



VIRTUAL MAIL ROOM LIMITED

TERMS AND CONDITIONS

THIS AGREEMENT is made the DD day of MONTH YYYY

BETWEEN:

VIRTUAL MAIL ROOM LIMITED (a company registered in England and Wales under Co. No: 6128647) whose registered office is situated at Maple House, 11 Briar Road, Twickenham, TW2 6RB ('VMRL'); and

Insert Company Name a company registered in England and Wales under Co No: **Insert Company Number** whose registered office is situated at **INSERT REGISTERED ADDRESS** ("The Customer").

1 SERVICES

- 1.1 VMRL shall provide the services more particularly set out in clause 3 and Schedule 2 (the "Services") to the Customer and the Customer has agreed to engage VMRL on the terms set out in this Agreement.

2 TERM AND TERMINATION

- 2.1 This Agreement shall commence on **DD MONTH YYYY** (the "Commencement Date") and shall be for an initial period of **ENTER VALUE months** ("Initial Period") and shall continue in force thereafter unless and until terminated by either party giving to the other not less than **ENTER VALUE months** prior written notice. For the avoidance of doubt, either party may terminate this Agreement at the expiration (or following the same) of the Initial Period by serving such notice as described (above) at any time during the Initial Period such notice not to expire before the expiration of the Initial Period or (if later) the end of the requisite six (6) months' notice period.
- 2.2 Notwithstanding Clause 2.1, either party may terminate this Agreement immediately upon giving written notice to the other if the other commits a material breach of any of the provisions of this Agreement and, in the case of a breach capable of remedy, fails to remedy the same within 30 days after being required to do so.
- 2.3 This Agreement will automatically terminate if either party is unable to pay its debts as they become due or makes arrangements with its creditors generally or a receiver or administrator is appointed over any of its assets or goes into liquidation or ceases to trade or takes or is subject to any similar action in consequence of debt under the law of any jurisdiction.

- 2.4 The Customer shall have the right to terminate this Agreement immediately in writing in the event that there are repeated failures of the Service Level Agreement (as set out in Schedule 2), constituting 3 failures in a 4 week period or 4 failures in an 8 week period.

3 SERVICES TO BE PROVIDED

3.1 VMRL hereby:

- 3.1.1 agrees to process the data supplied by the Customer to VMRL in accordance with the Specification and the Service Levels set out in Schedule 2 (the "Data");
- 3.1.2 agrees to produce and deliver to the Customer in accordance with the Service Levels reports listing the Output delivery statistics (hereinafter referred to as the "Job Reports"); and
- 3.1.3 without prejudice to its other obligations set out in this Clause 3 and/or otherwise pursuant to this Agreement, agrees to use its reasonable endeavours to ensure that the Services operate correctly and efficiently at all times and shall apply such time, attention, resources, personnel and skill as may be reasonably necessary for the due and proper performance of the Services hereunder.

4 CUSTOMER'S DUTIES

4.1 The Customer shall:

- 4.1.1 Prepare and provide the Data in accordance with the requirements set out in Schedule 2;
- 4.1.2 transfer the Data to VMRL in accordance with the requirements set out in Schedule 2; and
- 4.1.3 monitor all 'confirmation of receipt' emails sent by VMRL confirming Data receipt and notify VMRL promptly of any failure to receive the same. Upon notification, VMRL shall use its best endeavours to identify the reason for such failure (including, without limit, any reasons for any failure to receive data files which the Customer has sent) and will work diligently with the Customer to ensure that the problem is remedied or, if required, a temporary workaround is implemented until a permanent resolution to the problem is achieved.

VMRL shall:

- 4.2.1 comply with all lawful and reasonable directions regarding the Services communicated to it from time to time by the Customer;

- 4.2.2 only be liable for processing the Data which it actually receives and which is delivered to it by the Customer in accordance with this Agreement, provided however that, in the event that the Customer is unable to transfer the Data in such manner for any reason and likewise, VMRL experiencing difficulties in receiving the Data, VMRL will accept the transfer of the Data by another method agreed at the relevant time with the Customer (such agreement, on the part of both parties, not to be unreasonably withheld, delayed or conditioned).

5 CHARGES AND PAYMENTS

- 5.1 The Customer shall, in consideration of the performance of the Services by VMRL in accordance with the terms and conditions of this Agreement, pay to VMRL the charges which fall due under this Agreement in the amounts calculated in accordance with the Charges and VMRL's pricing schedule set out in Schedule 1 ("Price List").
- 5.2 Invoices will be paid by BACs within 30 days of receipt of an accurate invoice. Any errors or queries associated with the invoice must be raised by the Customer with VMRL within 10 working days of receipt.
- 5.3 All charges are stated exclusive of VAT (which shall be payable at the rate and in the manner from time to time prescribed by law) and shall be invoiced to the Customer monthly in arrears and shall be paid to VMRL within 30 days of the date of receipt by the Customer of the relevant invoice. VMRL reserves the right, without prejudice to any other rights it may have, to charge interest at the rate of 2% above HSBC Bank plc's base rate per annum (which shall be calculated pro-rata on a daily basis) as published from time to time ("Late Payment Interest"), in respect of any sum which is due and unpaid, to run from the due date for payment thereof until receipt by VMRL of the full amount in respect of non-payment (or delayed payment) of charges due under this Agreement.
- 5.4 Any changes to postage rates as notified by Royal Mail will be applied to the pricing pro rata without any mark-up as soon as they are imposed by Royal Mail. VMRL shall inform the Customer promptly of any increase in charges imposed by the Royal Mail.
- 5.5 VMRL reserves the right to review charges annually and to raise pricing in line with the prevailing Retail Prices Index (RPI) rate (excluding those imposed by the Royal Mail). VMRL shall give the Customer three (3) months' written notice of any increase in charges (excluding those imposed by the Royal Mail) and upon receipt and acknowledgement of the notice the Customer shall have the option of terminating this Agreement by giving three (3) months written notice. If the Agreement is not terminated before the increase takes effect the Customer shall be deemed to have accepted the increased rates and shall be liable for the increased charges accordingly.

- 5.6 VMRL shall be entitled to suspend the provision of the Services if its undisputed invoices for the Services are not paid when due until such time as the Customer rectifies the matter.

6 CONFIDENTIALITY

- 6.1 For the purposes of this Agreement, “Confidential Information” means, in relation to either party, all information belonging or relating to that party’s business, its associated companies, clients or customers, business plans, affairs or activities, financial or operational information, which information is confidential and/or proprietary to that party, its associated companies, clients or customers (as the case may be) , in whatever form including written, pictorial or oral form, on printed or electronic media, from or pursuant to discussions between the parties, their officers, employees, agents or advisors and/or in the performance of this Agreement. The parties agree that this clause 6 shall apply when one party (“Discloser”) discloses Confidential Information (whether before or after the date of this Agreement) to the other party (“Recipient”).
- 6.2 For the avoidance of doubt, the obligations in clause 6 will not apply to Confidential Information which:
- 6.2.1 is lawfully in the possession of the Recipient prior to the supply of the Confidential Information by the Discloser;
 - 6.2.2 is or has been independently developed by the Recipient;
 - 6.2.3 is or has been rightfully received by the Recipient without an obligation of confidentiality;
 - 6.2.4 is or becomes publicly available anywhere in the world without breach of this Agreement;
 - 6.2.6 is approved in writing for release by the Discloser;
 - 6.2.7 is disclosed by the Recipient in response to a court order or as otherwise may be required by law.
- 6.3 Each party undertakes to the other that it:-
- 6.3.1 will use the Confidential Information only for the purpose of providing the Services;
 - 6.3.2 will treat and safeguard as private and confidential all the Confidential Information received or held by it from the other party at any time.
- 6.4 In addition, VMRL undertakes to the Customer that it:-

- 6.4.1 will not disclose the Confidential Information to any person other than VMRL's officers, employees, agents or advisors who are required in the course of their duties to receive it and shall be responsible for ensuring that its officers, employees, agents and advisors strictly observe the terms of this clause 6 and VMRL shall be responsible for any breach by such officers, employees, agents and advisors;
 - 6.4.2 will not use the Confidential Information directly or indirectly for themselves or any other party to obtain a commercial advantage over the Customer;
 - 6.4.3 will not make any copies or reproduce any documents or extracts of documents containing Confidential Information or in any other way duplicate Confidential Information, except for the purposes of providing the Services. In all such cases, VMRL will operate procedures to control the copying and distribution of the Confidential Information in accordance with this paragraph 6.
- 6.5 The Recipient will ensure that any documents comprising the Confidential Information received by it will at all times be in its possession or under its control and will return to the Discloser or at the Recipient's option destroy, any such documents or copies thereof forthwith in the event that the Agreement is terminated.
- 6.6 In the event of any inconsistency between the terms of this Clause 6 and the Mutual Non-Disclosure Agreement agreed between the parties, the terms of this Clause 6 shall prevail.

7 LIABILITY

- 7.1 Without prejudice to VMRL's obligations set out in this Agreement, VMRL does not accept responsibility for loss or damage arising from or consequential upon the Customer's act or default in relation to illegible information or documents, the late arrival or non-arrival of the Data, incorrect Data, Data out of sequence in the wrong format, or not in accordance with the requirements set out in Schedule 2. VMRL reserves the right at its discretion, either to refuse to process such Data or to charge for any additional work required as a result of any of the faults listed in this clause provided that the Customer is informed of the cost of such additional work and has approved the same.
- 7.2 VMRL's total liability under this Agreement (excluding liability pursuant to clause 7.3) shall not in any circumstances exceed the total sum payable for one (1) year's service provision under this Agreement to VMRL in charges.
- 7.3 VMRL's liability for death and personal injury caused by the negligence of VMRL or its employees acting in the course of their employment shall not be limited or excluded.
- 7.4 The Customer warrants that:

- 7.4.1 it has obtained all permissions and consents required by it to enter into this Agreement;
 - 7.4.2 it shall provide VMRL with all assistance, information and all the Data that is reasonably and properly required by VMRL for the purposes of enabling it to provide the Services under this Agreement; and
 - 7.4.3 that it is entitled to provide to VMRL all the Data for use in connection with the performance of the Services without recourse to any third party.
- 7.5 The Customer shall use its reasonable endeavours to ensure that the material provided by the Customer to VMRL does not contain any information or material which:
 - 7.5.1 is or may be defamatory or of an obscene nature; or
 - 7.5.2 constitutes an infringement of the intellectual property rights of any third party; or
 - 7.5.3 would make the Services unlawful or involve or facilitate the commission of a criminal offence in the United Kingdom.
- 7.6 Notwithstanding any other provision in this Agreement, solely in respect of breaches by the Customer of clause 7.5 the Customer shall indemnify and keep indemnified and hold harmless VMRL against any liability, costs (including legal costs on a full indemnity basis), losses, expenses, claims and damages actually incurred by VMRL as a direct result of any failure by the Customer to comply with clause 7.5. This clause 7.6 is conditional on:
 - 7.6.1 VMRL notifying the Customer in writing as soon as reasonably practicable of any claims falling under clause 7.5 of which it has notice;
 - 7.6.2 VMRL not making any admission as to liability or compromise or agreeing to any settlement of any such claim without the prior written consent of the Customer;
 - 7.6.3 The Customer having, at its own expense, the conduct of or the right to settle all negotiations and litigation arising from any such claim and VMRL giving the Customer all reasonable assistance in connection with those negotiations and such litigation at the Customer's request and expense

8 **FORCE MAJEURE**

- 8.1 For the purposes of this Agreement, the expression "Force Majeure" shall mean an event which is beyond the reasonable control of an affected party. Any event will only be considered Force Majeure if it is not attributable to the wilful act, neglect, default or other failure to take reasonable precautions of the party seeking to benefit from the operation of the remainder of this clause 8, its agents, employees or contractors. Industrial dispute or action at VMRL or the Customer shall not give rise to an event of Force Majeure but shall be an event of Force Majeure (subject to clause 8.4 below) to the extent that it occurs in relation to a third party and adversely affects VMRL or the Customer.
- 8.2 Provided it has complied with the remainder of this clause, no party shall in any circumstances be liable to the other for any breach of this agreement or loss of any kind whatsoever, including, but not limited to, any damages, whether directly or indirectly caused to or incurred by the other party by reason of any failure or delay in the performance of its obligations hereunder which is due to Force Majeure. Notwithstanding the foregoing, each party shall use all reasonable endeavours to mitigate the effects of any event of Force Majeure (including if such event could reasonably be anticipated, by means of insurance, contingency planning or any other prudent business means) and to continue to perform, or resume performance of, such obligations hereunder for the duration of such Force Majeure event.
- 8.3 If any party shall become aware of circumstances of Force Majeure which give rise to or which are likely to give rise to any failure or delay on its part, it shall with immediate effect notify the other party by the most expeditious method then available and shall inform the other party of the period for which it is estimated that such failure or delay shall continue.
- 8.4 It is expressly agreed that any failure by VMRL to perform, or any delay by VMRL in performing, its liabilities, obligations and responsibilities under this Agreement which results from any failure or delay in the performance of its obligations by any person or business with which VMRL shall have entered into any contract, supply arrangement, sub-contract or otherwise, shall be regarded as a failure or delay due to Force Majeure only in the event that such person or business shall itself be prevented from or delayed in complying with its obligations under such contract, supply arrangement, sub-contract or otherwise as a result of circumstances of Force Majeure.
- 8.5 In the event of any event of Force Majeure subsisting for a period of 1 month or more:
- 8.5.1 the Customer may, forthwith by notice to VMRL, terminate the Agreement with immediate effect without any cost or liability whatsoever;

- 8.5.2 VMRL may, forthwith by notice to the Customer, terminate this Agreement and be discharged without further liability or obligations under this Agreement.
- 8.5.3 For the avoidance of doubt, it is hereby expressly declared that the only events which shall afford relief from liability for failure or delay shall be an event qualifying for Force Majeure hereunder or as otherwise expressly provided in this Agreement.
- 8.5.4 Nothing in this Agreement shall be taken as preventing the Customer from using any alternative facilities to meet its business needs during the continuance of Force Majeure.
- 8.6 For the avoidance of doubt, the Customer shall not be liable to pay the charges in respect of any activities not carried out due to Force Majeure.

9 DATA PROTECTION

- 9.1 VMRL acknowledges that for the purpose of the Data Protection Laws it is the Data Processor and the Customer is the Data Controller of any Personal Data provided to it by the Customer under this Agreement.
- 9.2 VMRL shall not (and shall ensure that any employee, agent or contractor shall not) Process Personal Data other than on the Customer's instructions unless Processing is required by Applicable Laws to which VMRL is subject, in which case VMRL shall to the extent permitted by Applicable Laws inform the Customer of that legal requirement before the relevant Processing of that Personal Data.
- 9.3 The Customer instructs VMRL to Process Personal Data as reasonably necessary for the provision of the services under this Agreement and Schedule 2.
- 9.4 Schedule 2 sets out certain information regarding the Processing of Personal Data as required by article 28(3) of the GDPR. The Customer may make reasonable amendments to Schedule 2 by written notice to VMRL from time to time as the Customer reasonably considers necessary to meet those requirements. Nothing in Schedule 2 (including as amended pursuant to this clause 1.4) confers any right or imposes any obligation on any Party.
- 9.5 VMRL shall notify the Customer immediately if it considers that any of the Customer's instructions infringe the Data Protection Legislation.

- 9.6 VMRL shall take reasonable steps to ensure the reliability of any employee, agent or contractor who may have access to the Personal Data, ensuring in each case that access is strictly limited to those individuals who need to know / access the relevant Personal Data, as strictly necessary for the purposes of this Agreement, and to comply with Applicable Laws in the context of that individual's duties, ensuring that all such individuals are subject to confidentiality undertakings or professional or statutory obligations of confidentiality, and that they have undergone adequate training in the use, care, protection and handling of Personal Data.
- 9.7 VMRL shall assist the Customer by implementing appropriate technical and organisational measures, insofar as this is possible, for the fulfilment of the Customer's obligations, as reasonably understood by the Customer, to respond to requests to exercise Data Subject rights under the Data Protection Laws. VMRL shall promptly notify the Customer if any request is received from a data subject under any Data Protection Law in respect of Personal Data processed on behalf of the Customer. VMRL shall ensure that it does not respond to that request except on the documented instructions of the Customer or as required by Applicable Laws, in which case VMRL shall to the extent permitted by the Applicable Laws inform the Customer of that legal requirement before it responds to the request.
- 9.8 VMRL shall notify the Customer without undue delay upon becoming aware of a Personal Data Breach affecting Personal Data processed under this Agreement, providing the Customer with sufficient information to allow the Customer to meet any obligations to report or inform Data Subjects of the breach under the Data Protection Laws. VMRL shall co-operate with the Customer and take such reasonable steps as are directed by the Customer to assist in the investigation, mitigation and remediation of each such Personal Data Breach.
- 9.9 VMRL may retain Personal Data to the extent required by Applicable Laws and only to the extent and for such period as required by Applicable Laws and always provided that VMRL shall ensure the confidentiality of all such Personal Data and shall ensure that such Personal Data is only processed as necessary for the purpose(s) specified in the Applicable Laws requiring its storage and for no other purpose.
- 9.10 VMRL will not transfer Personal Data which they have obtained through this Agreement to countries outside the United Kingdom except with the prior written consent of the Customer.
- 9.11 Each party warrants to the other that it will process the Data in compliance with the requirements of any data protection legislation.

- 9.12 VMRL warrants and represents that it will, having regard to the state of technological development and the cost of implementing any measures, take appropriate technical and organisational measures against the unauthorised or unlawful processing of the Data and against the accidental loss or destruction of, or damage to, the Data to ensure a level of security appropriate to:
- 9.12.1 the harm that might result from such unauthorised or unlawful processing or accidental loss, destruction or damage; and
 - 9.12.2 the nature of the information to be protected; and
 - 9.12.3 take reasonable steps to ensure compliance with those measures
- 9.13 The Supplier acknowledges that the Customer will provide the following personal data to the Supplier :
- (a) Full name and address
 - (b) Contact Telephone Number
 - (c) Claim number
 - (d) National Insurance Number
 - (e) Job Title
 - (f) Employer Name
 - (g) Employment Start Date

10 LAW AND JURISDICTION

- 10.1 This Agreement shall be governed and construed in accordance with the laws of England and the parties hereto hereby submit irrevocably to the exclusive jurisdiction of the English courts.

11 GENERAL

- 11.1 This Agreement and its Schedules constitute the entire understanding between the parties relating to the subject matter of this Agreement and, save as may be expressly referred to or referenced herein, supersedes all prior representations, writings, negotiations or understandings with respect hereto, except in respect of any fraudulent misrepresentation made by a party.
- 11.2 This Agreement does not create, and shall not be construed as creating, any enforceable benefit or any right of action under the Contracts (Rights of Third Parties) Act 1999 which is enforceable by any person who is not party to it.
- 11.3 If any provision of this Agreement is held to be invalid, illegal or unenforceable for any reason by any court of competent jurisdiction, such provision shall be severed and the remainder of the provisions hereof shall continue in full force and effect as if this Agreement had been executed with the invalid, illegal or unenforceable provision eliminated

11.4 In the event of any such severance, the parties shall negotiate in good faith with a view to replacing the provisions so severed with legal and enforceable provisions that have similar economic and commercial effect to the provisions so severed.

11.5 Nothing in this Agreement shall be construed as creating a partnership, a contract of employment or a relationship of principal and agent between the Customer and VMRL. VMRL shall at all times act as a non-exclusive independent contractor in connection with this Agreement.

12 ASSIGNMENT

12.1 VMRL may not assign any right, nor delegate or sub-contract any duty under this Agreement to any person or entity without prior written consent of the Customer (such consent cannot be reasonably withheld), except as specified in Schedule 2 provided that VMRL shall in any event remain primarily liable to the Customer for its obligations and liabilities under this Agreement notwithstanding any such assignment or sub-contract and provided that any subcontractor is bound to comply with terms which are substantially the same as those set out in this Agreement.

SIGNED for and on behalf of

VIRTUAL MAIL ROOM LIMITED

Title: Director

SIGNED for and on behalf of

CUSTOMER

Title:

SCHEDULE 1

Price List

Valid from DD MONTH YYYY

SCHEDULE 2
Service Level Agreement