

Efficio Ltd - Terms and Conditions

1 TERMS

Efficio Limited ("Efficio") accepts instructions to provide services only on these terms and conditions of business together with the terms set out in our engagement letter (to which these terms are attached, the "Engagement Letter"), which together shall be referred to as the "Terms of Engagement" or the "Agreement". The Terms of Engagement shall constitute the entire agreement between Efficio and the client referred to in the Engagement Letter (the "Client") relating to the services referred to in the Engagement Letter to be provided to the Client by Efficio (the "Services"). The Terms of Engagement shall apply in relation to the Services and shall prevail over any inconsistent terms or conditions contained, or referred to, in the Client's correspondence, request for proposal, prior proposal, purchase order or other document of the Client. If there is an inconsistency between any of the provisions in the Engagement Letter and these terms and conditions, the provisions of the Engagement Letter shall prevail. The Terms of Engagement may only be varied with the written agreement of Efficio. The Client's signed acceptance of the Engagement Letter or the commencement of performance of the Services at the request of the Client, whichever occurs earlier, shall constitute the Client's acceptance of the Terms of Engagement.

2 PROVISION OF SERVICES

- 2.1 Efficio shall use all reasonable skill and care in providing the Services. Efficio shall be entitled to rely, without independent verification or investigation, upon any information and materials that (i) may be made available or provided by or via the Client (including all inputs listed in the Agreement as the Client's responsibility) or any of its affiliates, employees, agents, advisors or suppliers and / or (ii) may be obtained from the public domain or any generally accepted source used by professional consulting firms (together the "Client Data").
- 2.2 As part of the Services, Efficio may use and/or agree to provide to the Client access to and use of all or part of Efficio's online Procurement Engine portal and services ("eFlow") available through it or via any other means of access provided by Efficio. The Client acknowledges that access to and use of eFlow is subject to the separate eFlow terms and conditions of access and use (<https://www.efficioconsulting.com/en-gb/terms-and-conditions/eflow-terms-conditions/>). To the extent eFlow is used as part of the Services, the Client's signed acceptance of the Engagement Letter or the commencement of performance of the Services shall also constitute the Client's acceptance of the eFlow terms and conditions of access and use. If there is any conflict between the provisions of this Agreement and the eFlow terms and conditions of access and use, save where expressly stated otherwise, the eFlow terms and conditions of access and use shall prevail in respect of eFlow.
- 2.3 Nothing in this Agreement shall prevent Efficio from entering into similar agreements with third parties, or from independently developing, using, selling, or licensing documentation, products and/or services which are similar to those provided under this Agreement.
- 2.4 Efficio warrants that it has and will maintain all necessary licences, consents, and permissions necessary for the performance of its obligations under this Agreement.

3 CLIENT'S OBLIGATIONS AND ACKNOWLEDGEMENTS

- 3.1 The Client agrees to:
 - 3.1.1 co-operate with Efficio in all matters relating to the Services and provide access in a timely manner where reasonably required for the performance of the Services to the Client's premises, office accommodation and Client Data; 3.1.2 co-operate with Efficio (or procure the relevant co-operation) in all matters relating to the identification and agreement of in-scope expenditure, addressable spend (in relation to which the Services are to be provided), baseline validation, savings measurement methodology and savings sign off (all being terms detailed in the Engagement Letter). The Client agrees not to unreasonably withhold, delay or condition any approval or sign off process as may be reasonably requested from time to time by Efficio;
 - 3.1.3 inform Efficio of all Health and Safety rules and regulations and any other reasonable security requirements that apply at the Client's premises;
 - 3.1.4 liaise with Efficio and provide all assistance as Efficio may reasonably request to enable Efficio to continue ongoing development of the Services for the benefit of the Client;
 - 3.1.5 comply with all applicable laws and regulations with respect to its activities under this Agreement;
 - 3.1.6 carry out all other Client responsibilities set out in this Agreement in a timely and efficient manner. In the event of any delays in the Client's provision of such assistance as agreed by the parties, Efficio may adjust any agreed timetable or delivery schedule as reasonably necessary; and
 - 3.1.7 obtain and shall maintain all necessary licences, consents, and permissions necessary for Efficio, its contractors and agents to perform their obligations under this Agreement.
- 3.2 The Client acknowledges that Efficio may, in providing the Services, use publicly available information and information contained in reports and other materials provided by third parties, including, without limitation, information provided by or on behalf of the Client and that Efficio does not assume responsibility for and may rely, without independent verification, on the accuracy and completeness of any such information. The Client agrees to furnish or cause to be furnished to Efficio all necessary and appropriate information for use in providing the Services under the Terms of Engagement and hereby warrants that any information relating to the Client that is provided to Efficio by or on behalf of the Client will be true and accurate in all material respects, not misleading and that Client Data does not infringe any intellectual property rights of any third party.
- 3.3 The Client acknowledges that Efficio may change the composition of the consulting team deployed at the commencement of the Services at any time thereafter as it deems appropriate to complete the Services.

- 3.4 The Client agrees that any information or advice (including, without limitation, the Deliverables) rendered by Efficio under the Terms of Engagement is for the confidential use of the Client only and the Client will not, and will not permit any third party to, use any Deliverable for any other purpose or disclose or otherwise refer to such Deliverable, advice or information, without the prior written consent of Efficio (such consent not to be unreasonably withheld).
- 3.5 As part of the Services, Efficio might provide contracting advice. The Client acknowledges that Efficio is not a law firm and that the Services, including any contracting advice provided should not be relied on, or treated as a substitute for obtaining legal advice. The Client further acknowledges that it is not relying on any advice provided by Efficio for tax, legal or accounting matters and that it will seek and will rely on the advice of its own professionals and advisors for all such matters.
- 3.6 As part of our engagement, Efficio may be commissioned to provide Services to the Client's associated entities and business units ("Group Entities"). Where Efficio provides Services to a Group Entity, the Client shall procure compliance by that Group Entity with all obligations under the Agreement as if the Group Entity was the principal client and original signatory to the Engagement Letter.

4 CONTENT AND USE OF DELIVERABLES

Subject always to payment of Efficio's fees and expenses in connection with the provision of the Services and subject to the provisions of paragraphs 5 and 6 below, all materials, reports, and other information that Efficio creates for the Client's exclusive use as part of the Services ("Deliverables") shall be the property of the Client and shall be treated by Efficio as being confidential information belonging to the Client. Efficio warrants that the Client's use of any Deliverables, used solely for their intended purpose, shall not violate or infringe any third party intellectual property rights, provided always that no warranty is made with respect to any violation or infringement of any third party's intellectual property rights arising in connection with information or material that have been provided or made available by the Client or its affiliates, employees, agents or advisors.

5 EFFICIO'S PROPERTY AND CONFIDENTIALITY

- 5.1 All materials, methodologies, concepts, ideas, know-how, procedures, management tools, software, and other intellectual property that Efficio has created prior to this Agreement with the Client or may thereafter create or acquire ("Efficio IP") shall, at all times, be and remain the exclusive property of Efficio. Except as provided in paragraph 6 below, the Client shall not have or acquire any title or interest in or to any Efficio IP.
- 5.2 The Client shall keep in strict confidence all Efficio IP and any other confidential information and materials of Efficio which have been disclosed to the Client by Efficio, its affiliates, employees, agents or advisors or any other confidential information relating to Efficio's business which the Client may obtain. The Client shall restrict disclosure of such confidential material to such of its affiliates, employees, agents, or advisors as need to know the same on a reasonable "need to know" basis and the Client shall ensure that such affiliates, employees, agents, or advisors are subject to obligations of confidentiality corresponding to those which bind the Client.

6 LICENCE IN RELATION TO EFFICIO IP AND USE OF THE SERVICES AND DELIVERABLES

- 6.1 Subject always to payment of Efficio's fees and expenses in connection with the provision of the Services, the Client shall have an irrevocable, perpetual, non-exclusive, royalty-free right and licence to use Efficio IP that is contained or incorporated in the Deliverables. Except with the prior written authority of Efficio, the Client may not use, reproduce, or display any Efficio IP or prepare any works derived from the Efficio IP or the Deliverables for the benefit of any person or entity other than the Client. The Services and Deliverables are personal to the Client and intended to be used solely and exclusively for the Client's business use.
- 6.2 The Deliverables and Services and any recommendations made by Efficio to the Client shall not be used or relied upon by any third party. Save as with the prior written authorisation of Efficio, the Client may not publish, disclose, or refer to any Deliverables or any recommendations that Efficio may make.

7 CLIENT'S CONFIDENTIAL INFORMATION AND CLIENT DATA

- 7.1 In connection with the provisions of the Services, Efficio may be provided or granted access to Client Data that may be considered to be confidential or proprietary (together with data contained in or derived from the Deliverables, "Client's Confidential Information"). Efficio shall not disclose or make available any of the Client's Confidential Information to any other person or make use of any of the Client's Confidential Information for any purpose save where:
 - 7.1.1 the Client has provided prior written authorisation; or
 - 7.1.2 Efficio discloses and makes available the Client's Confidential Information on a confidential basis to its (or its affiliate's) employees, agents, advisers, and sub-contractors on a reasonable "need to know" basis in connection with its rights and obligations under this Agreement.
- 7.2 The Client Data shall, at all times, be and remain the exclusive property of the Client. Except as provided in this Agreement, Efficio shall not have nor acquire any title or interest in or to any Client Data.
- 7.3 The provisions of paragraphs 5.2 and 7.1 to 7.3 above shall not apply to any information or materials that:
 - 7.3.1 are already lawfully known to or in the possession of the receiving party at the time such information or materials are first disclosed or made available to the receiving party by the disclosing party;
 - 7.3.2 are thereafter lawfully obtained by the receiving party from a person other than the disclosing party;
 - 7.3.3 are in the public domain or generally known in the relevant trade, industry, or business at the time such information or materials are first disclosed or made available to the receiving party or thereafter come into the public domain or become generally known in the relevant trade, industry, or business other than by reason of an improper disclosure or use of the same by the receiving party; or
 - 7.3.4 are lawfully obtained by the receiving party independent of the Services.

- 7.4 In addition, the receiving party may disclose and make available the other party's confidential information to the extent required by any order of any court of competent jurisdiction or of any competent judicial, governmental or regulatory body provided that the receiving party shall, to the extent permissible by law, use all reasonable endeavours to give the disclosing party prior notice of the full circumstances of the disclosure and the information that will be disclosed and consulting with the disclosing party as to possible steps to avoid or limit the disclosure required.
- 7.5 Notwithstanding the foregoing, Efficio may:
- 7.5.1 retain and reuse Clients' Confidential Information on a confidential and restricted basis in line with Efficio's internal rules and procedures to develop and enhance Efficio's services, including but not limited to (i) benchmarking, (ii) conducting industry and market analyses; and (iii) developing new systems and materials (e.g. sourcing templates, strategies, know-how, and frameworks, tools, modules etc.) ((i), (ii) and (iii) together "Efficio Tools"). Any Efficio Tools shall at all times be and remain the exclusive property of Efficio;
 - 7.5.2 aggregate or de-identify Client's Confidential Information in a way that it is no longer attributable to the Client (the "De-identified Data") and reuse De-identified Data for the provision of chargeable services and deliverables (through Efficio Tools or otherwise) to other clients.

8 CHARGES AND PAYMENT

- 8.1 The charges payable for the Services shall be set out in the Engagement Letter.
- 8.2 Details of charges payable by the Client should the Client elect to terminate by giving notice are also set out in the Engagement Letter.
- 8.3 All charges quoted to the Client shall be exclusive of VAT which Efficio shall add to its invoices at the appropriate rate.
- 8.4 Efficio shall invoice the Client in accordance with the payment provisions of the Engagement Letter. The Client shall pay each invoice submitted to it by Efficio, in full and in cleared funds, within 15 days of receipt, and:
- 8.4.1 Efficio reserves the right to perform the Services by instalments and to render a separate invoice in respect of each such instalment; and
 - 8.4.2 if Efficio exercises its right to perform the Services in accordance with sub-paragraph 8.4.1, then any delay in the provision of such Services, or a failure to perform any further instalment or instalments, shall not entitle the Client to terminate the Terms of Engagement or reject the performance of any instalment or to withhold payment in respect of any instalment previously delivered.
- 8.5 Where Efficio has commenced performance of the Services at the request of the Client (without the Client having signed Engagement Letter) then Efficio reserves the right to invoice for all services performed during the term of the Agreement (plus all reasonably incurred expenses) using the fee calculation methodology contained in the unsigned Engagement Letter or by reference to the market value of the benefit received (and which Efficio reasonably believes will be received) by the Client as a result of Efficio's performance of the Services. All Services performed prior to the signature of the Engagement Letter shall be subject to the terms of the Agreement.
- 8.6 If a purchase order is required to process Efficio's invoices, the Client will provide Efficio with a purchase order within 7 days of signed acceptance of the Engagement Letter or the commencement of performance of the Services, whichever occurs earlier.
- 8.7 Efficio reserves the right to charge the Client a mobilisation fee within 14 days of signed acceptance of the Engagement Letter or the commencement of the performance of the Services, whichever occurs earlier, to check and confirm that the invoicing and payment process is operating. Efficio may terminate the Agreement with immediate effect by giving written notice to Client should it not receive the mobilisation fee within 5 days from its request.
- 8.8 This paragraph 8.8 may be effective in circumstances where Efficio has a bonus fee as part payment for the provision of the Services and where the bonus fee structure has been calculated by reference to agreed "addressable spend" and/or "in-scope" categories of Client expenditure. Where the Client elects to remove any part of the agreed "addressable spend" or all or part of any category of expenditure from the scope of the Services at any time after Gate 1 (as defined in the Engagement Letter) then Efficio may make such adjustment to the contingent fee structure as is equitable in light of the Client's reduction of the level of required Services.
- 8.9 Unless otherwise agreed in writing by Efficio, all Services shall be deemed completed upon sign off of the last category of expenditure (as described in the Engagement Letter).
- 8.10 Without prejudice to any other right or remedy that Efficio may have, if the Client fails to pay Efficio on the due date, Efficio may:
- 8.10.1 charge interest on such sum from the due date for payment at the annual rate of 4% above the base rate of the Bank of England from time to time, accruing on a daily basis, and being compounded quarterly until payment is made, whether before or after any judgment or, if higher, Efficio may claim interest under the Late Payment of Commercial Debts (Interest) Acts 1998; and
 - 8.10.2 suspend all services until payment has been made in full.
- 8.11 All sums payable to Efficio under this Agreement shall become due immediately on its termination, unless otherwise agreed in the Engagement Letter. This paragraph 8.11 is without prejudice to any right to claim for compensation under the law, or any such right under this Agreement.
- 8.12 Efficio reserves the right to increase the charges on 1 January every calendar year ("Adjustment Date"), to have effect from the day following the Adjustment Date for the respective calendar year by an amount equal to the percentage of the latest Retail Price Index Value available for the preceding 12-month period ("RPI Value") published by the Office of National Statistics at the Adjustment Date ("Inflation Adjustment"). For the avoidance of doubt: (a) the charges set out in the Engagement Letter are subject to the first Inflation Adjustment, the adjusted charges based on the first Inflation Adjustment are subject to the second Inflation Adjustment and so on; (b) if a relevant RPI Value would ever be negative, Efficio is entitled to continue charging (i) the charges set out in the Engagement Letter or (ii) a higher amount based on a previous Inflation Adjustment, as applicable. Efficio will issue a respective

adjustment notice as soon as reasonably practicable and in advance of the next invoice charging the adjusted amount and the Engagement Letter shall be deemed to have been amended accordingly.

8.13 Where any dispute arises between Efficio and the Client over the level of negotiated, recognised, anticipated or achievable savings ("Savings") or the level of billable consultant man days on which Efficio's charges are to be calculated, the matter shall be referred to an Expert, as defined and appointed in accordance with this paragraph 8.13. The Client may not invoke this determination procedure where the Agreement has been terminated by notice by either party in accordance with the provisions of the Engagement Letter (triggering a termination fee calculated as set forth in the Engagement Letter):

8.13.1 within seven days of either party serving a resolution notice requiring the appointment of an Expert to resolve a dispute, the parties shall use their respective best endeavours to agree on the appointment of an independent Expert and agree with the Expert the terms of his appointment;

8.13.2 if the parties are unable to agree on an Expert or the terms of his appointment within seven days of either party serving details of a suggested Expert on the other, either party shall then be entitled to request that the Centre for Effective Dispute Resolution ("CEDR") nominate a qualified solicitor and mediator with international experience in procurement. The parties then agree to appoint that nominee as Expert. CEDR, or the Expert, may then provide directions as to the terms of the appointment;

8.13.3 the Expert is required to prepare a written decision and give notice of the decision to the parties within a maximum of two months of the matter being referred to the Expert;

8.13.4 if the Expert dies or becomes unwilling or incapable of acting or does not deliver the decision within the time required by this paragraph 8.13.4, then:

8.13.4.1 either party may apply to the CEDR to discharge the Expert and to appoint a replacement Expert with the required expertise; and

8.13.4.2 this paragraph 8.13 shall apply to the new Expert as if he were the first Expert appointed.

8.13.5 The parties are entitled to make submissions to the Expert including oral submissions and will provide (or procure that others provide) the Expert with such assistance and documents as the Expert reasonably requires for the purpose of reaching a decision.

8.13.6 Each party shall with reasonable promptness supply each other with all information and give each other access to all documentation and personnel and/or things as the other party may reasonably require to make a submission under this paragraph 8.13.6 (for the avoidance of doubt nothing in this paragraph will constitute any waiver of legal privilege nor oblige a party to disclose privileged information).

8.13.7 The Expert shall act as an expert and not as an arbitrator, the Expert shall determine the amount of Savings recognised in accordance with methodologies contained in the Engagement Letter and/or the level of relevant consultant man days which are billable by Efficio. The Expert's written decision on the matters referred to him shall be final and binding on the parties in the absence of manifest error or fraud.

8.13.8 The Expert may direct that any legal costs and expenses incurred by a party in respect of the determination shall be paid by another party to the determination on the general principle that costs should follow the event, except where it appears to the Expert that, in the circumstances, this is not appropriate in relation to the whole or part of such costs. The Expert's fees and any costs properly incurred by him in arriving at his determination (including any fees and costs of any advisers appointed by the Expert) shall be borne by the parties equally or in such other proportions as the Expert shall direct.

8.13.9 All matters concerning the process and result of the determination by the Expert shall be kept confidential among the parties and the Expert.

8.13.10 Each party shall act reasonably and co-operate to give effect to the provisions of this paragraph 8 including acting promptly and in good faith at all times in relation to the appointment of the Expert and the agreement of the Expert's terms of appointment and otherwise do nothing to hinder or prevent the Expert from reaching his determination. Each party agrees not to unreasonably withhold any consent which may be required at any time in relation to the Expert determination process contemplated by this paragraph 8.

9 LIMITATION OF LIABILITY

9.1 This paragraph 9 sets out the entire financial liability of Efficio (including any liability for the acts or omissions of its employees, agents, and sub-contractors) arising out of or in connection with this Agreement including without limitation in respect of (i) any breach of this Agreement; (ii) any use made by the Client of the Services, the Efficio IP, the Deliverables or any part of them; and (iii) any representation, statement or tortious act or omission (including negligence) arising under or in connection with this Agreement.

9.2 All warranties, conditions and other terms implied by statute or common law are, to the fullest extent permitted by law, excluded from this Agreement. Efficio makes no representation or warranty, express or implied, regarding suitability, originality, fitness for a particular use or purpose, or results to be derived from the use of any materials, Deliverables (as defined in clause 4), or Services provided under this Agreement. Efficio does not guarantee that any recommendations may be implemented at the cost or with the results that Efficio may estimate or project or that any work, product or Deliverable will be error free.

9.3 Nothing in this paragraph limits or excludes the liability of Efficio for death or personal injury resulting from negligence; for fraud or fraudulent misrepresentation by Efficio; or for any other liability that cannot be excluded or limited by English law.

9.4 Subject to 9.3, Efficio shall not be liable, whether in tort (including negligence, or breach of statutory duty), contract, misrepresentation or otherwise for loss of profit; loss of business; depletion of goodwill and/or similar losses; loss of anticipated savings; loss of use or interruption of business; loss or corruption of data or information; or any special, indirect, consequential, or pure economic loss, costs, damages, charges, or expenses.

9.5 Efficio's total liability in contract, tort (including negligence or breach of statutory duty), misrepresentation (whether innocent or negligent), restitution or otherwise arising in connection with the performance or contemplated performance of this Agreement, including insofar as it relates to the obligations set

out in paragraph 16 or Applicable Data Protection Laws, shall be limited to the fees paid (excluding payments for taxes and expenses by the Client to Efficio for the Services) during the 12 months immediately preceding the date on which the claim arose.

10 STATUS OF EFFICIO

- 10.1 Efficio will be acting solely as an independent contractor in performing the Services and neither Efficio nor any of its employees, associated consultants or sub-contractors shall be deemed to be employees of the Client for any purpose.
- 10.2 The Terms of Engagement constitute a contract for services with the Client and the Client acknowledges that Efficio (and all of its employees, associated consultants or sub-contractors) provides expert procurement consultancy services and at no time provides staff augmentation or provision of manpower.
- 10.3 Nothing in the Terms of Engagement is intended to, or shall operate to, create a partnership between the parties or to authorise either party to act as agent for the other, and neither party shall have authority 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).

11 SUSPENSION AND TERMINATION

- 11.1 Subject to paragraph 11.3, this Agreement shall terminate automatically on completion of the project or assignment as set out in the Engagement Letter.
- 11.2 Without prejudice to any other rights or remedies which the parties may have, either party may, at any time and for any reason, suspend the performance of the Services and/or terminate Efficio's engagement to perform the Services, in whole or in part, by giving not less than 30 days written notice to the other party or immediately on giving notice to the other if:
 - 11.2.1 the other party fails to pay any amount due under this Agreement on the due date for payment and remains in default not less than 15 days after being notified in writing to make such payment;
 - 11.2.2 the other party commits a material breach of any of the Terms of Engagement and (if such breach is remediable) fails to remedy that breach within 30 days of that party being notified in writing of the breach;
 - 11.2.3 the other party is unable to pay its debts as the full due or takes any action (or any action is taken against it) as a prelude to administration or insolvency;
 - 11.2.4 an order is made or a resolution is passed for the winding up of the other party, or circumstances arise which entitle a court of competent jurisdiction to make a winding-up order of the other party or an order is made for the appointment of an administrator to manage the affairs, business and property of the other party;
 - 11.2.5 a receiver is appointed of any of the other party's assets or undertaking;
 - 11.2.6 the other party takes or suffers any similar or another action in any jurisdiction in consequence of debt;
 - 11.2.7 the other party ceases, or threatens to cease, to trade; or
 - 11.2.8 the other party becomes a Designated Person, owned or controlled by a Designated Person or acts directly or indirectly on behalf of a Designated Person. Designated Person means a person listed on the European Union's Consolidated List of Persons, Groups and Entities subject to EU Financial Sanctions, the Consolidated List of Financial Sanctions Targets issued by His Majesty's Treasury of the United Kingdom, the Specially Designated Nationals and Blocked Persons list issued by the Office of Foreign Assets Controls of the US Department of Treasury or any similar list issued or maintained or made public by any sanctions authority relevant to the parties to this agreement, each as amended, supplemented or substituted from time to time.
 - 11.2.9 (in relation only to Efficio's rights of suspension and/or termination), the Client has failed to provide to Efficio a purchase order in accordance with the Engagement Letter or within 15 days of request in writing by Efficio.
- 11.3 Upon termination of this Agreement for any reason:
 - 11.3.1 the Client shall immediately pay to Efficio (i) all of Efficio's outstanding unpaid invoices, (ii) the bonus fee payable upon early termination as set out in the Engagement Letter and (iii) interest and, in respect of Services supplied but for which no invoice has been submitted, Efficio may submit an invoice, which shall be payable immediately on receipt;
 - 11.3.2 each party shall return and make no further use of any equipment, property, documentation and other items (and all copies of them) belonging to the other party;
 - 11.3.3 Efficio may destroy or otherwise dispose of any of the Client Data in its possession unless Efficio receives, no later than ten days after the effective date of the termination of this Agreement, a written request for the delivery to the Client of the then most recent back-up of the Client Data. Efficio shall use reasonable commercial endeavours to deliver the back-up to the Client within 30 days of its receipt of such a written request, provided that the Client has, at that time, paid all fees and charges outstanding at and resulting from termination (whether or not due at the date of termination). The Client shall pay all reasonable expenses incurred by Efficio in returning or disposing of Client Data; and
 - 11.3.4 the accrued rights of the parties as at termination and the continuation of any provision expressly stated to survive or implicitly surviving termination, shall not be affected.

12 PUBLICITY

- 12.1 Save with the prior written consent of Efficio, the Client shall not publicly disclose (in any press release, prospectus, offer document or otherwise) that Efficio is performing the Services, the nature of the Services or any Deliverables.

13 EMPLOYEES OF EFFICIO

- 13.1 During the provision of Services by Efficio and for a period of one year after the termination of the Agreement for any reason, the Client shall not directly or indirectly:
- 13.1.1 enter into an agreement or arrangement for the provision of services (including as an officer, employee, partner, consultant, sub-contractor, agent or otherwise) with any current or former employee of Efficio or any consultant or sub-contractor engaged by Efficio ("Efficio Personnel") who, at the time of entering into such agreement or arrangement with the Client, is providing or has at any time in the past year provided any Services to the Client under the Terms of Engagement; or
 - 13.1.2 solicit, induce, persuade, or attempt to solicit, induce, or persuade any Efficio Personnel who is providing or has provided the Services to the Client under the Terms of Engagement to terminate his or her employment or consultancy agreement with Efficio.
- 13.2 Should the Client breach any provision of paragraph 13.1 above, the Client agrees to pay to Efficio on demand an introduction fee equivalent to 25% of the annualised payments made to the relevant Efficio Personnel prior to the breach calculated at 35 hours per week over 52 weeks.

14 FORCE MAJEURE

- 14.1 Efficio shall have no liability to the Client under this Agreement if it is prevented from or delayed in performing its obligations under this Agreement or from carrying on its business by acts, events, omissions or accidents beyond its reasonable control, including strikes, lock-outs or other industrial disputes, failure of a utility service or transport network, act of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, pandemics, breakdown of plant or machinery, fire, flood, storm or default of suppliers or sub-contractors.

15 COMPLIANCE WITH LAWS AND POLICIES, SANCTIONS

- 15.1 In performing its obligations under the Agreement, both parties shall comply with (i) all applicable laws, statutes, and regulations from time to time in force; and (ii) Efficio's policies (as amended from time to time), or have and maintain throughout the term of this agreement its own policies and procedures to ensure its compliance: (a) modern slavery and human trafficking; (b) corporate and social responsibility; (c) anti-bribery and anti-corruption; (d) ethics; and (e) data and privacy.
- 15.2 Without prejudice to the generality of paragraph 15.1, neither party will engage in any activity, practice or conduct which would constitute an offence (i) under sections 1, 2 or 6 of the Bribery Act 2010 if such activity, practice or conduct had been carried out in the UK; and (ii) under sections 1, 2 or 4, of the Modern Slavery Act 2015 if such activity, practice or conduct were carried out in the UK.
- 15.3 Each party confirms that it is not a Designated Person, is not owned or controlled by a Designated Person and does not act directly or indirectly on behalf of a Designated Person. Designated Person is defined in paragraph 11.
- 15.4 Either party may terminate this Agreement with immediate effect by giving written notice to the other if that other commits a breach of paragraph 15

16 DATA PROTECTION

- 16.1 In this paragraph 16:
- (a) "Applicable Data Protection Laws" means (i) to the extent the Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (United Kingdom General Data Protection Regulation), as it forms part of the law of England and Wales, Scotland and Northern Ireland by virtue of section 3 of the European Union (Withdrawal) Act 2018 as modified by Schedule 1 to the Data Protection, Privacy and Electronic Communications (Amendments etc) (EU Exit) Regulations 2019 ("2019 Regulations") ("UK GDPR") applies, the law of the United Kingdom or of a part of the United Kingdom which relates to the protection of personal data (including but not limited to The Privacy and Electronic Communications (EC Directive) Regulations 2003), as amended from time to time; (ii) to the extent the Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data ("EU GDPR") applies, the law of the European Union or any member of the European Union to which Efficio is subject, which relates to the protection of personal data, as amended from time to time;
 - (b) "Applicable Laws" means (i) to the extent the UK GDPR applies, the law of the United Kingdom or of a part of the United Kingdom; (ii) to the extent the EU GDPR applies, the law of the European Union or any member state of the European Union to which Efficio is subject;
 - (c) "data controller", "data processor", "data subject", "personal data", "personal data breach" and "processing" have the meanings as defined in the Applicable Data Protection Laws; and
 - (d) "Client Personal Data" means Client Data containing personal data.
- 16.2 Both parties will comply with all applicable requirements of Applicable Data Protection Laws. This paragraph 16 is in addition to, and does not relieve, remove, or replace, a party's obligations under the Applicable Data Protection Laws.
- 16.3 The parties acknowledge and agree that the primary purpose of the Services is not the processing of personal data and the primary content of the Client Data is not personal data. To the extent the Client Personal Data is concerned, the Client will be considered the data controller of the same with rights to determine the purposes for which the Client Personal Data is analysed, reviewed, disclosed, or processed during the provision of the Services and Efficio the data processor. Efficio shall process the Client Personal Data on behalf of the Client in accordance with this Agreement. Nothing in the Terms of Engagement will restrict or limit in any way the Client's rights or obligations as owner and/or data controller of the Client Personal Data for such purposes.
- 16.4 By entering into this Agreement, the Client consents to (and shall procure all required consents in respect of) all actions taken by Efficio in connection with the processing of Client Personal Data.

- 16.5 Without prejudice to the generality of paragraph 16.2, the Client will ensure that it has all necessary appropriate consents and notices in place to enable lawful transfer of the Client Personal Data to Efficio for the duration and purposes of this Agreement.
- 16.6 To the extent Client Personal Data is processed by Efficio in accordance with clause 16.2, Efficio shall conduct an impact assessment, stating the particulars of the processing (i.e. scope, nature, purpose, duration, types of data and categories of data subjects) and the technical and organisational measures in place to protect Client Personal Data.
- 16.7 Without prejudice to the generality of paragraph 16.2, Efficio shall, in relation to any Client Personal Data processed in connection with and for the purpose of the performance of Efficio's obligations under this Agreement:
- 16.7.1 process that Client Personal Data only on the written instructions of the Client unless Efficio is required by Applicable Laws to otherwise process the Client Personal Data; where Efficio is relying on Applicable Laws as the basis for processing Client Personal Data, Efficio shall notify the Client of this before performing the processing required by the Applicable Laws unless those Applicable Laws prohibit Efficio from so notifying the Client on important grounds of public interest. Efficio shall inform the Client if, in the opinion of Efficio, the instructions of the Client infringe Applicable Data Protection Laws;
 - 16.7.2 ensure that it has in place appropriate technical and organisational measures to protect against unauthorised or unlawful processing of Client Personal Data and against accidental loss or destruction of, or damage to, Client Personal Data, which the Client has reviewed and confirms are appropriate to the harm that might result from the unauthorised or unlawful processing or accidental loss, destruction or damage and the nature of the data to be protected, having regard to the state of technological development and the cost of implementing any measures;
 - 16.7.3 ensure that all personnel who have access to and/or process Client Personal Data have committed themselves to confidentiality or are under an appropriate statutory or common law obligation of confidentiality;
 - 16.7.4 assist the Client insofar as this is possible (taking into account the nature of the processing and the information available to Efficio), and at the Client's cost and written request, in responding to any request from a data subject and in ensuring compliance with its obligations under Applicable Data Protection Laws with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators;
 - 16.7.5 notify the Client without undue delay on becoming aware of a personal data breach involving Client Personal Data;
 - 16.7.6 at the written direction of the Client, delete or return Client Personal Data and copies thereof to the Client on termination of the Agreement unless Efficio is required by Applicable Laws to store that Client Personal Data; for the purposes of this paragraph 16.6.6, Client Personal Data shall be considered deleted where it is put beyond further use by the Efficio; and
 - 16.7.7 maintain complete and accurate records and information to demonstrate its compliance with this paragraph 16 and allow for audits by the Client or the Client's designated auditor for this purpose, on reasonable written notice.

16.8 The Client hereby provides its prior, general authorisation for Efficio to:

- 16.8.1 appoint third party processors to process Client Personal Data under this Agreement for the purposes of assisting with the provision of the Services, provided that (a) Efficio shall ensure that the terms on which it appoints such processors comply with Applicable Data Protection Laws and are consistent with the obligations imposed on Efficio under this paragraph; (b) Efficio remains responsible for the acts and omission of any such processor as if they were acts and omissions of Efficio; (c) informs the Client of any intended changes concerning the addition or replacement of such processors, thereby giving the Client the opportunity to object to such changes provided that if the Client objects to the changes and cannot demonstrate, to Efficio's reasonable satisfaction, that the objection is due to an actual or likely breach of Applicable Data Protection Laws, the Client shall indemnify Efficio for any losses, damages, costs (including legal fees) and expenses suffered by Efficio in accommodating the objection and
 - 16.8.2 transfer any Client Personal Data as required for purposes of this Agreement outside of the UK to a country without adequate protection for personal data, provided that the Efficio shall ensure that all such transfers are affected in accordance with Applicable Data Protection Laws. For these purposes, the Client shall promptly comply with any reasonable request of Efficio, including any request to enter into standard contractual clauses adopted by the EU Commission from time to time (where the EU GDPR applies to the transfer) or adopted by the UK Information Commissioner from time to time (where the UK GDPR applies to the transfer).
- 16.9 Either party may, at any time on not less than 30 days' notice, revise this clause by replacing it (in whole or part) with any applicable standard clauses approved by the EU Commission or the UK Information Commissioner's Office or forming part of an applicable certification scheme or code of conduct, which shall apply when replaced by attachment to this Agreement, but only in respect of such matters which are within the scope of such amended terms.

17 WAIVER

- 17.1 A waiver of any right of this Agreement is only effective if it is in writing and it applies only to the party to whom the waiver is addressed and the circumstances for which it is given.
- 17.2 Unless specifically provided otherwise, rights arising under this Agreement are cumulative and do not exclude rights provided by law.

18 SEVERANCE

- 18.1 If any provision (or part of a provision) of this Agreement is found by any court or administrative body of competent jurisdiction to be invalid, unenforceable, or illegal, the other provisions will remain in force.

- 18.2 If any invalid, enforceable or illegal provision would be valid, enforceable, or legal if some part of it were deleted, that provision will apply with whatever modification is necessary to make it valid, enforceable and legal.
- 18.3 The parties agree, in the circumstances referred to in paragraph 18.1 and if paragraph 18.2 does not apply, to attempt to substitute for any invalid, unenforceable or illegal provision a valid, enforceable and legal provision which achieves to the greatest extent possible the same effect as would have been achieved by the invalid or unenforceable provision.

19 STATUS OF PRE-CONTRACTUAL STATEMENTS

- 19.1 Each of the parties acknowledges in entering into the Terms of Engagement that it does not rely on any undertaking, promise, assurance, statement, representation, warranty or understanding (whether in writing or not) of any person (whether party to the Terms of Engagement or not) relating to the subject matter of this Agreement, other than as expressly set out in the Terms of Engagement.

20 ASSIGNMENT

- 20.1 The Client shall not, without the prior written consent of Efficio, assign, transfer, charge, sub-contract or deal in any other manner with all or any of its rights (including the licence to use Efficio IP) or obligations under this Agreement.
- 20.2 Efficio may at any time assign, transfer, charge, sub-contract or deal in any other manner with all or any of its rights or obligations under this Agreement.

21 RIGHTS OF THIRD PARTIES

- 21.1 This Agreement does not confer any rights on any person or party (other than the parties to this Agreement and, where applicable, their successors and permitted assigns) pursuant to the Contracts (Rights of Third Parties) Act 1999.

22 VARIATION

- 22.1 No variation of the Agreement shall be effective unless it is in writing and signed by the parties (or their authorised representatives).

23 GOVERNING LAW AND JURISDICTION

- 23.1 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.
- 23.2 The parties irrevocably agree that the courts of England and Wales shall have 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).