

AGREED TERMS

1. INTERPRETATION

The following definitions and rules of interpretation will apply.

1.1 Definitions:

Business Day: means a day (other than a Saturday, Sunday or public holiday in England) when banks are open for business.

Client: means the customer organisation specified in the Proposal.

Client Materials: means all Documents, information and materials provided by the Client in relation to the Contract.

Client Supplied Items: means any information, software, connectivity, configuration and data to be provided by the Client or by a third party on the Client's behalf which Comet Business Global Services (CBGS) requires for the provision of the Consultancy Services and as may be further specified in the Proposal and/or the Deliverables.

Commencement Date: means the commencement date or preferred start date referred to in the Proposal (including but not limited to commencement dates or preferred start dates that may be referred to in Statement of Work documents or similar) on which this Agreement takes effect.

Confidential Information: means all information which relates to the business, affairs, products, services, developments, trade secrets, personnel, customers, finances, systems, data, processes and/or methods of operation of either Party (including without limitation source code listings and software algorithms, know-how, processes, designs, software, programmes, source or object codes, databases, specifications, data, drawings, licence codes, security configuration, trade secrets, pricing, and the terms of the Proposal) or any other information which may be revealed by one Party to another (whether oral or in writing) and which may reasonably be regarded as being the confidential information of the disclosing Party (whether or not such information is expressly stated to be confidential or marked as such) and in the case of CBGS.

Consultancy Services: means the manpower-based services or work-package based services to be provided by CBGS to the Client as described in a Proposal.

Contract: means a contract for the supply of Services between CBGS and the Client established by the written acceptance of an Order in accordance with this Agreement.

Contract Term: means the Initial Period.

"data controller", "data processor", "data subject", "personal data", "processing", and "appropriate technical and organisational measures": will have the meanings given to them in and be interpreted in accordance with the provisions of the EU Data Protection Directive 95/46/EC, the Data Protection Act 2018, UK General Data Protection Regulation 2018, the EU General Data Protection Regulation 2016/679 (GDPR) and the rules and regulations made or having effect under it.

Deliverables: means all Documents, products and materials developed by CBGS or its agents, subcontractors, consultants and employees in relation to the Service.

Document: means and includes, in addition to any document in writing, any drawing, map, plan, quotation, diagram, design, picture or other image, tape, disk or other device or record embodying information in any form.

DP Laws and Legislation: means the EU Data Protection Directive 95/46/EC, the General Data Protection Regulation 2016/679 (GDPR), the UK General Data Protection Regulation 2018, the Data Protection Act 2018 and the rules and regulations made or having effect under it, the Telecommunications (Lawful Business Practice) (Interception of Communications) Regulations 2000 (SI 2000/2699), the Electronic Communications Data Protection Directive 2002/58/EC, the Privacy and Electronic Communications (EC Directive) Regulations 2003 and all applicable laws and regulations relating to processing of personal data and privacy, including where applicable the guidance and codes of practice issued by the Information Commissioner.

Effective Date: means the date of the Contract.

CBGS: means Comet Business Global Solutions Ltd, a company incorporated in England and Wales (registered number **07662630**) and having its registered office at 8 Chesterford Road, London E12 6LB together with (i) any subsidiary of CBGS from time to time; (ii) any holding company of CBGS from time to time; and (iii) any subsidiary from time to time of such holding company; and the terms "holding company" and "subsidiary" shall have the meanings given to them by section 1159 of the Companies Act 2006 from time to time provided always that those holding companies and subsidiaries may be registered in Great Britain or elsewhere.

CBGS Data: means all reports, findings, digital forensics analysis, and related data supplied by CBGS to the Client as part of the Services.

CBGS Materials: means all Documents and materials (including, without limitation, CBGS sales collateral, information, intellectual property, manuals and materials) provided by CBGS relating to the Services.

Good Industry Practice: means in relation to any undertaking and any circumstances the exercise of that degree of professionalism, skill, diligence, prudence and foresight which would normally and reasonably be expected from a well reputed, nationally recognised company engaged in the same or similar type of activity.

Fees: means the charges for the Services as set forth in a Proposal and the price to be paid for the Project calculated (unless otherwise indicated in the Proposal) on a time and materials basis by reference to the Rates and the amount of work undertaken by CBGS together with the costs of any software, Tools or other items specifically purchased for the purpose of carrying out the Consultancy Services.

Initial Period: means the initial time period for supply of the Services as specified in the Proposal.

Intellectual Property Rights (or IPRs): means patents, rights to inventions, copyright and related rights, moral rights, trademarks, trade names and domain names, rights in get-up, rights in goodwill or to sue for passing off, rights in designs, rights in computer software, database rights, rights in confidential information (including know-how and trade secrets) and any other intellectual property rights, in each case whether registered or unregistered and including all applications (or rights to apply) for, and renewals or extensions of, such rights and all similar or equivalent rights or forms of protection which may now or in the future subsist in any part of the world.

Order: means any order placed by the Client for the supply of Services and which are subject to the terms of the Proposal

Party: means the Client or CBGS as the context requires.

Parties: means the Client and CBGS.

Project: means a customised CBGS Services project as described in a Statement of Work.

Proposal: means a CBGS document setting forth the Service proposed to the Client, complete with applicable Fees and related details.

Rates: means the rates to be charged for the Project as set out in the Proposal or rates which are notified to the Client in accordance with these Terms and Conditions.

Services: means information security solutions, supply of CBGS Data, Software, Services, manpower services and support and maintenance as set forth in the Proposal.

Service Levels: means in measurable terms, the level of service a Client will be furnished with within a given time period specified in the Proposal.

Service Definitions: means the definition of the service as released and updated from time to time by CBGS.

Service Specification: means any specification for Services set out in the relevant Proposal.

Software: means CBGS's proprietary software in machine-readable object code form including any corrections, updates, upgrades, modifications and enhancements provided to the Client under the Contract.

Staff: means the individuals engaged by CBGS to deliver the Project which may include employees of CBGS, registered CBGS Associates or subcontractors to CBGS.

Statement of Work: means a detailed plan describing a Services Project and setting out the responsibilities, timetable, specifications, and related details.

Term: means the length and duration of the Contract.

Third Party: means an individual or organisation who is not a Party to the Agreement and does not have any rights under or in connection with it by virtue of the Contracts (Rights of Third Parties) Act 1999.

Third Party Software: means software owned or licensed by a third party and which may be delivered to the Client if specifically stated in the Proposal as a Deliverable or which may be used in the provision of the Consultancy Services.

Tools: means the software, documentation and other tools used by CBGS to deliver the Services which may also be Third Party Software.

Working Day: means a weekday (excluding any Saturday, Sunday, Public and Bank Holiday in England), from 9am to 5pm.

- 1.2 Clause headings and the use of bold face do not form part of or affect the interpretation of the Terms & Conditions of Supply.
- 1.3 References to any legislation shall include any statutory or other re-enactment or modification of that legislation (whether before or after the date of the Contract).
- 1.4 Where the context requires, words denoting the singular include the plural and vice versa and words denoting any gender include all genders.
- 1.5 References to clause and schedule numbers are to clauses and schedules in the Terms & Conditions of Supply so numbered.
- 1.6 Any obligation on a Party not to do something includes an obligation not to allow that thing to be done.
- 1.7 The Terms & Conditions of Supply shall be binding on, and ensure to the benefit of, the Parties to the Contract and their respective personal representatives, successors and permitted assigns, and references to any Party shall include that Party's personal representatives, successors and permitted assigns.

CBGS Terms & Conditions of Supply for Consultancy Services

- 1.8 In the event of any conflict or ambiguity in the provisions of these Terms and Conditions and the other documents constituting the Contract, the following descending order of precedence shall be applied:
 - (a) the Proposal; and
 - (b) the Terms and Conditions.
2. **APPLICATION OF TERMS & CONDITIONS OF SUPPLY**
 - 2.1 The Terms & Conditions of Supply are the terms upon which CBGS is prepared to deliver the Service to the Client and they shall govern the delivery of CBGS Services to the entire exclusion of all other terms and conditions.
 - 2.2 For a Client wanting to avail itself of CBGS Services, CBGS will prepare for the Client a Proposal detailing the Service, Deliverables and Fees, against which the Client can raise an Order.
 - 2.3 Each Order by the Client for the supply of Services from CBGS shall be deemed to be an Offer by the Client to purchase CBGS Services subject to the Terms & Conditions of Supply.
 - 2.4 An Order will be deemed to be accepted on:
 - (a) CBGS issuing written acceptance of the Order, at which point, and on which date, the relevant Contract will come into existence (the "Commencement Date").
 - 2.5 The Terms & Conditions of Supply apply to each Contract to the exclusion of any other terms that the Client seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing (including any terms or conditions which the Client purports to apply under any purchase order, confirmation of order, specification or other document).
3. **TERM**
 - 3.1 The Term shall commence on the Commencement Date for the duration of Project as defined in the Proposal or unless terminated in accordance with the Terms & Conditions of Supply.
4. **CBGS'S RESPONSIBILITIES**
 - 4.1 CBGS will provide the Service with all due skill and care using suitably trained and qualified staff.
 - 4.2 CBGS will perform the Services with levels of care, skill and diligence in accordance with the standard of Good Industry Practice.
 - 4.3 CBGS will use all reasonable endeavours to provide the Services in material accordance with CBGS's Proposal and that the Deliverables shall be fit for any purpose expressly agreed in writing in the Proposal to the Client by CBGS.
 - 4.4 CBGS warrants that it shall:
 - (a) use all reasonable endeavours to ensure that the Deliverables, and all goods, materials, standards and techniques used in providing the Service are of the best quality and are free from defects;
 - (b) co-operate with the Client in matters relating to the Service;
 - (c) before the date on which the Service is to start, obtain and, at all times, maintain during the Term, all necessary licences and consents in relation to the Service;
 - (d) observe all security requirements of the Client;
 - (e) not do or omit to do anything which may cause the Client to lose any licence, authority, consent or permission on which it relies for the purposes of conducting its business; and
 - (f) notify the Client in writing within 30 (thirty) working days upon the occurrence of a change of control of CBGS.
 - 4.5 If CBGS's performance of its obligations under the Contract is prevented or delayed by any direct act or omission of the Client, CBGS shall not be liable for any costs, fees or losses sustained or incurred by the Client that arise directly from such prevention or delay.
 - 4.6 CBGS will use reasonable endeavours to ensure that its Staff and Associates comply with any relevant site rules and regulations notified to CBGS when at the Client's premises.
5. **CLIENT RESPONSIBILITIES**
 - 5.1 The Client will use reasonable endeavours to co-operate with CBGS in order to facilitate timely completion of the Project and will promptly notify CBGS if it becomes aware of any circumstances that may or will result in a delay to any agreed timescales or that may cause CBGS to be unable to perform its obligations under the Contract in any way.
 - 5.2 The Client will make available free of charge and risk to CBGS at the times stated in the Proposal, or otherwise in a timely manner, all necessary personnel, materials, equipment and resources ("Client Resources") reasonably required by CBGS to carry out the Services, and (to the extent applicable) the

CBGS Terms & Conditions of Supply for Consultancy Services

Client shall, at its expense, remove such Client Resources which are at CBGS's premises and which have not been incorporated into the Deliverables, at the expiry or earlier termination of the Contract.

- 5.3 The Client will provide such information as may be required by CBGS for the performance of CBGS's obligations under the Contract, such information to be as accurate and complete as possible.
- 5.4 The Client will provide, where applicable, adequate office accommodation and all necessary access to the areas in which the Project is to be performed at the Client's sites, and other facilities to enable CBGS's Staff to carry out the Project, taking all reasonable steps to ensure the health and safety of CBGS's Staff while they are at Client sites.
- 5.5 The Client will use reasonable endeavours to ensure that its employees comply with CBGS's site procedures and regulations when at CBGS's premises.
- 5.6 The Client will supply the 'Client Supplied Items' to CBGS in accordance with the due dates set out in the Proposal and/or any 'Statement of Work' and otherwise as requested, orally or in writing.
- 5.7 The Client will ensure that any of its staff (including, for the avoidance of doubt, sub-contractors and Third Parties) who are or will be involved in the Project possess the appropriate skills and experience for the tasks assigned to them and are available at such times as are reasonably required by CBGS.

6. CHANGE CONTROL

- 6.1 If either Party requests a material change to the scope or execution of the Service, CBGS shall, within a reasonable time, provide a written estimate to the Client of:
 - (a) the likely time required to implement the change;
 - (b) any necessary variations to CBGS's Fees arising from the change; and
 - (c) the likely effect of the change on any applicable Proposal.
- 6.2 If the Client wishes CBGS to proceed with the change, CBGS has no obligation to do so unless and until the Parties have agreed in writing the necessary variations to its Fees and any applicable Proposal.
- 6.3 CBGS shall be entitled to increase the Rates by giving the Client not less than thirty (30) Working Days' written notice setting out such increases. Upon any increase in the Rates, the Fees shall be adjusted accordingly.

7. FEES AND PAYMENT

- 7.1 In consideration of the provision of the Services by CBGS, the Client shall pay the Fees as set out in each Proposal.
- 7.2 The Fees for the Service shall be invoiced in accordance with the invoicing schedule set out in the Proposal.
- 7.3 The Client shall pay each invoice submitted to it by CBGS, in full and in cleared funds, within 30 days of receipt to a bank account nominated in writing by CBGS.
- 7.4 Any estimates of the Fees set out in the Proposal and/or the Deliverables will be expressed exclusive of Value Added Tax and any similar taxes. All such taxes are payable by the Client and shall be applied in accordance with United Kingdom legislation in force at the tax point date or the legislation of any other jurisdiction which is applicable to this Agreement.
- 7.5 Without prejudice to any other right or remedy that it may have, if the Client fails to pay CBGS on the due date:
 - (a) the Client shall pay interest on the overdue amount at the rate of 5% per annum above the Lloyds Bank plc base rate. Such interest shall accrue on a daily basis from the due date until actual payment of the overdue amount, whether before or after judgment. The Client shall pay the interest together with the overdue amount;
 - (b) In addition to any interest charged for sums not received on or before the Payment Date, CBGS may also choose, without prejudice to any other remedy it may have at any time after payment has become due, to terminate or suspend performance of this Agreement; and
 - (c) CBGS may, at its discretion, suspend all Services in the event any undisputed invoice has (1) not been paid on time by the Client; and (2) CBGS has notified the Client in writing within 5 days of such delayed payment and followed up with a phone call (not voicemail) indicating that the undisputed invoice is immediately due.
- 7.6 All sums payable to CBGS under the Contract shall become due on its termination, despite any other provision. This clause is without prejudice to any right to claim for interest under the law, or any such right under these Terms & Conditions of Supply. This shall not apply where the Client terminates for convenience under clause 15.2, save for fees accrued to the date of termination.
- 7.7 All Fees 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).

CBGS Terms & Conditions of Supply for Consultancy Services

8. **DELAY IN DELIVERY, CLIENT CANCELLATION AND RESCHEDULING**

- 8.1 CBGS shall use its reasonable endeavours to achieve any dates agreed for delivery but shall be under no liability for any failure to achieve such dates.
- 8.2 Subject to Clause 8.3, the Client may at any time prior to the performance of the Services under the Contract, by notice in writing cancel or reschedule all or some of the Services.
- 8.3 The Client acknowledges that cancellation or rescheduling of the Services at short notice would make reallocation of CBGS's committed resources to alternative tasks impractical, as a result of which CBGS would suffer financial loss. Accordingly, the Client agrees that, for any notice of cancellation or rescheduling received by CBGS prior to the scheduled commencement of the Services, CBGS shall have the right to charge a percentage of the Charges for the cancelled or rescheduled Services in accordance with the following table:

Working days before scheduled provision of the Services that notice is received by CBGS:	CBGS entitled to charge (% of Charges for cancelled or rescheduled Services):
Greater than 10, but less than 28	10%
9	20%
8	25%
7	30%
6	40%
5	50%
4	70%
3	75%
2	90%
1, or the scheduled day	100%

- 8.4 On receipt of any notice given in accordance with this Clause 8, CBGS shall cease and/or reschedule performance of the cancelled Services as soon as reasonably practicable.

9. **IPR AND RIGHTS**

- 9.1 Each Party (and/or its licensors) will retain ownership in its Intellectual Property Rights. Nothing in these Terms & Conditions of Supply shall be deemed to transfer or assign ownership in Intellectual Property Rights from one Party to the other Party.
- 9.2 As between the Client and CBGS:
- (a) all Intellectual Property Rights and all other proprietary rights in the CBGS Materials shall be owned by CBGS (and/or CBGS licensors); and
 - (b) all Intellectual Property rights and all other proprietary rights in the Client Materials shall be owned by Client (and/or Client licensors).
- 9.3 For clarity, CBGS retains its Intellectual Property Rights in all creative or proprietary ideas, information and other materials (not being Project Data) used, created or supplied by it in performing the Services including, without limitation, data, databases, designs, methodologies, analysis frameworks, report formats, and all forms of data expression and specifications (together 'CBGS Data').
- 9.4 On delivery of the Deliverables and receipt by CBGS from the Client of the Fees, CBGS shall grant to the Client a non-exclusive, royalty-free right and licence to use the Intellectual Property in the Deliverables solely for the purposes expressly stated in the Proposal as being the purposes for which the Deliverables are supplied.
- 9.5 The Client undertakes not itself, nor to assist or authorise or purport to authorise any Third Party to reverse-engineer, de-compile, copy or reproduce all or any part of the Deliverables nor seek or attempt to do so or to otherwise gain access to any Proprietary Information contained or incorporated in the Deliverables nor to use the same and/or any Intellectual Property in the Deliverables for any purpose outside the scope of the licence granted to it by Clause 9.4.

- 9.6 The Client shall secure all necessary rights and permissions for CBGS to deliver the Project including, without limitation, rights and permissions from relevant Third Parties, the Human Rights Act 1998 and the Regulation of Investigatory Powers Act 2000.
- 9.7 Where the Contract states that ownership of any Deliverable shall pass to the Client, such ownership shall not pass until CBGS has received in full (in cash or cleared funds) all sums due to it in respect of (i) the Services; and (ii) all other sums which are or which become due to CBGS from the Client under the Contract. For the avoidance of doubt any such transfer of ownership of a Deliverable shall not imply transfer of ownership of any Intellectual Property therein and the Client's sole and entire rights in and to any such Intellectual Property shall be and remain exclusively those arising under Clause 9.4, notwithstanding any such transfer of ownership of a Deliverable.
- 10. CONFIDENTIALITY**
- 10.1 No Party shall use any other Party's Confidential Information for any purpose other than to perform its obligations under the Contract.
- 10.2 Each Party will not make or cause or permit to be made any use or disclosure of any Confidential Information except to the extent permitted under these Terms & Conditions of Supply.
- 10.3 Each Party, as recipient Party, undertakes to the other, as disclosing Party:
- (a) to keep secret and confidential, whether before or after the execution of the Contract, any and all Confidential Information of the disclosing Party by employing the same degree of care as it takes to preserve and protect its own confidential information of a similar nature but in no event shall this be less than a reasonable degree of care;
 - (b) not, without the disclosing Party's prior written consent or as otherwise required by law, to disclose any Confidential Information of the disclosing Party in whole or in part to any other person (including sub-contractors, associates, agents and representatives) except to employees who are directly involved with the Goods and Services and who need to know the same. Each Party, as recipient Party, shall make each of the third Parties to whom any Confidential Information of the disclosing Party is disclosed under this sub-clause 10.3(b) aware of the confidential nature of the disclosing Party's Confidential Information; and
 - (c) to use the Confidential Information of the disclosing Party solely in connection with the performance of the Contract and not for its own benefit or the benefit of any third Party.
- 10.4 The disclosing Party warrants that it has (or in the case of Confidential Information already disclosed, had) the right to disclose any Confidential Information provided to the recipient Party.
- 10.5 In the event of termination of the Contract the recipient Party shall destroy or return to the disclosing Party (in the format and on the media reasonably specified by the disclosing Party) all Confidential Information of the disclosing Party together with all partial or complete copies thereof.
- 10.6 If either Party becomes aware of any breach of confidence by any of its employees, agents or subcontractors it shall promptly notify the other Party and give them all reasonable assistance in connection with any proceedings which that Party may institute against any such persons. Each Party will ensure that all its employees or agents to which Confidential Information is disclosed are aware prior to receiving the Confidential Information in question of the relevant Party's obligations pursuant to this clause. Each Party agrees to ensure that any employees, agents or sub-contractors who are exposed to the other Party's Confidential Information shall enter into an agreement upon terms substantially similar to those set out in this clause 10 and details of such agreements and evidence that they are in force shall promptly be provided upon request.
- 10.7 Each Party shall be permitted to disclose Confidential Information of the other Party to the extent that it is required to do so by law or by any public, governmental, supervisory or regulatory authority or by any legally binding order of any court or tribunal provided in any such case provided that:
- (a) the disclosure or use is limited strictly to those parts of the other Party's Confidential Information which are required to be disclosed pursuant to clause 10.7;
 - (b) each Party shall use reasonable endeavours to ensure the recipient of such Confidential Information is made aware that such information is confidential; and
 - (c) to the extent legally permissible, it shall first notify the disclosing Party of such disclosure and allow the disclosing Party a reasonable opportunity to object to such disclosure.
- 10.8 The obligations contained in sub-clauses 10.3(a), 10.3(b) and 10.3(c) shall not apply to any Confidential Information of either Party:
- (a) to the extent that such Confidential Information was publicly available or generally known to the public or lawfully in the possession of the other Party at the time of the disclosure; or
 - (b) to the extent that such Confidential Information becomes publicly available or generally known to the public at any time after such disclosure, except as a result of any breach by the other Party of its obligations hereunder; or

CBGS Terms & Conditions of Supply for Consultancy Services

- (c) to the extent that the other Party acquires or has acquired such Confidential Information free from any obligation or confidentially from a third Party who is not in breach of any obligation as to confidentiality to either Party.
- 10.9 Either Party may disclose Confidential Information to its subsidiaries, holding companies or subsidiaries of its holding companies from time to time provided that the company to which disclosure is made observes the provisions of this clause 10.
- 10.10 The Client shall make no announcement or publicity concerning the Contract or any matter without the prior written consent of CBGS, unless disclosure is required under the Freedom of Information Act 2000 or similar statutory transparency obligations. The consent for this shall not be unreasonably withheld. The format and content of any announcement or publicity shall be as specified by CBGS.
- 10.11 CBGS acknowledges that the Client is subject to the Freedom of Information Act 2000 and shall provide reasonable assistance to enable the Client to comply with its obligations.
- 10.12 Each Party shall operate reasonably adequate procedures designed to ensure compliance with clause 10.
- 10.13 The provisions of this clause 10 shall survive the termination of the Contract.
- 11. SECURITY**
- 11.1 CBGS shall ensure that appropriate organisation policies and procedures are maintained and enforced to prevent unauthorised access or damage to any and all Services, CBGS's system and related networks or resources and the Client Data, in accordance with Good Industry Practice.
- 11.2 CBGS shall promptly inform the Client if it suspects or uncovers any breach of security and shall use all commercially reasonable endeavours to promptly remedy such breach.
- 12. DATA PROTECTION**
- 12.1 Both Parties will comply with all applicable requirements of Data Protection Legislation. This clause 12 is in addition to, and does not relieve, remove or replace, a Party's obligations under Data Protection Legislation.
- 12.2 The Parties acknowledge that for the purposes of the Data Protection Legislation, the Client is the data controller and CBGS is the data processor (where Data Controller and Data Processor have the meanings as defined in the Data Protection Legislation).
- 12.3 Details of the processing of Client Data are set out in clause 12.11.
- 12.4 For the purposes of the Services provided under these Terms & Conditions of Supply, CBGS, when using any Client Data, will act only in accordance with the terms of this clause 12 and shall:
 - (a) ensure that it has appropriate technical and organisational measures in place against unauthorised or unlawful Processing of Client Data and against accidental loss or destruction of, or damage or alteration to, Client Data held or Processed by it, and that it has taken reasonable steps to ensure the reliability of any of its staff or agents who have access to Client Data Processed in connection with the Contract and ensure that such personnel are regularly trained in respect of data security and privacy and are subject to enforceable duties of confidence in respect of the Client Data processed pursuant to the Contract;
 - (b) if required by the Client, promptly provide a written description of the technical and organisational security measures employed for processing Client Data and notify Client of any material changes to such security measures from time to time;
 - (c) act only on the written instructions (including email) of the Client (the Data Controller) in relation to the Processing of any Client Data in connection with the Contract;
 - (d) not transfer any Client Data outside the European Economic Area except to the extent that such transfer is necessary in order to enable CBGS to comply with its obligations under these Terms & Conditions of Supply (and provided that the prior written approval of the Client, such approval to not be unreasonably withheld, and the prior written explicit consent of the Client to such transfer has been obtained), any such transfers to be in accordance with any obligations or standards imposed by the Data Protection Legislation;
 - (e) not appoint any further processor without the prior written approval of the Client and provided that the sub processor provides substantially equivalent safeguards in respect of the Client Data processed and includes terms that allow the Client to exercise its rights under this clause 12 without restriction. CBGS shall be liable for the actions and/or omissions of its sub processors.
 - (f) only retain Client Data for as long as is necessary for the performance of the Contract or as imposed by the Data Protection Legislation and in accordance with the Client's retention periods, as shall be notified to CBGS; and
 - (g) at the Client's option, delete or return all the Client Data to the Client as soon as reasonably practicable following termination of the Contract (except to the extent required by law to be retained).

CBGS Terms & Conditions of Supply for Consultancy Services

- 12.5 The Client shall ensure that any Client Data collected by the Client and provided to CBGS pursuant to the Contract can be lawfully Processed, by both Parties, in accordance with these Terms & Conditions of Supply and any obligations imposed by the Data Protection Legislation.
- 12.6 Subject to clause 12.5, CBGS undertakes to perform its obligations under the Contract in a manner that does not cause the Client to breach the Data Protection Legislation in relation to its Processing of such Client Data.
- 12.7 CBGS and the Client undertake and warrants to the other that it has made all appropriate registrations under and has complied in all material respects with the Data Protection Legislation.
- 12.8 The obligations in clause 12 shall remain in force (notwithstanding termination of the Contract) for a period of six years unless a different operative time period is imposed under the Data Protection Legislation, in which case such time period shall apply to such obligations.
- 12.9 CBGS warrants that it will advise the Client, providing an adequate level of detail:
- (a) as soon as is reasonably practical and in any event within forty-eight (48) hours after becoming aware of any material breach of the Data Protection Legislation and/or information security obligations which have not been rectified under the Contract by CBGS or its subcontractors and immediately upon receipt of any complaint or request relating to the processing of Client Data by itself or its subcontractors and shall provide all cooperation and assistance in relation to such breach, complaint or request;
 - (b) within two Business Days in the event that CBGS becomes the subject of an enquiry or an investigation of a breach of the Data Protection Legislation by the Information Commissioner or of the Data Protection Legislation by any competent authority to investigate such breach, or where it faces a legal claim for a breach of data protection obligations under the Contract and shall provide all reasonable cooperation and assistance in relation to such investigation; and
 - (c) within one Business Day upon receipt of any Data Subject Request and give immediate attention, cooperation and assistance to Client and comply with all reasonable instructions and timetables implemented by the Client in order that the Client can comply with such reasonable request.
- 12.10 CBGS agrees that, in accordance with the terms of clause 12, the Client shall have the right to audit and review CBGS's data protection and information security management processes solely in respect of its obligations under these Terms & Conditions of Supply, including the right to: inspect all facilities, equipment, documents and electronic data relating to the Processing of Client Data by CBGS and any of its sub-contractors and sub-processors authorised to perform any of the Services or part of the Services. CBGS shall comply with all reasonable requests and directions to enable the Client to verify or procure that CBGS is in full compliance and CBGS shall take such remedial actions as are reasonably required following such audit. Such audits shall be at the Client's cost, on reasonable notice, no more than once per Contract Year, during normal business hours, and shall not unreasonably disrupt CBGS's operations. CBGS will provide all reasonable assistance and access to its premises in order to facilitate the audit process.
- 12.11 The data processing details:
- (a) Data controller: the Client;
 - (b) Data processor: CBGS;
 - (c) Subject matter and nature of processing: Access to Personal Data in the provision of IT support services, including downloading and creating copies;
 - (d) Duration of processing: Term of the Contract;
 - (e) Purpose of the data processing: Undertaking security monitoring of the Client IT Infrastructure;
 - (f) Type of personal data: email addresses, IP Addresses, Hostnames, usernames;
 - (g) Categories of data subjects: IT users including staff.
- 13. WARRANTIES**
- 13.1 Each Party warrants that it has the lawful authority to enter into the Contract.
- 13.2 Each Party warrants that it will at all times adhere to all applicable legislation and regulations, including Data Protection Legislation.
- 13.3 CBGS warrants that it shall use reasonable skill and care in performance of the Services, but makes no warranty that all or any of the Deliverables will be suitable to enable the Client to achieve any particular purpose even when such purpose has been notified to CBGS.
- 13.4 CBGS makes no warranty that all or any of the Deliverables will not infringe the rights of any Third Party.
- 13.5 Subject to Clause 13.6 below, if any defect or fault is found to exist in the Deliverables resulting from the performance of the Services not in conformance with the warranty in Clause 13.3, CBGS shall at its option either (i) re-perform the relevant Services or part thereof; and/or repair or replace any Deliverables (or the defective part) or (ii) refund such proportion of the Charges paid to CBGS by the Client for the Services as is reasonable, provided that, if CBGS so requests, the Client shall, at the Client's expense, return any Deliverables or the part which is defective to CBGS. The Client shall

CBGS Terms & Conditions of Supply for Consultancy Services

- reimburse CBGS's costs of inspecting any Deliverables and returning them to the Client (at the Client's risk) where no defect is found or any defect has arisen in circumstances listed in Clause 13.6.
- 13.6 CBGS shall have no liability of any kind for breach of its warranty in Clause 13.3 in circumstances where:
- (a) the Client fails to give written notice of the alleged breach to CBGS within ten (10) days of the time when the Client discovers or ought to have discovered it and in any event within three (3) months of delivery of the affected Services or Deliverable or, having given such notice:
 - (i) fails to give CBGS a reasonable opportunity to examine any such Deliverables concerned; or
 - (ii) fails (having been asked to do so by CBGS) to return, at the Client's cost, such Deliverables for examination at CBGS's place of business; or
 - (iii) continues to make full or substantially full use of such Services or Deliverables; or
 - (b) the defect arises as a result of: (i) defects in any Client Resources; or (ii) the Client failing to follow CBGS's oral or written instructions (including email) as to the storage, installation, commissioning, use or maintenance of the Deliverables or (if there are none) good trade practice; or (iii) the Client altering or repairing any Deliverables without the prior written consent of CBGS; or
 - (c) any sums remain due and outstanding under the Contract at the date of receipt by CBGS of the notice referred to in Clause 13.6(a)
- 13.7 Where CBGS supplies, in connection with the provision of the Services, any goods supplied by a Third Party, CBGS does not give any warranty, guarantee or assurance of any kind as to their quality, fitness for purpose or otherwise, but shall, where reasonably possible, extend to the Client the benefit of any warranty, guarantee or indemnity given by the Party supplying the goods to CBGS.
- 13.8 The Client acknowledges and accepts that the Warranties at Clause 13.3 and associated Remedies at Clause 13.5 are its sole and entire Warranties and Remedies in connection with the performance by CBGS of the Services under the Contract. All other warranties, conditions, terms, representations, statements, undertakings and obligations which may otherwise be implied (by Statute, Common Law, Custom, Usage or otherwise) in relation to the Services are excluded to the fullest extent permitted by law.
- 14. INDEMNITIES AND LIMITS OF LIABILITY**
- 14.1 If CBGS fails to comply with any of its obligations under this Agreement, the Client shall give CBGS a reasonable opportunity to comply with its obligations (and CBGS shall provide such work free of charge provided that the compliance failure is not caused by any failure by the Client to comply with any of its obligations under this Agreement) and so long as the Client shall promptly notify CBGS of any such failure within 10 days of the Client becoming aware of any such failure.
- 14.2 Any advice, opinion, training, measures or recommendation suggested or supplied by CBGS shall not amount to any form of warranty or guarantee that the intended result will be achieved or that any steps taken by the Client pursuant to such advice, opinion, training, measures or recommendations will guarantee that the Client's IT systems will be free from harmful components or from unauthorised interception or interference. The Client shall be solely responsible for the management, conduct and operation of its business and affairs; including without limitation for its use of or implementation of any advice, opinion, training measures or recommendations suggested or supplied by CBGS or its choice as to what extent it wishes to rely upon the same.
- 14.3 CBGS accepts no liability for the use made of all or any of the Deliverables by the Client or by any Third Party who has obtained such Deliverables directly or indirectly from the Client, and the Client will indemnify CBGS from and against any claims against CBGS arising from or relating to any use of the Deliverables.
- 14.4 CBGS shall not be liable, in contract in tort or otherwise, for any loss of connectivity, degradation of network bandwidth or loss of access to any systems programs, data or networks, unintentional transmission of viruses or other harmful components whatsoever howsoever arising out of or in connection with the Project or Consultancy Services, except where caused by CBGS's negligence or breach of this Agreement.
- 14.5 Save as where caused by CBGS's negligence, fraud or wilful default, CBGS shall not be liable for any loss, expense or damage howsoever arising to any Client Supplied Items or property of or furnished by the Client and the Client must ensure that adequate insurance cover is maintained.
- 14.6 CBGS shall not be liable and the Client shall indemnify and hold CBGS harmless against any claim by or any loss or damage to any person, property or materials (the latter including but not being limited to reports, data, documents, drawings, models and other materials and physical items whether Client Supplied Items or supplied by CBGS) occasioned directly or indirectly by or arising from the Client's negligence or default or misuse by or on the part of the Client and this indemnity shall extend to any reasonable costs and expenses incurred by CBGS and shall continue in force notwithstanding the

CBGS Terms & Conditions of Supply for Consultancy Services

termination of this Agreement.

- 14.7 CBGS shall not be liable to the Client for any loss of profits or loss of business or for any special, indirect or consequential damages whether or not CBGS has been advised of the possibility of the same. Nothing in this clause shall exclude losses recoverable under applicable public sector procurement law or mandatory G-Cloud requirements.
- 14.8 CBGS's total liability in each Contract Year shall be limited to the greater of (i) £1,000,000 or (ii) the aggregate Fees paid in that Contract Year.
- 14.9 The Client hereby indemnifies CBGS and agrees to keep CBGS indemnified in respect of any claims made against CBGS by third parties and all related costs, losses, damages or expenses incurred by CBGS through misuse of the Consultancy Services or Third Party Software by the Client or through any other breach by the Client of this Agreement (including, for the avoidance of doubt, any costs, losses, damages, losses or expenses incurred by CBGS as a result of any third party claim against CBGS for use of the Third Party Software) or through the Client's negligence.
- 14.10 Nothing in this Agreement shall exclude or limit either party's liability for death or personal injury caused by its negligence, or for fraudulent misrepresentation.
- 14.11 CBGS and the Client shall comply with all human rights legislation, the Modern Slavery Act 2015, Anti-Bribery and Corruption legislation as well as the Computer Misuse Act 1990 all of which adopted by the UK parliament. Notwithstanding the confidentiality provisions of Clause 10, CBGS and the Client reserve the right to notify the relevant authorities (including the police) if it becomes aware that CBGS or CBGS's employees, officers, contractors or other third parties are in breach of any such Act or legislation or any other law (including common law) in the UK and neither party shall be liable for any loss, damages, costs or expenses that the other may incur as a result of such disclosure.

15. TERMINATION

- 15.1 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:
 - (a) the other Party commits a material breach of any term of the Terms & Conditions of Supply, which breach is irremediable or (if such breach is remediable) fails to remedy that breach within a period of 30 calendar days after being notified in writing to do so;
 - (b) a breach of clauses 10, 11 and 12;
 - (c) a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of that other Party (being a company);
 - (d) an application is made to court, or an order is made, for the appointment of an administrator, or if a notice of intention to appoint an administrator is given or if an administrator is appointed, over the other Party (being a company);
 - (e) a person becomes entitled to appoint a receiver over the assets of the other Party or a receiver is appointed over the assets of the other Party;
 - (f) the other Party (being an individual) is the subject of a bankruptcy petition or order;
 - (g) the other Party suspends or ceases, or threatens to suspend or cease, carrying on all or a substantial part of its business.
- 15.2 The Client may terminate the Contract for convenience on 30 days' written notice.

16. CONSEQUENCES OF TERMINATION OR EXPIRY 16.1

- 16.1 On termination or expiry of the Contract:
 - (a) the Client shall immediately pay to CBGS all of CBGS's outstanding and undisputed invoices and interest and, in respect of Services supplied but for which no invoice has been submitted, CBGS may submit an invoice, which shall be payable on receipt;
 - (b) the Client shall, using commercially reasonable endeavours and upon written request, return all CBGS Software, CBGS Materials and Deliverables within 30 calendar days;
 - (c) the following clauses shall continue in force: clause 9 (Intellectual Property Rights), clause 10 (Confidentiality), clause 12 (Data Protection), clause 14 (Limitation of Liability), clause 25 (Notices), and clause 26 (Governing Law and Jurisdiction).
- 16.2 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.

17. FORCE MAJEURE

- 17.1 A Party shall not be in breach of the Contract, nor liable for any failure or delay in performance of its obligations under the Contract arising from or attributable to acts, events, omissions or accidents beyond its reasonable control ("Force Majeure Event"), including any of the following:

CBGS Terms & Conditions of Supply for Consultancy Services

- (a) Acts of God, including flood, earthquake, windstorm, pandemic or other natural disaster;
 - (b) war, threat of or preparation for war, armed conflict, imposition of sanctions, embargo, breaking off diplomatic relations or similar actions;
 - (c) terrorist attack, civil war, civil commotion or riots;
 - (d) any law or government order, rule, regulation or direction, or any action taken by a government or public authority, including but not limited to imposing an embargo, export or import restriction, quota or other restriction or prohibition, or failing to grant a necessary licence or consent;
 - (e) fire, explosion (other than in each case one caused by a breach of contract by, or assistance of, the Party seeking to rely on this clause or companies in the same group as such Party) or accidental damage.
- 17.2 If the Force Majeure Event continues for a continuous period of more than three months, any Party may terminate the Contract by giving 14 working days' written notice to all the other Parties. On the expiry of this notice period, the Contract will terminate. Such termination shall be without prejudice to the rights of the Parties in respect of any breach of Contract occurring prior to such termination.
- 19. VARIATION**
- 19.1 No variation of the Terms & Conditions of Supply shall be effective unless it is in writing and signed by the Parties (or their authorised representatives).
- 20. WAIVER**
- 20.1 No failure or delay by a Party to exercise any right or remedy provided under the Terms & Conditions of Supply or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy.
- 21. SEVERANCE**
- 21.1 If any provision of the Terms & Conditions of Supply (or part of any provision) is found by any court or other authority of competent jurisdiction to be invalid, illegal or unenforceable, that provision or part provision shall, to the extent required, be deemed not to form part of the Contract, and the validity and enforceability of the other provisions of the Terms & Conditions of Supply shall not be affected.
- 22. ENTIRE CONTRACT**
- 22.1 Each Party acknowledges that, in entering into the Contract, it has not relied on, and shall have no right or remedy in respect of, any statement, representation, assurance or warranty (whether made negligently or innocently) other than as expressly set out in the Terms & Conditions of Supply. Each Party agrees that its only liability in respect of those representations and warranties that are set out in the Terms & Conditions of Supply (whether made innocently or negligently) shall be for breach of contract.
- 22.2 Nothing in this clause shall limit or exclude any liability for fraud.
- 23. ASSIGNMENT**
- 23.1 Neither Party may assign the Contract or any of its rights and obligations under the Terms & Conditions of Supply without the other Party's prior written consent (which consent shall not be unreasonably withheld or delayed), provided however that CBGS shall have the right to assign the Contract or any of its rights and obligations under the Terms & Conditions of Supply to its successors and/or affiliates.
- 24. NO PARTNERSHIP OR AGENCY**
- 24.1 Nothing in the Contract is intended to, or shall be deemed to, establish any partnership or joint venture between any of the Parties, constitute any Party the agent of another Party, or authorise any Party to make or enter into any commitments for or on behalf of any other Party.
- 24.2 Each Party confirms it is acting on its own behalf and not for the benefit of any other Party.
- 25. THIRD PARTY RIGHTS**
- 25.1 A person who is not a Party to the Contract shall not have any rights under or in connection with it by virtue of the Contracts (Rights of Third Parties) Act 1999.
- 25.2 The rights of the Parties to terminate, rescind or agree any variation, waiver or settlement under the Terms & Conditions of Supply are not subject to the consent of any person that is not a Party to the Contract.
- 26. NOTICES**

CBGS Terms & Conditions of Supply for Consultancy Services

- 26.1 Notices shall be in writing and served via recorded post, verifiable email, courier, or in person.
- 26.2 For the purpose of deemed receipt, receipt on a Saturday or Sunday or a public holiday when banks are not open for business, deemed receipt is deemed to take place at 9.00 am on the day when business next starts in the place of receipt.
- 27. **GOVERNING LAW AND JURISDICTION**
- 27.1 The Contract and any dispute or claim 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. The courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with the Contract or its subject matter or formation (including non-contractual disputes or claims).