Customer's premises and take possession of them. Until they have been returned, the Customer shall be solely responsible for their safe keeping and will not use them for any purpose not connected with the Contract.
- 29.2. Termination or expiry of the Contract 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 Contract which existed at or before the date of termination or expiry.
- 29.3. Any provision of the Contract that expressly or by implication is intended to come into or continue in force on or after termination or expiry of the Contract shall remain in full force and effect.

30. **Non-solicitation**

- 30.1. In order to protect the legitimate business interests of the Supplier, during the term of the Contract and for a period of six months after the conclusion of the provision of all Services under the Contract, or six months after its earlier termination, the Customer shall not, without the prior written consent of the Supplier, solicit, or permit any group companies, affiliates or associates to solicit, the employment of any person who has been employed or contracted by the Supplier in the course of providing the Services to the Customer or any part of them.
- 30.2. Any consent given by the Supplier in accordance with Clause 30 shall be subject to the Customer paying to the Supplier a sum equivalent to 20% of the then current annual remuneration of the Supplier's employee, consultant or subcontractor or, if

higher, 20% of the annual remuneration to be paid by the Customer to that employee, consultant or subcontractor.

31. **General**

31.1. **Force majeure.** Neither party shall be in breach of the Contract nor liable for delay in performing, or failure to perform, any of its obligations under the Contract if such delay or failure result from events, circumstances or causes beyond its reasonable control.

31.2. **Assignment and other dealings.** The Supplier may at any time assign, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any or all of its rights and obligations under the Contract. The Customer shall not assign, transfer, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any of its rights and obligations under the Contract without the prior written consent of the Supplier.

31.3. **Confidentiality.**

31.3.1. Each party undertakes that it shall not at any time disclose to any person any confidential information concerning the business, affairs, customers, clients or suppliers of the other party, except as permitted by clause 31.3.2.

31.3.2. Each party may disclose the other party's confidential information:

31.3.2.1. to its employees, officers, representatives, contractors, subcontractors or advisers who need to know such information for the purposes of carrying out the party's obligations under the Contract. 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 31.3; and

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

31.3.3. Neither party shall use the other party's confidential information for any purpose other than to perform its obligations under the Contract.

31.4. **Entire agreement.** The Contract constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter. Each party acknowledges that in entering into the Contract it does not rely on, and 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 Contract. Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in the Contract. Nothing in this clause shall limit or exclude any liability for fraud.

31.5. **Marketing and publicity.** Neither party shall use the name of the other in any marketing or publicity without the prior written consent of the other.

- 31.6. **Variation.** Except as set out in these Conditions, no variation of the Contract shall be effective unless it is in writing and signed by the parties (or their authorised representatives).
- 31.7. **Waiver.** A waiver of any right or remedy under the Contract or by law is only effective if given in writing and shall not be deemed a waiver of any subsequent right or remedy. A failure or delay by a party to exercise any right or remedy provided under the Contract 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 Contract or by law shall prevent or restrict the further exercise of that or any other right or remedy.
- 31.8. **Severance.** If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed deleted, but that shall not affect the validity and enforceability of the rest of this Contract. If any provision or part-provision of this Contract deleted under this clause 31.8 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.
- 31.9. **Notices.**
- 31.9.1. Any notice given to a party under or in connection with the Contract shall be in writing and shall be delivered by hand or by pre-paid first-class post or other next working day delivery service at its registered office (if a company) or its principal place of business (in any other case); or sent by email to the address specified in the Statement of Work.
- 31.9.2. Any notice shall be deemed to have been received:
- 31.9.2.1. if delivered by hand, at the time the notice is left at the proper address;
- 31.9.2.2. if sent by pre-paid first-class post or other next working day delivery service, at 9.00 am on the second Business Day after posting; or
- 31.9.2.3. if sent by email at the time of transmission, or, if this time falls outside business hours in the place of receipt, when business hours resume. In this clause 35.9.2.3, business hours means 9.00am to 5.00pm Monday to Friday on a day that is not a public holiday in the place of receipt.
- 31.9.3. This clause 31.9 does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any other method of dispute resolution.
- 31.10. **Third party rights.** Unless it expressly states otherwise, the Contract does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Contract. The rights of the parties to rescind or vary the Contract are not subject to the consent of any other person.
- 31.11. **Governing law.** The Contract, and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or

formation shall be governed by, and construed in accordance with the law of England and Wales.

- 31.12. **Jurisdiction.** Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with the Contract or its subject matter or formation.