

St. Vincent's Consulting Limited

Terms and Conditions

CONFIDENTIAL AND PROPRIETARY

Any use of this document without specific permission of **St. Vincent's Consulting Limited** is strictly prohibited

THIS AGREEMENT IS ENTERED INTO ON THE DAY OF Click or tap to enter a date.

BETWEEN

- (1) **St. Vincent's Consulting Limited**, a company registered in Scotland and (with Company Number SC206650) and having its registered office at First Floor, 13-14 Park Place, Leeds, West Yorkshire, LS1 2SJ (the "**Supplier**"); and
- (2) Click or tap here to enter text. (the "**Client**") whose registered office is at Click or tap here to enter text.

WHEREAS

- (A) The **Supplier** is a specialist provider of consultancy, implementation and software development services to the healthcare market, as more particularly described in this agreement ("**Agreement**").
- (B) The **Client** wishes to obtain from the Supplier, and the Supplier wishes to provide to the Client, certain agreed services pertaining to the development and maintenance of applications and IT services.
- (C) This Agreement sets out the process by which the **Client** has appointed the **Supplier** to provide the **Services** (as defined below) pursuant to a mutually agreed **Statement of Work** (as defined below) and the terms and conditions that will apply to the supply of the **Services**.

IT IS AGREED as follows:

1. DEFINITIONS AND INTERPRETATION

1.1. In this **Agreement**, the following terms shall have the following meanings:

Term	Meaning / Description
Additional Terms	Additional terms which are specific to Services as set out in a SoW
Alternative Dispute Resolution Notice	Refer to Clause 28.2.
Applicable Law	The law of England and Wales and the European Union and any other laws or regulations, regulatory policies, guidelines or industry codes which apply to the provision of the Services .
Bespoke Software	software which is created and developed by the Supplier exclusively for the requirements of the Client under the Contract, and which is not a modification of the Software or otherwise contains any element of the Software
Business Day	a day other than a Saturday, Sunday, or public holiday in England when banks in London are open for business.
Change	Any change to the Contract, including any of the Services .
Change Control Note	The written record of a Change agreed or to be agreed by the parties pursuant to the Change Control Procedure, such record being in the form set out in Schedule 2
Change Control Procedure	The procedure set out in Schedule 2.
Charges	The amounts payable in consideration of the Product and Services to be supplied under a SoW , as set out in the relevant SoW .
Client Data	All data provided to the Supplier or any of the Supplier's Affiliates or any of the Supplier Personnel by or on behalf of the Client in connection with the provision of the Services includes the Client's Personal Data.
Client's Equipment	Any equipment, systems, cabling, or facilities provided by the Client , used directly or indirectly in the supply of Services .
Client's Group	The Client , its ultimate holding company and all subsidiaries of its ultimate holding company
Client Specific Obligations	Any requirements or responsibilities attributed to the Client as stated in the SoW .
Commencement Date	The date on which the Services under a SoW are to commence, being either the date of signature of the relevant SoW by The Supplier or a specific date as detailed in the relevant SoW .
Commercially Sensitive Information	Information of a commercially sensitive nature relating to either party, its intellectual property rights or its business or that, if disclosed, would cause either party significant commercial disadvantage or material financial loss.

Term	Meaning / Description
Confidential Information	All confidential information (however recorded, preserved or disclosed) disclosed by a party or its employees, officers, representatives or advisers to the other party's representatives, including but not limited to: a. information which is identified as confidential. b. any information that would be regarded as confidential by a reasonable businessperson relating to: c. the business, affairs, Clients, suppliers, or plans of the Disclosing Party; and d. the operations, processes, product information, know-how, designs, trade secrets or software of the Disclosing Party. e. The terms of this Agreement. f. Client or staff Data. g. any information relating to any Intellectual Property Rights owned by either party, but not including any information that: h. is or becomes generally available to the public other than as a result of its disclosure by the Recipient or its Representatives in breach of this Agreement or of any other undertaking of confidentiality addressed to the party to whom the information relates (except that any compilation of otherwise public information in a form not publicly known shall nevertheless be treated as Confidential Information); or i. was available to the Recipient on a non-confidential basis prior to disclosure by the Disclosing Party; or was lawfully in the possession of the Recipient before the information was disclosed to it by the Disclosing Party; or j. The parties agree in writing that it is not confidential and may be disclosed.
Contract	The contract between the Supplier and the Client for the supply of Services , consisting of the Agreement , the relevant SoW entered into pursuant to the Agreement , and any documents incorporated by reference.
Data Controller	The meaning is set out in the Data Protection Legislation.
Data Processor	The meaning set out in the Data Protection Legislation.

Term	Meaning / Description
Data Protection Legislation	The DPA; Data Protection Directive (95/46/EC); Electronic Communications Data Protection Directive (2002/58/EC); Privacy and Electronic Communications (EC Directive) Regulations 2003 (SI 2426/2003); GDPR; and any relevant UK legislation post-Brexit, along with all applicable laws and regulations concerning personal data processing and privacy, including guidance from the UK Information Commissioner's Office and any related codes of conduct.
Data Subjects	The meaning is set out in the Data Protection Legislation.
Default	Any material breach of the obligations of either party, or any default, act, omission, negligence or misrepresentation of either party, its employees, agents or sub-contractors in connection with or in relation to the subject matter of this Agreement .
Deliverables	The deliverables (including all deliverables to be supplied pursuant to the Project Milestones) specified in the SoW
Disclosing Party	A party to this Agreement which discloses or makes available confidential information to the other party
Dispute	The meaning is given in clause 28
Document	Any document in writing, any drawing, map, plan, diagram, design, picture or other image, tape, disk or other device or record embodying information in any form.
DPA	The Data Protection Act 2018
GDPR	The General Data Protection Regulation (Regulation (EU) 2016/679).
Effective Date	The date of this Agreement
Environment Information Regulations	Environmental Information Regulations 2004 (EIR) (SI 2004 No. 3391
Force Majeure Event	The meaning given in Clause 18.1.
FOIA	The Freedom of Information Act 2000 and any subordinate legislation made under the Act from time to time, together with any guidance and/or codes of practice issued by the Information Commissioner or relevant government department in relation to such legislation.
Good Industry Practice	The exercise of such skill and knowledge that would reasonably be expected from a person engaged in that business in similar circumstances
Information	as per the meaning given under section 84 of the FOIA.

Term	Meaning / Description
Input Material	All Documents, information, items and materials in any form (whether owned by the Client or a third party), which are provided by the Client to the Supplier in connection with the Services , including computer programs, data, reports and specifications, including the items provided pursuant to Clause 5.1 (e)
Intellectual Property Rights	All current and future rights related to intellectual property, including patents, copyrights, trademarks, trade secrets, and related rights, whether registered or unregistered, as well as applications and rights to apply for renewals and extensions, regardless of jurisdiction.
Invoice Date	The date on which any invoice will be rendered, as specified in the SoW
Key Personnel	The Supplier Personnel appointed to perform the Services , who are, from time to time, identified as key personnel in the SoW .
Non-Supplier Fault Event	a. any act or omission of the Client or any third-party supplier to the Client and in respect of which the Client is responsible, but excluding any sub-contractors appointed by the Supplier for the provision of the Services. b. the occurrence of a Force Majeure Event. c. any change in the Client's requirements other than agreed by way of a Change. d. any material defects associated with the Client's selected third-party products, software and/or Services which the Client requires the Supplier to include within the Services, other than agreed by way of a Change. e. where inaccurate or incomplete information, data or documentation has been provided to the Supplier by the Client and contributes to a Default, subject to it not being immaterial in nature; or f. A default by the Client
Performance Levels	The standards of service or service objectives or project milestones as specified in any SoW , which the Supplier will be expected to achieve, as a minimum requirement, in the performance of the relevant Services
Personal Data	The meaning set out in the Data Protection Legislation.
Pre-existing Materials	all Documents, information and materials provided by the Supplier relating to the Services which existed prior to the Commencement Date of the relevant SoW , including computer programs, data, reports and specifications
Project Milestones	the date(s) specified as such, as set out in the Project Plan
Term	Meaning / Description
Project	The Services to be provided by the Supplier to the Client as described in the SoW .

Term	Meaning / Description
Recipient	A party to this Agreement which receives or obtains Confidential Information from the other party;
Representation	The meaning given in Clause 23.2
Requests for Information	A request for information or an apparent request under FOIA or the Environmental Information Regulations
Services	The Services to be provided by the Supplier under this Agreement , as set out in the relevant SoW , together with any other Services which the Supplier agrees in writing to provide to the Client
Services Support Charge	The charges for individual Services provided by The Supplier under this Agreement , as set out in the SoW
Software	The computer software program or programs, or any portion of such program or programs, together with all related materials, documentation and information, or any portion thereof and any modifications, corrections, improvements, enhancements, updates and upgrades thereto, tangible or intangible, which are to be licensed by the Supplier to the Client as part of the Services , and which excludes Third Party Software and Bespoke Software
Statement of Work	The plan for each Project, agreed in accordance with Clause 3, describing the Services to be provided by the Supplier to the Client (and any Additional Terms), the Deliverables, the timetable for performance and the related matters, including those set out in the form attached at Schedule 1;
Supplier Affiliate	(i) The Supplier and any entity which from time to time is The Supplier's ultimate holding company or a subsidiary of such ultimate holding company or of The Supplier and (ii) Any entity over which, from time to time, any of the entities defined in (i) either directly or indirectly exercises management control, even though it may own less than fifty percent (50%) of the shares and is prevented by law from owning a greater shareholding;
Supplier Equipment	Any equipment, including tools, systems, cabling or facilities, provided by The Supplier or its sub-contractor and used directly or indirectly in the supply of the Services , which are not the subject of a separate Agreement between the parties under which title passes to The Client .

Term	Meaning / Description
Supplier Personnel	All employees, agents, consultants, subcontractors, and other representatives of The Supplier (or any Supplier Affiliate or any of their respective subcontractors) who are involved, or proposed to be involved, in the provision of the Services
Term	The meaning given in Clause 2.1
Third-Party Software	Any software supplied by The Supplier to The Client as part of the Services which is not owned by The Supplier or a Supplier Affiliate
VAT	Value added tax chargeable under English law for the time being, and any similar additional tax.

1.2. The interpretation and construction of this **Agreement** shall be subject to the following rules, except where the context makes it clear that a rule is not intended to apply:

- 1.2.1. A reference to legislation (including subordinate legislation) refers to that legislation as it has been amended, re-enacted, or replaced, and it also includes any subordinate legislation issued under it.
- 1.2.2. Reference to a person includes any entity or body of persons, whether it is incorporated or has a separate legal identity, and any executor, administrator or successor in law of the person.
- 1.2.3. Reference to a party to the **Agreement** includes its legal successors and permitted assignees
- 1.2.4. A singular word includes the plural, and vice versa
- 1.2.5. A word that suggests one gender includes the other genders
- 1.2.6. If any example is given of anything (including a right, obligation or concept), such as by saying it includes something else, the example does not limit the scope of the item
- 1.2.7. The words “subsidiary” and “holding company” have the meanings set out in section 1159 of the Companies Act 2006, and “management control” shall be demonstrated by the ability to exercise significant influence over an entity or its management.
- 1.2.8. The headings in this **Agreement** are for reference purposes only and shall not affect the interpretation or construction of this **Agreement**.
- 1.2.9. subject to Clause 1.2 (j), in the event of conflict between the provisions of this **Agreement** and the relevant **SoW**, the terms of the **SOW** shall prevail.

1.2.10. In the event of a conflict or inconsistency between the definitions in a **SoW** and the definitions set out in Clause 1.1 of this **Agreement**, then the definitions in this **Agreement** shall prevail.

1.2.11. a reference to:

- a. A Clause is a reference to an item that bears the relevant number in the body of this **Agreement**; and
- b. A Schedule is a reference to the relevant schedule to this **Agreement**

1.2.12. Other Supplier Affiliates may also exercise the Supplier's rights under this **Agreement**. Where the **Supplier** has any obligation under this **Agreement**, performance of that obligation (in whole or in part) by any other **Supplier Affiliate** shall be deemed (to the same extent) to be performance by the **Supplier**.

2. COMMENCEMENT AND TERMS

2.1. This **Agreement** is a framework which shall commence on the **Effective Date** **Click or tap to enter a date.** and shall continue in full force and effect unless and until it is terminated in accordance with Clause 17 (the "Term")

3. SERVICES/STATEMENT OF WORK

3.1. The services to be supplied by the Supplier to the **Client** for each Project shall be as set out in the relevant **SoW**. Each **SoW** shall be agreed upon in the following manner:

3.1.1. The **Client** shall ask the Supplier to provide a draft **SoW** for each Project, providing the Supplier with as much information as the Supplier reasonably requests to prepare a draft **SoW** as requested.

3.1.2. Following receipt of the information requested from the **Client**, the Supplier shall, as soon as reasonably practicable, either:

- a. inform the **Client** that it declines to provide the requested **Services**; or
- b. provide the **Client** with a draft **SoW**.

3.1.3. If the Supplier provides the **Client** with a draft **SoW** pursuant to Clause 3.1.2 (b), the Supplier and the Customer shall discuss and agree on the draft **SoW**; and

3.1.4. Both parties shall sign the **SoW** when it is agreed

3.2. Once a **SoW** has been agreed and signed in accordance with Clause 3.1.4, no amendment shall be made to it except in accordance with Clauses 7 and 19 of this **Agreement**.

- 3.3. If, at any time, the **Supplier** becomes aware that it will not (or is unlikely to) achieve any **Deliverable** by the **Project Milestone** for such **Deliverable**, it shall notify the **Client** of the fact of the delay immediately via email or telephone to key personnel set out within the **SoW** and summarise the reasons for it.
- 3.4. The **Supplier** shall, as soon as possible, and in any event not later than five (5) Business Days after the initial notification pursuant to clause 3.3, provide the **Client** with full details in writing of:
- 3.4.1. The reason for such a delay
- 3.4.2. The consequences of such delay; and
- 3.4.3. If the Supplier claims that such a delay is due to the **Client**, the reason for making that claim
- 3.5. The **Supplier** shall use reasonable endeavours to deploy all additional resources and take all reasonable steps to eliminate or mitigate the consequences of such delay to the **Client**
- 3.6. Any disputes about or arising out of such delays shall be resolved through the dispute resolution procedures set out in Clause 28 (dispute resolution). Pending the resolution of the dispute, both parties shall continue to work to resolve the causes of, and mitigate the effects of, such a delay

4. THE SUPPLIER'S OBLIGATIONS

- 4.1. The **Supplier** shall use reasonable endeavours to perform the **Services** in accordance with the terms of the Contract
- 4.2. In providing the **Services**, the **Supplier** shall always provide the **Services** in accordance with all **Applicable Laws**.
- 4.3. The Supplier shall use reasonable endeavours to:
- 4.3.1. Comply with any specific obligations on the Supplier set out in the relevant **SoW**
- 4.3.2. Allocate sufficient resources to provide the **Services** in accordance with the terms of the **SoW**; and
- 4.3.3. Ensure that any of the Supplier Personnel who are engaged in the provision of any of the **Services** shall:
- a. Comply with any specific obligations on the Supplier set out in the relevant **SoW**

- b. Allocate sufficient resources to provide the **Services** in accordance with the terms of the **SoW**; and
 - c. Ensure that any of the Supplier Personnel who are engaged in the provision of any of the **Services** shall:
 - i. Comply with all applicable health, safety, security and other office procedures, rules and regulations notified to the **Supplier** by the **Client** from time to time, provided that the **Supplier** shall not be liable under the Contract if, because of such compliance, it is in breach of any of its obligations under the Contract
 - ii. Be appropriately qualified and experienced to undertake their tasks; and
 - iii. Always comply with the obligations of confidentiality and data protection set out in this **Agreement** and Applicable National Legislation
- 4.4. Where the **Services** involve the supply of Third-Party Software, the Supplier shall notify the **Client** of the licence terms and conditions applicable to the **Client's** use of such Third-Party Software, and the **Client** shall comply with such terms and conditions of use.
- 4.5. The Supplier shall co-operate and use reasonable endeavours to procure that each of its authorised sub-contractors co-operates with the **Client** and any third party specified in the **SoW** and engaged by the **Client** to provide related **Services** to the **Client**, so as to integrate (where reasonably requested by the **Client**) other **Services**, materials or equipment supplied by the **Client** or any third-party with the **Services**
- 4.6. The co-operation referred to in Clause 4.5 shall only apply where the need to integrate any **Client** or third-party **Services** is set out clearly in the **SoW**, and the Supplier shall charge the costs of such co-operation in accordance with the terms of the relevant **SoW**.
- 4.7. The Supplier shall maintain throughout the duration of each **SoW** adequate and reasonable insurance cover with a reputable insurer in relation to the Supplier's risks under such **SoW**. The Supplier shall, at the **Client's** request from time to time, furnish such evidence as the **Client** may reasonably request to demonstrate that such insurance cover has been maintained in force with such insurer.
- 4.8. The Supplier shall provide personal computing equipment for the use of its staff in the performance of this **Agreement**.
- 4.9. The Supplier is not obligated to provide the **Services** on the **Client's** premises where they may reasonably be performed elsewhere. However, where and when appropriate, the **Services** would be carried out on the premises.

- 4.10. The Supplier shall be free to appoint, replace and substitute its personnel for the performance of the **Services** without objection by the **Client**. In the case of key personnel, this will be done in consultation with the **Client**

5. THE **CLIENT'S** OBLIGATIONS

- 5.1. The **Client** shall:

- 5.1.1. Cooperate with the Supplier in all matters relating to the **Services**
- 5.1.2. Comply with all dependencies and **Client** Specific Obligations on the **Client** as set out in the **SoW**
- 5.1.3. Comply with all licence terms and conditions applicable to any Third-Party Software, as notified to the **Client** by the Supplier
- 5.1.4. Provide, for the Supplier, its agents, sub-contractors, consultants and employees, in a timely manner and at no charge, access to the **Client's** premises, office accommodation, data and other facilities as reasonably required by the Supplier
- 5.1.5. Provide to the supplier, in a timely manner, all documents, information and materials in any form (whether owned by the **Client** or a third party) required under a **SoW** or otherwise reasonably required by the Supplier in connection with the **Services** and ensure that they are accurate in all material respects
- 5.1.6. Inform the Supplier of all relevant health and safety rules and regulations, and any other reasonable security requirements that apply at any of the **Client's** premises.
- 5.1.7. ensure that all the **Client's** Equipment is in good working order and suitable for the purposes for which it is used in relation to the **Services** and conforms to all relevant United Kingdom standards or requirements.
- 5.1.8. obtain and maintain all necessary licences and consents and comply with all relevant legislation in relation to the use of Input Material in all cases before the date on which the **Services** are to start.
- 5.1.9. make available to The Supplier and The Supplier Personnel such access to staff of The **Client** who are familiar with The **Client's** systems, equipment, and software as The Supplier may reasonably require in connection with the supply of the **Services**; and
- 5.1.10. Take all reasonable precautions to protect the health and safety of The Supplier Personnel whilst The Supplier Personnel are at The **Client's** premises.

- 5.1.11. Supply the Supplier Personnel with personal computing equipment where the **Client** has determined that this is preferable for security and compliance with NHS regulations on access to systems holding personal data.
- 5.2. The **Client** is responsible for data cleaning, for the integrity of any data, including Input Material, provided to The Supplier and for all direct and indirect consequences of any errors in such data or Input Material. The Supplier shall report to the **Client** any data integrity issues it identifies in respect of **Client**-provided data.
- 5.3. The **Client** shall obtain all required licences or other consents and comply with Applicable Laws as required to enable The Supplier to provide the **Services**, including in relation to Supplier's access to the **Client**'s premises, the installation of the Supplier's Equipment, the use of all Input Materials by the Supplier and the use of the **Client**'s Equipment and is solely responsible for any costs associated with obtaining such licences and consents.

6. CHARGES

- 6.1. The Charges payable by the **Client** to the Supplier in respect of the **Services** provided under any **SoW** shall be as set out in the relevant **SoW**.
- 6.2. All Charges are expressed exclusive of Value Added Tax or other applicable or equivalent taxes. The **Client** will be responsible for paying Value Added Tax and other applicable or equivalent taxes. Such taxes will be included at the applicable rate at the time of invoice in all invoices submitted by the Supplier.
- 6.3. Unless otherwise stated in the relevant **SoW**, the Supplier shall submit invoices to the **Client** in respect of the **Services**, payable within 30 days from the date of the invoice, and in respect of, on delivery.
- 6.4. The **Client** shall pay each undisputed invoice submitted to it by The Supplier in full (without any set off, deduction or withholding whatsoever) and in cleared funds, within 30 days of the date of the invoice. Payment shall be made by the **Client** by the method specified in the **SoW** or by a mutually agreed method.
- 6.5. All Charges shall be expressed, invoiced and payable in pounds sterling. Unless otherwise stated in any **SoW**, all invoices shall be in The Supplier's standard form and shall constitute valid VAT invoices.
- 6.6. Without prejudice to any other right or remedy that it may have, if The **Client** fails to pay an agreed invoice on the due date, The Supplier may:
- 6.6.1. Suspend all **Services** until payment has been made in full (and for the avoidance of doubt, such suspension shall be at no cost or penalty to the Supplier).

- 6.7. The Supplier may, without prejudice to any other rights it may have, set off any liability of The **Client** to The Supplier against any liability of The Supplier to The **Client**.
- 6.8. If the **Client** receives an invoice which it reasonably believes includes a sum which is not valid and properly due:
- 6.8.1. The **Client** shall notify the Supplier in writing as soon as reasonably practicable
- 6.8.2. The **Client's** failure to pay the disputed Charges shall not be deemed to be a breach of this **Agreement**
- 6.8.3. The **Client** shall raise a credit note, which will be sent to the Supplier for the disputed invoice, and a new invoice will be raised with the amount that is not in dispute
- 6.8.4. Once the dispute has been resolved, where either party is required to make a balancing payment (or the Supplier is required to issue a credit note). It shall do so within 30 days.

7. CHANGE CONTROL

- 7.1. Where the **Client** or the Supplier sees a need to make a Change to this **Agreement** or any **SoW**, the **Client** may at any time request, and the Supplier may at any time recommend, such Change only in accordance with the Change Control Procedure (Schedule 2).
- 7.2. Neither party shall unreasonably withhold its **Agreement** to any Change.
- 7.3. Until a Change is made in accordance with the Change Control Procedure, the obligations of the parties under this **Agreement** or any **SoW** shall not be affected. The **Client** and the Supplier shall, unless otherwise agreed in writing, continue to perform this **Agreement** and any **Services** in any **SoW** in compliance with its terms as if the request for the Change had not been made.
- 7.4. Any discussions which may take place between the **Client** and the Supplier in connection with a request or recommendation before the authorisation of a resultant Change shall be without prejudice to the rights of either party or the terms of this **Agreement**.

8. INTELLECTUAL PROPERTY RIGHTS

- 8.1. As between the **Client**, Supplier and any Supplier Affiliate, the **Client** acknowledges that
- 8.1.1. All Intellectual Property Rights and all other rights in the **Services**, the Pre-existing Materials and any Software are owned by the Supplier or the relevant Supplier Affiliate absolutely and

- 8.1.2. The Third-Party Software is and shall continue to be owned by the relevant Third-Party Licensor of such software. Subject to Clause 8.2. The Supplier hereby licences all such rights other than the Third-Party Software to the **Client** on a non-exclusive, royalty-free, non-transferable basis to such extent as is necessary to enable the **Client** to make reasonable use of the **Services** in accordance with the terms of the Contract. If this **Agreement** is terminated for whatever reason, this licence will automatically terminate.
- 8.2. The **Client** acknowledges that:
- 8.2.1. Its use of any Third-Party Software is conditional on compliance with the licence terms and conditions applicable to such software, as notified to the **Client** by the Supplier and
- 8.2.2. It shall not acquire any right, title or interest in or to any Third-Party Software other than the right to use such software.
- 8.3. The **Client** will not copy, decompile or modify any Software without the Supplier's prior written consent (except as permitted by law) and will not distribute or disclose the Software to any third party other than as expressly permitted in the applicable **SoW**
- 8.4. All Intellectual Property Rights created as part of the **Services** that are deemed to be Bespoke Software will vest in the **Client** absolutely.
- 8.5. If and to the extent that the Supplier, the Supplier Affiliates and/or the Supplier Personnel are required to use the Input Materials for the purposes of providing the **Services**, the **Client** hereby grants to the Supplier and/or shall procure the grant to the Supplier by the relevant third party of a non-exclusive, royalty-free, non-transferable licence to use such Input Materials to the extent necessary to enable the Supplier Personnel to provide the **Services** in accordance with the terms of the **Agreement**. If the **Agreement** is terminated for whatever reason, the licence will automatically terminate.
- 8.6. Subject to the limitations at Clause 12 and to any restrictions contained within the **SoW**, the Supplier shall indemnify the **Client**, from and against all liabilities, costs, expenses, damages and losses suffered or incurred by the **Client** arising out of or in connection with any claim made against the **Client** that the Bespoke Software infringes the Intellectual Property Rights of any third party.
- 8.7. The **Client** shall indemnify the Supplier, and shall keep the Supplier fully indemnified, from and against all liabilities, costs, damages and losses suffered or incurred by the Supplier arising out of or in connection with any claim made against the Supplier, its agents, subcontractors or consultants or any Supplier Affiliate for actual or alleged infringement of a third party's Intellectual Property Rights arising out of or in connection with:

- 8.7.1. the **Client's** improper, incorrect or unauthorised use of the **Services**; or
 - 8.7.2. the receipt of and/or use by the Supplier of the Input Materials (or part thereof) in the performance of the Contract.
- 8.8. The **Client** shall:
- 8.8.1. notify the Supplier in writing of any claim or potential claim it receives in connection with the infringement of any Intellectual Property Rights in the Bespoke Software as soon as is reasonably practicable, and in any event within five Business Days of becoming aware of the claim or potential claim.
 - 8.8.2. Not make any admission of liability or agree to any settlement or compromise of any such claim without the prior written consent of the Supplier.
 - 8.8.3. give the Supplier sole control of the conduct of any claim or potential claim; and
 - 8.8.4. at the Supplier's request and expense, give the Supplier all reasonable assistance in connection with any negotiations and /or litigation in relation to that claim or potential claim.
- 8.9. The Supplier shall, at its own expense defend, or at its option settle, any claim or potential claim against the **Client** referred to in Clause 8.6 (excluding any claim or potential claim arising in respect of any Input Material or **Client** misuse of the **Services**) and pay any final judgment entered against the **Client** on such issue or any settlement thereof provided that the **Client** has complied with its obligations under Clause 8.8.
- 8.10. If all or part of the **Services** becomes, or in the opinion of the Supplier may become, the subject of a claim or action for infringement, the Supplier, at its own expense and sole discretion, may do one of the following:
- 8.10.1. procure for the **Client** the right to use the **Services** or the affected part thereof
 - 8.10.2. replace the **Services** or affected part with other suitable **Services**; or
 - 8.10.3. Modify the **Services** or the affected part to make the same non-infringing.
- If none of the above is deemed reasonably suitable by the **Client**, the **Client** has the right, at its sole discretion and without incurring any further liability to the Supplier, to terminate the affected **Services**.
- 8.11. The Supplier shall have no obligation under Clauses 8.6, 8.9 or 8.10 to the extent that a claim or potential claim is based on:

- 8.11.1. the combination, operation or use of the **Services** with other **Services** or software not provided by the Supplier, if such infringement would have been avoided in the absence of such combination, operation or use; or
- 8.11.2. use of the **Services** in any manner inconsistent with the Contract; or
- 8.11.3. the result of the negligence or wilful misconduct of the **Client**, its employees, agents or sub-contractors.

9. CONFIDENTIALITY

- 9.1. Each party shall keep all **Confidential Information** in strict confidence, and the **Recipient** shall use the **Disclosing Party's Confidential Information** solely in connection with the performance of this **Agreement**.
- 9.2. Either party may disclose **Confidential Information**:
 - 9.2.1. to its employees, officers, representatives, advisers, agents or sub-contractors who need to know such information for the purposes of carrying out that party's obligations under an **Agreement**; and
 - 9.2.2. as may be required by law, court order or any governmental or regulatory authority (including without limitation the UK Listing Authority) provided that the party disclosing the information shall notify the other party of the information to be disclosed and of the circumstances in which the disclosure is alleged to be required as early as reasonably possible before such disclosure must be made and shall take all reasonable and legal action to avoid such disclosure
- 9.3. Each party shall ensure that its employees, officers, representatives, advisers, agents or sub-contractors to whom it discloses such **Confidential Information** comply with this Clause 9.
- 9.4. Neither party shall use any **Confidential Information** for any purpose other than to perform its obligations under this Contract or any other **Agreement** in place between the parties, and not otherwise for its own benefit or the benefit of any third party.
- 9.5. The obligations regarding confidentiality as set out in this Clause remain in full force and effect notwithstanding any termination of this **Agreement** (howsoever occasioned)

10. FREEDOM OF INFORMATION ACT (FOIA)

- 10.1. The Supplier acknowledges that the **Client** may be subject to the requirements of the FOIA and the Environmental Information Regulations. The Supplier shall:
- 10.1.1. provide all necessary assistance and cooperation as reasonably requested by the **Client** to enable the **Client** to comply with its obligations under the FOIA and Environmental Information Regulations
 - 10.1.2. transfer to the **Client** all Requests for Information relating to this **Agreement** that it receives as soon as practicable and in any event within 2 Business Days of receipt
 - 10.1.3. provide the **Client** with a copy of all Information belonging to the **Client** requested in the Request for Information which is in its possession or control in the form that the **Client** requires within 5 Working Days (or such other period as the **Client** may reasonably specify) of the **Client**'s request for such Information; and
 - 10.1.4. not respond directly to a Request for Information unless authorised in writing to do so by the **Client**
- 10.2. The Supplier acknowledges that the **Client** may be required under the FOIA and EIRs to disclose Information (including Commercially Sensitive Information) without consulting or obtaining consent from the Supplier. The **Client** shall take reasonable steps to notify the Supplier of a Request For Information (in accordance with the Secretary of State's section 45 Code of Practice on the Discharge of the Functions of Public Authorities under Part 1 of the FOIA) to the extent that it is permissible and reasonably practical for it to do so but (notwithstanding any other provision in this **Agreement**) the **Client** shall be responsible for determining in its absolute discretion whether any Commercially Sensitive Information and/or any other information is exempt from disclosure in accordance with the FOIA and/or the Environmental Information Regulations.

11. WARRANTIES

- 11.1. The **Client** warrants that it has full power to enter into this **Agreement** and to perform its obligations under this **Agreement**
- 11.2. The Supplier warrants that:
- 11.2.1. it has full power to enter into this **Agreement** and shall obtain all approvals and consents where necessary for the fulfilment of its obligations under the **Agreement**; and

- 11.2.2. All persons engaged in the provision of the **Services** shall be appropriately qualified and experienced to undertake their tasks, and shall use reasonable skill, care and diligence when providing the **Services** in accordance with **Good Industry Practice**
- 11.3. The warranties given by The **Supplier** in this **Agreement** shall not apply to improper, incorrect, or unauthorised use of the **Services** by The **Client** or a third party authorised by The **Client**
- 11.4. The warranties stated in this Clause 11 are the only warranties made by The **Supplier** in relation to the **Services**. All warranties, conditions and other terms implied by statute or common law are, to the fullest extent permitted by law, excluded from this **Agreement**.
- 11.5. No employee, agent, consultant or representative of The **Supplier** has the authority to bind The **Supplier** to any oral representation or warranty concerning the **Services** provided by The **Supplier**. Any oral or written representation or warranty not expressly contained in the Contract shall not be enforceable by either party.

12. LIMITATIONS OF LIABILITY

- 12.1. Clause 12 sets out the entire financial liability of the Supplier (including any liability for the acts or omissions of its employees, agents, consultants and sub-contractors) to the other party in respect of:
- 12.1.1. Any breach of this **Agreement**
- 12.1.2. Any use made by the **Client** of the **Services** or any part of them'
- 12.1.3. Any indemnity provided under this **Agreement**; and
- 12.1.4. Any representation, statement or tortious act or omission (including negligence) arising under or in connection with this **Agreement**
- 12.2. Nothing in this **Agreement** limits or excludes the Supplier's liability:
- 12.2.1. For death or personal injury resulting from negligence, or
- 12.2.2. For any damage or liability incurred by the **Client** because of fraud or fraudulent misrepresentation by either party

12.3. Subject to Clause 12.2.:

12.3.1. The Supplier shall not be liable to the **Client** for:

- a. Loss of profits
- b. Loss of business
- c. Loss of goodwill, reputation and/or similar losses
- d. Loss of anticipated savings
- e. Loss of contract
- f. Loss of use
- g. Loss of corruption of data or information
- h. Any special, indirect, consequential or pure economic loss, costs, damages, charges or expenses, whether the **Client** was aware of the possibility of such head of loss

12.3.2. The Supplier's total liability to the **Client** in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise arising in connection with the performance or contemplated performance of its obligations under this **Agreement** shall be limited to a sum equal to 100% of the Charges payable under the **SoW** in question in respect of the calendar year in which the claim (or first in a series of connected claims arising out of the exact cause) occurred

12.3.3. In respect of damage to tangible property caused by any negligent act or omission, or breach or material breach of this **Agreement**, each party limits its liability to one million pounds (£1,000,000) per event or series of connected events

12.4. If the **Supplier's** performance of its obligations under this **Agreement** is prevented or delayed by any Non-Supplier Fault, the **Supplier** shall not be liable for any costs, charges or losses sustained or incurred by the **Client** that arise directly or indirectly from such prevention or delay

12.5. The parties agree that if any limitation or provision contained or expressly referred to in this Clause 12 is held to be invalid under any applicable statute or rule of law, it shall, to that extent, be deemed omitted. If either party becomes liable for loss or damage which would otherwise have been excluded, that liability shall be subject to the other limitations and provisions set out in this Clause 12

12.6. Nothing in this **Agreement** shall be taken as in any way reducing or affecting a general duty to mitigate loss suffered by a party. Each Party shall use all reasonable endeavours to minimise any loss or damage suffered arising out of or in connection with this **Agreement**, including any Losses for which the relevant party is entitled to bring a claim against the other party pursuant to the indemnities in this **Agreement**

13. DATA PROTECTION

- 13.1. Both parties will comply with all applicable requirements of the Data Protection Legislation. This Clause 13 is in addition to and does not relieve, remove or replace a party's obligations under the Data Protection Legislation
- 13.2. The parties acknowledge that, for the Data Protection Legislation, the **Client** is the Data Controller, and the Supplier is the Data Processor.
- 13.3. Without prejudice to the generality of Clause 13.1, the **Client** shall ensure that it has all necessary appropriate consents and notices in place to enable lawful transfer of the Personal Data to the Supplier for the duration and purposes of the Contract. Schedule 3 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.
- 13.4. Without prejudice to the generality of Clause 13.1, the Supplier shall, in relation to any Personal Data processed in connection with the performance by the Supplier of its obligations under this **Agreement**:
- 13.4.1. processes Personal Data only on the written instructions of the **Client** unless the Supplier is instructed to do so by the Information Commissioner's Office (ICO). If this is the case, the Supplier shall promptly notify the **Client** before performing the processing required by the ICO, unless Laws prohibit the Supplier from doing so.
- 13.4.2. ensure that it has in place appropriate technical and organisational measures, reviewed and approved by the **Client**, to protect against unauthorised or unlawful processing of Personal Data and against accidental loss or destruction of, or damage to, Personal Data, appropriate to the harm that might result from the unauthorised or unlawful processing or accidental loss, destruction or damage and the nature of the data to be protected, having regard to the state of technological development and the cost of implementing any measures (those measures may include, where appropriate, pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of its systems and **Services**, ensuring that availability of and access to Personal Data
- 13.4.3. Ensure that all Supplier Personnel who have access to and/or process Personal Data are obliged to keep the Personal Data confidential:

- 13.4.4. Not transfer any personal data outside of the United Kingdom unless the prior written consent of the **Client** has been obtained and the following conditions are fulfilled:
- a. The **Client** or the Supplier has provided appropriate safeguards in relation to the transfer
 - b. The data subject has enforceable rights and effective legal remedies
 - c. The Supplier complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred; and
 - d. The Supplier complies with reasonable instructions notified to it in advance by the **Client** with respect to the processing of the Personal Data
- 13.4.5. Assist the **Client** in responding to any request from a Data Subject and in ensuring compliance with its obligations under the Data Protection Legislation with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators
- 13.4.6. Notify the **Client** without undue delay on becoming aware of a Personal Data breach by emailing the **Client's** Data Protection Officer
- 13.4.7. At the written direction of the **Client**, delete or return Personal Data and copies thereof to the **Client** on termination of the **Agreement** unless required by Applicable Law to store the Personal Data; and
- 13.4.8. Maintain complete and accurate records and information to demonstrate its compliance with this Clause 13
- 13.5. The Supplier shall not assign, subcontract, or otherwise deal with its obligations under this Data Processing **Agreement** to a sub-processor without the **Client's** prior written consent. Where the **Client** gives permission, the Supplier shall enter into a written **Agreement** with the sub-processor on terms which are like those set out in this Clause 13
- 13.6. The **Client** (as Data Controller) may, at any time on not less than 30 days' notice, revise this **Clause** 13 by replacing it with any applicable controller to processor standard **clauses** or similar terms forming party of an applicable certification scheme (which shall apply when replaced by attachment to this **Agreement**)

14. ANTI-BRIBERY AND COUNTER-FRAUD

- 14.1. The **Supplier** shall not offer or give, or agree to give, to The **Client** or any other public body or any person employed by or on behalf of The **Client** or any other public body, any gift or consideration of any kind as an inducement or reward for doing, refraining from doing, or for having done or refrained from doing, any act in relation to the obtaining or execution of the **Agreement** or for showing or refraining from showing favour or disfavour to any person in relation to the **Agreement**
- 14.2. The **Supplier** warrants that it has not paid commission, or agreed to pay commission, to The **Client** or any other public body or any person employed by or on behalf of The **Client** or any other public body in connection with the **Agreement**
- 14.3. If The **Supplier**, its employees, or anyone acting on The **Supplier's** behalf, engages in conduct prohibited by clauses 14.1 and 14.2, The **Client** may:
- 14.3.1. terminate the **Agreement** and recover from The **Supplier** the amount of any loss suffered by The **Client** resulting from the termination; or
 - 14.3.2. recover in full from the **Supplier** any other loss sustained by The **Client** in consequence of any breach of those clauses

15. EQUALITY AND NON-DISCRIMINATION

- 15.1. The Supplier shall not discriminate against any person contrary to Equality Legislation. The Supplier shall provide the **Client** with copies of its Equality Policy on request
- 15.2. The Supplier shall cooperate with the **Client** about the **Client's** obligations to comply with statutory equality duties
- 15.3. The Supplier shall take reasonable commercial steps to promote equality and diversity, including race equality, equality of opportunity for disabled people, gender equality, and equality relating to religion and belief, sexual orientation and age in its provision of the **Services**

16. HUMAN RIGHTS ACT 1998

- 16.1. The Supplier shall always act in a way which is compatible with the Convention rights within the meaning of Section 1 of the Human Rights Act 1998 (as amended)

17. TERMINATION

17.1. Without prejudice to any other rights or remedies which the parties may have, the **Client** may terminate this **Agreement** without liability by providing the **Supplier** with written notice if:

17.1.1. The **Supplier** commits a material breach of any of the terms of this **Agreement** and/or any **SoW** and (if such a breach is remediable) fails to remedy that breach within thirty (30) days of being notified in writing of the breach; or

17.1.2. The Supplier commences negotiations with all, or any class of, its creditors with a view to rescheduling any of its debts, or makes a proposal for, or enters into any compromise or arrangement with, its creditors, or

17.1.3. The **Supplier** commences negotiations with all, or any class of, its creditors with a view to rescheduling any of its debts, or makes a proposal for, or enters into any compromise or arrangement with, its creditors; or

17.1.4. a petition is filed, a notice is given, a resolution is passed, or an order is made, for or on connection with the winding up of The **Supplier**; or

17.1.5. an application is made to court, or an order is made, for the appointment of an administrator, a notice of intention to appoint an administrator is given, or an administrator is appointed over The **Supplier**; or

17.1.6. a floating charge holder over the assets of The **Supplier** has become entitled to appoint, or has appointed, an administrative receiver; or

17.1.7. a person becomes entitled to appoint a receiver over the assets of The **Supplier**, or a receiver is appointed over the assets of The **Supplier**; or

17.1.8. a creditor or encumbrancer of The **Supplier** attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of its assets and such attachment or process is not discharged within fourteen (14) days; or

17.1.9. any event occurs, or proceeding is taken, with respect to The **Supplier** in any jurisdiction to which it is subject that has an effect equivalent or like any of the events mentioned in Clause 17.1(b) to Clause 17.1(h) (inclusive); or

17.1.10. The **Supplier** suspends or ceases, or threatens to suspend or cease, to carry on all or a substantial part of its business, for convenience, within 30 days' notice.

- 17.2. The **Supplier** may suspend the provision of **Services** without incurring any liability to The **Client**, if The **Client** fails to pay any undisputed amount due under this **Agreement** within thirty (30) days after its due date for payment
- 17.3. On termination of this **Agreement** for any reason:
- 17.3.1. Subject to Clause 6.9, The **Client** shall immediately pay to The **Supplier** all of The **Supplier's** outstanding undisputed unpaid invoices, in respect of **Services** supplied but for which no invoice has been submitted. The **Supplier** may submit an invoice, which shall be payable immediately on receipt
- 17.3.2. The **Client** shall, within a reasonable time, return all the **Supplier's Equipment** and **Pre-existing Materials**. Until they have been returned or repossessed, the **Client** shall be solely responsible for their safekeeping
- 17.3.3. The **Supplier** shall, within a reasonable time, return to The **Client** all **Documents** containing The **Client's Confidential Information** in the possession or control of The **Supplier**
- 17.3.4. The **Supplier** shall, within a reasonable time, return all the **Client's Equipment** and **Pre-existing Materials**. If the Supplier fails to do so, then The **Client** may withhold payment of any outstanding invoice until The **Client's Equipment** is returned
- 17.3.5. The **Supplier** shall aid The **Client** to the extent reasonably necessary for an orderly handover of the relevant **Services**, the terms of such aid to be agreed and set out in an exit and handover plan; and
- 17.3.6. The accrued rights and liabilities of the parties as at termination and the continuation of any provision expressly stated to survive or implicitly surviving termination, shall not be affected
- 17.4. Should The **Client** give written notice to The **Supplier** within thirty (30) days of termination of this **Agreement** stating that they wish The **Supplier** to return The **Client Data**, then The **Supplier** shall return The **Client Data** within two (2) Business Days of receiving payment in full of any outstanding **Charges** on any **SoW**
- 17.5. On termination for convenience, the **Client** shall pay for all work that has been started by the **Supplier** under the **SoW**, up to the date of termination

- 17.6. On termination of this **Agreement** (however arising), the following Clauses shall survive and continue in full force and effect:
- 17.6.1. Clause 8
 - 17.6.2. Clause 9
 - 17.6.3. Clause 12
 - 17.6.4. Clause 29
 - 17.6.5. Clause 31
 - 17.6.6. Clause 32
- 17.7. Termination of this **Agreement** shall not prejudice any rights, remedies or obligations of either party which have arisen under this **Agreement** on or before the date of termination, including the right to claim damages in respect of any breach of the **Agreement** which existed at or before the date of termination or expiry.

18. FORCE MAJEURE

- 18.1. A party, if it has complied with the provisions of Clause 18.02, shall not be in breach of this **Agreement**, nor liable for any failure or delay in performance of any obligations under this **Agreement** arising from or attributable to acts, events, omissions or accidents beyond its reasonable control ("**Force Majeure Event**"). The corresponding obligations of the other party will be suspended to the same extent.
- 18.2. Any party that is subject to a Force Majeure Event shall not be in breach of this **Agreement**, provided that:
- 18.2.1. It promptly notifies the other party in writing of the nature and extent of the Force Majeure Event causing its failure or delay in performance
 - 18.2.2. It could not be avoided that the effect of the Force Majeure Event could not be avoided by taking precautions which, having regard to all the matters known to it before the Force Majeure Event, it ought reasonably to have taken, but did not; and
 - 18.2.3. It has used all Reasonable Endeavours to mitigate the effect of the Force Majeure Event to carry out its obligations under this **Agreement** in any way that is reasonably practicable and to resume the performance of its obligations as soon as reasonably possible
- 18.3. If the **Force Majeure Event** prevails for a continuous period of more than thirty (30) days, either party may terminate this **Agreement** by giving seven (7) days' written notice to the other party. On the expiry of this notice period, this **Agreement** will terminate. Such termination shall be without prejudice to the rights of the parties in respect of any breach of this **Agreement** occurring prior to such termination.

19. VARIATION

- 19.1. Subject to Clause 7, no variation of this **Agreement** or of any of the documents referred to in it shall be valid unless it is in writing and signed by each of the parties in accordance with the **Change Control Procedure** (Schedule 2)
- 19.2. The **Supplier** shall have the right by one month's notice in writing to The **Client** to vary any of the provisions of this **Agreement** (including the Schedules and/or Appendices) at any time so as to comply with any regulations or other requirement applicable to or imposed upon The **Supplier** by any competent regulatory body, the nature of such variation to be discussed with The **Client**

20. WAIVER

- 20.1. Any party that is subject to a Force Majeure Event shall not be in breach of this **Agreement**, provided that.
- 20.2. No single or partial exercise of any right or remedy provided under this **Agreement** or by law shall preclude or restrict the further exercise of any such right or remedy
- 20.3. A waiver (which may be given subject to conditions) of any right or remedy provided under this **Agreement** or by law shall only be effective if it is in writing and shall apply only to the party to whom it is addressed and for the specific circumstances for which it is given. It shall not prevent the party that has given the waiver from subsequently relying on the right or remedy in other circumstances.
- 20.4. Unless specifically provided otherwise, rights arising under this **Agreement** are cumulative and do not exclude rights provided by law

21. SEVERANCE

- 21.1. If any court or other competent jurisdiction finds any provision of this **Agreement** (or part of any provision) to be invalid, illegal or unenforceable, that provision or part-provision shall, to the extent required, be deemed not to form part of the **Agreement**. The validity and enforceability of the other provisions of the **Agreement** shall not be affected.
- 21.2. If a provision of this **Agreement** (or part of any provision) is found illegal, invalid or unenforceable, the provision shall apply with the minimum modification necessary to make it legal, valid and enforceable

22. NON-SOLICITATION

- 22.1. While the **Agreement** is in force, and for a period of twelve (12) months from its expiry or termination for any reason, neither party shall, whether alone or jointly, directly or indirectly, employ or engage (or offer employment or engagement to or contractor **Agreement**) any employee or contractor or consultant of the other save in circumstances where this is agreed with both parties if that employee or contractor or consultant was directly and actively involved with the performance of the **Agreement** and the employment or engagement in question will include the employee in providing **Services** which are the same as or substantially similar to any of the **Services**
- 22.2. This Clause 22 shall not prevent either party (or any **Supplier Affiliate**) soliciting or offering employment or engagement to (or employing or engaging) any employee or contractor or consultant of the other party if the **Agreement** has terminated (or notice to terminate is served) by reason of that other party's insolvency nor shall it prevent either party (or any The **Supplier Affiliate**) from considering, employing or engaging the other's personnel pursuant to a response to a publicly advertised vacancy

23. ENTIRE AGREEMENT

- 23.1. This **Agreement** and any documents referred to in it constitute the whole **Agreement** between the parties and supersede any previous arrangement, understanding or **Agreement** between them relating to the subject matter of this **Agreement**
- 23.2. Each party acknowledges that, in entering into this **Agreement**, it does not rely on any statement, representation, assurance or warranty ("Representation") of any person (whether a party to this **Agreement** or not) other than as expressly set out in the **Agreement**. Each party agrees that the only remedies available to it arising out of or in connection with a Representation shall be for breach of contract
- 23.3. Nothing in this Clause 23 shall limit or exclude any liability for fraud.

24. ASSIGNMENT

- 24.1. **Either Party** may at any time assign, transfer, charge, subcontract or deal in any other manner with all or any of its rights or obligations under this **Agreement**.
- 24.2. Each party that has rights under this **Agreement** is acting on its own behalf and not for the benefit of another person.

25. NO PARTNERSHIP OR AGENCY

- 25.1. Nothing in this **Agreement** is intended to, or shall operate to, create a partnership between the parties, or to authorise a party to act as agent for the other. Neither party

shall have **Client** to act in the name or on behalf of or otherwise to bind the other in any way (including the making of any representation or warranty, the assumption of any obligation or liability and the exercise of any right or power).

26. RIGHTS OF THIRD PARTIES

- 26.1. A person who is not a party to this **Agreement** shall not have any rights under the Contract (Rights of Third Parties) Act 1999 to enforce any of the terms of this **Agreement**.

27. NOTICES

- 27.1. A notice to a party under or in connection with this **Agreement**:

27.1.1. shall be in writing in English (or accompanied by a properly prepared translation into English)

27.1.2. shall be signed by or on behalf of the party giving it

27.1.3. shall be sent for the attention of the person, at the address specified in Schedule 3 (or to such other address, or person as that party may notify the other from time to time, or, if no address or person is designated, then to the registered office or other usual business address of that party); and

27.1.4. Shall be:

- a. Delivered personally; or
- b. Sent by commercial courier, or
- c. Sent via email to key personnel and the other party duly acknowledges the email; or
- d. Sent by pre-paid first-class post or recorded delivery; or
- e. Sent by airmail requiring signature on delivery

- 27.2. If a notice has been correctly sent or delivered in accordance with this Clause, it will be deemed to have been received as follows:

27.2.1. If delivered personally, at the time of delivery, or

27.2.2. If delivered by commercial courier, at the time of signature of the courier's receipt; or

27.2.3. If sent by pre-paid first-class post or recorded delivery, at 09:00 am two days after posting; or

27.2.4. If sent by airmail, five days from the date of posting

27.3. For this Clause:

27.3.1. All times are to be read as local time in the place of deemed receipt; and

27.3.2. If deemed receipt under this Clause 27 is not upon a Working Day, the notice is considered to have been received upon the commencement of the next subsequent Working Day

27.4. To prove delivery, it is sufficient to prove that:

27.4.1. If sent by pre-paid first-class post, the envelope containing the notice was properly addressed and posted

27.5. The provision of this Clause 27 shall not apply to the service of any process in any legal actions or proceedings

27.6. A notice required to be given under this **Agreement** shall not be validly served if sent by email unless sent and acknowledged by key personnel of both parties.

28. DISPUTE RESOLUTION

28.1. If a complaint or dispute (a "Dispute") arises in connection with this **Agreement**, then, without prejudice to either party's other rights and remedies, The **Supplier** and The **Client** shall operate the following escalation path to attempt to resolve such Dispute.

28.1.1. The **Client** shall provide to the **Contract Manager of the Supplier** details of the **Dispute**, and the **Contract Manager of the Supplier** shall attempt to resolve the **Dispute** to the satisfaction of The **Client** and The **Supplier**

28.1.2. in the event that within the five Working Days of the referral of the **Dispute** to Contract Manager of the **Supplier**, The **Client** is not satisfied that the **Dispute** is being resolved, the **Client** may request that the **Dispute** is referred to the **Supplier's** director in charge of the business unit to which the **Dispute** most closely relates and such director shall attempt to resolve such **Dispute**; and

28.1.3. In the event that, within five Working Days of the referral of the **Dispute** to the **Supplier** director, the **Client** is not satisfied that the **Dispute** is being resolved, the **Client** may request that the **Dispute** be referred to the **Supplier's** Chief Executive Officer, who shall attempt to resolve the **Dispute** to the satisfaction of the **Client** and the **Supplier**

- 28.2. If the **Dispute** is not resolved, the parties will attempt to settle it by mediation in accordance with the Centre for Effective Dispute Resolution Model Mediation Procedure. Unless otherwise agreed between the parties, the mediator will be nominated by CEDR. To initiate mediation, a party must give written notice (an “Alternative Dispute Resolution Notice”) to the other party requesting mediation. A copy of the request should be sent to CEDR. The mediation will start not later than 30 days after the date of the Alternative Dispute Resolution Notice
- 28.3. The commencement of a mediation will not prevent the parties from commencing or continuing court proceedings

29. FURTHER ASSISTANCE

- 29.1. The **Supplier** shall, at its sole cost and expense, do and/or procure to be done all such further acts and things and execute and/or procure the execution of all such other documents as the **Client** may from time to time reasonably require for the purpose of giving the **Client** the full benefit of the provisions of this **Agreement** and for the fulfilment of the **Supplier's** obligations under this **Agreement**

30. PUBLICITY

- 30.1. Without prejudice to the **Client's** obligations under **FOIA** and Clause 9 Confidentiality, and save as specified in any **SoW**, neither party shall make any press announcement or publicise the **Agreement** or any part thereof in any way, except with the written consent of the other party

31. COUNTERPARTS

- 31.1. This **Agreement** and any **SoWs** may be executed in any number of counterparts, each of which, when executed and delivered, shall be an original. All the counterparts of a single instrument shall together constitute the same instrument

32. GOVERNING LAW AND JURISDICTION

- 32.1. This **Agreement** and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by, and construed in accordance with, the law of England and Wales
- 32.2. The parties irrevocably agree that the courts of England and Wales shall have non-exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with this **Agreement** or its subject matter or formation (including non-contractual disputes or claims)