



Enterprise Mobility Management (EMM) Managed Services Agreement

Nuffield Technologies Limited

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SCHEDULE OF SERVICES

Parties

Service Company	Name: <i>Nuffield Technologies Limited</i> Company Number: 04619513 Registered Address: Unit 4 Acorn Business Park, Ling Road, Poole, BH124NZ
Client	Name: [insert] Company Number: [insert] Registered Address: [insert]

Schedule

Engagement Period	
Term:	
Start Date	[insert]
Expiry Date	[insert] OR [N/A - these Terms will continue until terminated]

Services			
Foundation Services	Included – yes/no		
Operational Management	Included – yes/no		
Reactive Management	Included – yes/no		
Proactive Management	Included – yes/no	Cadence	[Monthly/Quarterly/Annually]
Android Assurance Service	Included – yes/no		

Fees & Payment	
Service Fee and Invoicing	[The Services are provided on a fixed term of sixty (60) months commencing on the Service Start Date. The Service Fees shall be funded via an approved third-party finance provider engaged by the Client. The Client acknowledges and agrees that: (a) the Client's payment obligations to the finance provider are separate and independent from this Agreement; (b) the Service Provider has no responsibility or liability for the finance provider's terms or performance; and (c) the Client remains liable for all Service Fees due under this Agreement in the event of

any default or termination of the financing arrangement.] or [The Services are provided on an annual subscription basis.

The Service Fees shall be invoiced annually in advance and are payable within [14] days of the invoice date.

Access to the Services and commencement of the Service Term is conditional upon receipt of the first annual payment.] or [The Services are provided on a monthly billing basis.

The Service Fees shall be invoiced monthly in advance and are payable within [14] days of the invoice date.

Where a minimum Service Term applies, monthly payments shall remain payable for the full minimum term notwithstanding early termination, except where termination arises due to the Service Provider's material breach.]

Invoicing Terms

Additional Service Fees – Upon completion of the Additional Services.

Payment Terms

The Client must pay each tax Invoice submitted by Service Provider within All invoices must be paid by their due date as detailed on the invoice. If no due date is detailed, the due date will be 14 days from the date of the invoice.

Decommi ssioning Fee

In accordance with the provisions of clauses 16.2 and 16.3, the Decommissioning Fee payable will be [insert either a specific amount, or a percentage of the annual fees].

Data Processin g Purpose

[See clause 14 and insert details if applicable]

Applicable Device Details

No. of Devices Details of Devices for EMM

Acceptance

The terms of this Services Schedule and the Terms and Conditions attached or linked to it will become binding on the Client upon the Client accepting them by signing them.

By signing below the parties agree to enter into the agreement contained in this Services Schedule and the Terms and Conditions attached.

Executed by Nuffield Technologies Limited by being)
signed by:)

Signature of Director

Full Name of Director

Date

Executed by the Client, by being signed by:)
)

Signature of Director

Full Name of Director

Date

Terms and Conditions

1 DEFINITIONS AND INTERPRETATION

- (a) Capitalised terms or expressions used in these Terms have the meaning set out in this clause.

Term	Meaning
Additional Services	the additional enterprise mobility management managed services as set out in the Schedule.
Additional Service Fee	the fees for the Additional Services as set out in the Schedule.
Android Assurance Service	means the services set out in clause 6.
Applicable Laws	any laws or regulations, regulatory policies, guidelines or industry codes which apply to the exercise of the parties' rights or the performance of their obligations under these Terms, however in all cases Service Provider shall only be responsible for compliance with the laws of England and Wales.
Intellectual Property Rights	means any and all present and future intellectual and industrial property rights throughout the world (whether registered or unregistered), including copyright, trade marks, designs, patents, moral rights, semiconductor and circuit layout rights, trade, business, company and domain names, and other proprietary rights, trade secrets, know-how, technical data, confidential information and the right to have information kept confidential, or any rights to registration of such rights (including renewal), whether created before or after the date of this agreement.
Client Data	means any documents or materials supplied by the Client to Service Provider under or in connection with this agreement or the Key Agreement Details, including any Intellectual Property Rights attaching to those materials.
EMM Platform	means the Mobile Device Management ("MDM") platform configured and operated by the Service Provider.
Foundation Services	means initial MDM design, configuration and deployment services described in the Schedule.
Managed Devices	means the Android Enterprise devices approved for onboarding under the Service as set out in the Schedule.
OEM Support Agreement	means manufacturer-backed device support contracts.
Operational Management Services	means ongoing device estate administration, eligibility management, configuration maintenance and operational oversight activities as described in clause 3.
Proactive Security and Lifecycle Management	means patching, OS updates, firmware management and lifecycle governance as may be further detailed in these Terms.
Reactive Management Services	means unplanned activities initiated in response to incidents, faults or service degradation affecting supported devices or users.
Schedule	the Schedule of Services provided by Service Provider to the Client.
Service Fee	has the meaning given in clause 9(a).

Term	Meaning
Service Provider IP	means all materials owned or licensed by Service Provider that is not Developed IP or Third Party IP and any Intellectual Property Rights attaching to those materials.
Service Levels	means response and resolution targets set out in Service Provider's Support and Maintenance Policy found at the link provided to Client upon signature hereof.
Services	the enterprise mobility management managed services set out in the Schedule to be provided by Service Provider to the Client, in accordance with these Terms. It includes the Additional Services where Service Provider agrees to provide them.
Start Date	the date as set out in the Schedule or some other date as agreed between the parties in writing.
Term	has the meaning given in clause 2(a).
Terms	means these Terms and Conditions and the Schedule.
Third Party IP	Means all materials owned or licensed by any Third Party Supplier and any Intellectual Property Rights attaching to those materials.
VAT	Means value added tax and has the same meaning given to it under the <i>Value Added Tax Act 1994</i> .

- (b) In these Terms, unless inconsistent with the context or subject matter:
- (i) a reference to a person includes any other legal entity and vice versa;
 - (ii) words importing the singular number include the plural number and vice versa;
 - (iii) a reference to a party includes the party's heirs, executors, successors and permitted assigns;
 - (iv) headings are for reference purposes only and must not be used in interpretation;
 - (v) a reference to a statute includes all regulations and subordinate legislation and amendments;
 - (vi) a reference to a monetary amount is a reference to a currency in England and Wales amount unless otherwise agreed in writing between the parties;
 - (vii) an obligation of two or more parties binds them jointly and each of them severally;
 - (viii) an obligation incurred in favour of two or more parties is enforceable by them severally;
 - (ix) references to time are to local time in England and Wales;
 - (x) a reference to a business day means a day that is not a Saturday, Sunday or public holiday in England and Wales;
 - (xi) if any time period specified in these Terms expires on a day which is not a business day, the period shall expire at the end of the next business day.

2 ENGAGEMENT OF SERVICE PROVIDER

- (a) This Agreement will start on the Start Date and will continue until terminated in accordance with clause 16.2, unless the Schedule states an expiry date in which case these Terms will end on that date unless otherwise agreed (**Term**).
- (b) Service Provider agrees, in exchange for the Service Fees, to provide the Services to the Client during the Term in the manner as specified in the Schedule in accordance with the terms of these Terms.
- (c) The Services will be delivered as a managed service with defined governance, change control and reporting arrangements.
- (d) Service Provider may determine the manner or means by which it performs the Services for the Client, including but not limited to the time and place for performance of the Services.

3 FOUNDATIONAL AND OPERATIONAL EMM SERVICES

- (a) Foundational Services
 - (i) The Services comprise the configuration of the EMM Platform in order to manage the Client's Managed Devices, as set out in the Schedule, and are intended to support the secure, compliant and operational use of such devices in business-critical environments.
 - (ii) The Service Provider shall provide device provisioning and enrolment services, including:
 - (A) enrolment of Devices into the approved Mobile Device Management (MDM) platform;
 - (B) deployment of baseline configurations, security policies, approved applications, and supported accessories;
 - (C) initial configuration and provisioning of Devices for operational use;
 - (D) pilot deployment and validation, where applicable; and
 - (E) preparation of deployment documentation and operational handover materials.
 - (iii) The Services include maintaining an electronic inventory of Managed Devices within the EMM Platform, including device status, compliance posture and lifecycle state information, subject to platform capabilities.
 - (iv) FOUNDATIONAL DEPLOYMENT SERVICES
 - (A) The Service Provider may provide professional services to support deployment, onboarding and configuration of the EMM environment, where specified in the Schedule.
 - (B) Professional services may include:
 - (I) design and configuration of the EMM platform;
 - (II) baseline policy and configuration development;
 - (III) device provisioning and deployment support;
 - (IV) pilot deployments and validation activities;
 - (V) documentation and operational handover.
 - (C) Professional services shall be delivered on a time and materials or fixed-price basis as specified in the Schedule.
 - (D) Unless expressly agreed, professional services do not include application development, hardware procurement or network infrastructure services.

- (b) Operational Management Services
 - (i) Only Managed Devices approved by the Service Provider shall be eligible for inclusion in the managed device estate.
 - (ii) The Service Provider may decline to onboard or continue to support devices which, in its reasonable professional opinion:
 - (A) are end-of-life or end-of-support as defined by the manufacturer;
 - (B) do not have published commitments for operating system or security patch availability;
 - (C) present material operational or security risks; or
 - (D) are incompatible with the supported EMM platform or agreed service configuration.
 - (iii) Where the Service Provider agrees to support devices that fall outside recommended eligibility criteria, such support shall be subject to the Client providing written acceptance of the associated risks and may be subject to documented service limitations.
 - (iv) The Service Provider may require the removal or replacement of devices from the managed estate where continued support would compromise security, compliance or service integrity.
- (c) The Service Provider provide the Services to the Client in accordance with this Agreement.
- (d) The Service Provider shall provide the Services using appropriately skilled personnel, and generally with reasonable skill and care.
- (e) The Service Provider shall configure, enforce and operate technical security controls within the EMM platform to enforce the agreed device security baseline.
- (f) Security controls may include, where applicable:
 - (i) encryption and authentication requirements;
 - (ii) access control and compliance policies;
 - (iii) application management restrictions; and
 - (iv) remote security actions including device lock, wipe and access revocation.
- (g) The Service Provider shall support secure device decommissioning processes including, where supported by the EMM Platform:
 - (i) remote data wipe and credential revocation;
 - (ii) removal of corporate profiles and managed applications; and
 - (iii) deregistration of devices from managed environments.
- (h) Final physical disposal and recycling of any part (and all of) the Managed Devices remains the responsibility of the Client unless otherwise expressly agreed in the Schedule.
- (i) Where supported by the EMM Platform, the Service Provider may perform proactive compliance monitoring to identify non-compliant devices and security posture deviations

4 REACTIVE MANAGEMENT SERVICES

- (a) The Service Provider shall provide incident support and operational assistance in accordance with the Service Levels and the Service Provider's Support and Maintenance Policy generally.
- (b) The Service Provider shall:
 - (i) log and categorise reported incidents;

- (ii) perform technical triage and fault diagnosis;
 - (iii) provide remote remediation actions where supported by the EMM platform; and
 - (iv) communicate progress updates in accordance with the applicable Service Level targets.
- (c) Service Levels represent performance objectives and not guarantees and may be impacted by:
 - (i) third-party dependencies, including OEM and platform providers;
 - (ii) Client response and approval timelines;
 - (iii) device hardware limitations; and
 - (iv) circumstances outside the reasonable control of the Service Provider.
- (d) Physical hardware repair services are excluded from the Services and remain subject to manufacturer warranty and OEM support arrangements unless otherwise expressly agreed.

5 PROACTIVE SECURITY AND LIFECYCLE MANAGEMENT SERVICES

- (a) Subject to manufacturer support availability and device eligibility, the Service Provider shall manage the planned deployment of:
 - (i) operating system updates;
 - (ii) OEM firmware updates;
 - (iii) security patches; and
 - (iv) configuration changes directly related to such updates.
- (b) Patch deployment activities may include:
 - (i) planned and scheduled in advance where practicable;
 - (ii) subject to validation and testing processes where supported;
 - (iii) deployed using staged or phased rollout methodologies where appropriate; and
 - (iv) subject to Client approval prior to wide-scale deployment.
- (c) Devices that are no longer eligible to receive manufacturer security updates may be deemed non-compliant and may be removed from active service, and therefore the Service Provider's obligations hereunder.
- (d) The Service Provider shall not be responsible for delays or limitations arising from manufacturer release schedules, OEM support constraints or third-party platform dependencies.

6 ANDROID ASSURANCE SERVICE

Where the Client operates Device estates with heightened availability, scale or security requirements, the Client may subscribe to the **Android Assurance Service** as an optional add-on service. If it does, the following provisions apply:

- (a) The Android Assurance Service enhances the Proactive Security and Lifecycle Management Services and includes:
 - (i) automated and manual pre-deployment testing of operating system, firmware and approved application updates;
 - (ii) accelerated validation cycles for update readiness; and
 - (iii) controlled release support to increase confidence in update stability and security patch deployment.

- (b) The Android Assurance Service is designed for large-scale Zebra Device estates and operational environments where service interruption or application downtime presents material operational risk.
- (c) Delivery of the Android Assurance Service shall be subject to the applicable Service scope, deployment volumes, validation parameters and commercial terms set out in the Schedule.

7 CHANGE MANAGEMENT AND SERVICE GOVERNANCE

- (a) The Service Provider shall operate the Services in accordance with documented operational procedures and governance arrangements.
- (b) Material changes affecting device configuration, security posture, patch deployment, service scope or lifecycle management shall be subject to the Change Control Procedure below:
 - (i) Either party may submit a written change request ("**Change Request**") describing the proposed change.
 - (ii) The Service Provider shall assess impact on:
 - (A) service scope;
 - (B) security;
 - (C) delivery timelines;
 - (D) fees.
- (c) No material change shall be implemented without the Client's prior written approval. Approved changes shall be recorded as a written change order forming part of this Agreement.
- (d) The Service Provider shall not be obliged to implement unapproved or unsupported changes.
- (e) Governance activities may include periodic service reviews, operational reporting and lifecycle planning sessions where agreed.

8 CLIENT RESPONSIBILITIES

- (a) The Client shall:
 - (i) provide accurate and complete information reasonably required for service delivery;
 - (ii) ensure that devices submitted for onboarding meet agreed eligibility requirements;
 - (iii) maintain active OEM support agreements where required for patching and repair coordination;
 - (iv) maintain active support agreements for any software installed on any Managed Devices;
 - (v) provide timely approvals and responses required to enable service delivery;
 - (vi) comply with applicable laws and public sector security policies relevant to device usage.
- (b) The Client remains responsible for:
 - (i) physical custody and security of devices;
 - (ii) network connectivity and mobile data services;
 - (iii) user behaviour and acceptable use compliance;
 - (iv) password, credential and authentication management;

- (A) creation, maintenance and administration of user credentials and authentication factors;
 - (B) management of identity providers, directory services and single sign-on (SSO) configurations;
 - (C) enforcement of password policies, multi-factor authentication requirements and access control rules;
 - (D) management of user access rights, role assignments and joiner, mover and leaver processes; and
 - (E) timely revocation of access following device loss, user termination or security incidents.
- (v) hardware insurance and asset management unless otherwise agreed.
- (c) The Service Provider shall not be responsible for service degradation resulting from Client failure to meet its obligations under this clause.

9 FEES AND PAYMENT

- (a) In consideration of Service Provider providing the Services, the Client must pay to Service Provider the Service Fee calculated in accordance with the Schedule.
- (b) Service Provider may also provide Additional Services to the Client upon request (in its discretion), and the Client must pay Service Provider the Additional Service Fee for such Additional Services in accordance with the Schedule.
- (c) Service Provider will provide a tax invoice (**Tax Invoice**) to the Client for all fees and charges at the times as specified in the Schedule.
- (d) The Client must pay each Tax Invoice submitted by Service Provider on the payment terms as set out in the Schedule.
- (e) The Client must make all payments without set-off or counterclaim. Payment of the Service Fee is not dependent on receipt of the Tax Invoice.
- (f) If the Client does not pay Service Provider the amounts due and payable under an invoice on or before its due date, without limiting any of Service Provider's other rights under this agreement, the Client must pay Service Provider interest at the rate of 8% per annum on each amount outstanding, from the due date for payment to the date on which the payment is received by Service Provider, plus any other amount Service Provider is entitled to claim under law including *The Late Payment of Commercial Debts (Interest) Act 1998*.
- (g) Unless expressly stated otherwise, amounts stated in a Schedule of Services or these Terms do not include VAT. In relation to any VAT payable for a taxable supply by Service Provider, the Client must pay the VAT subject to Service Provider providing a tax invoice.

10 INTELLECTUAL PROPERTY

10.1 CLIENT DATA

- (a) The Client grants to Service Provider (and its subcontractors, employees or agents) a non-exclusive, royalty free, non-transferable, worldwide and irrevocable licence to use the Client Data to the extent reasonably required to perform any Services.
- (b) The Client:
 - (i) warrants that Service Provider's use of Client Data as contemplated by the Key Agreement Details will not infringe any third-party Intellectual Property Rights; and
 - (ii) will indemnify Service Provider from and against all losses, claims, expenses, damages and liabilities (including any taxes, fees or costs) which arise out of such infringement.

10.2

IP

- (a) Each party retains ownership of its Background IP.
- (b) The Service Provider retains ownership of service tooling, automation and platform configurations.
- (c) No transfer of intellectual property is implied.

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THIRD PARTY SUPPLIERS

- (a) OEM warranties, hardware repair services and support agreements remain subject to manufacturer terms.
- (b) The Service Provider coordinates but does not replace OEM contractual obligations.

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RELATIONSHIP OF THE PARTIES

- (a) The parties acknowledge that:
 - (i) Service Provider is engaged by the Client as an independent contractor and nothing in these Terms creates or constitutes a relationship of employer and employee, principal and agent, trustee and beneficiary or of partnership or joint venture between the parties; and
 - (ii) Service Provider provides the Services to the Client on a non-exclusive basis, and is free to provide its services to third parties during the Term.
- (b) Unless specifically authorised to do so by the Client in writing:
 - (i) Service Provider has no authority to incur expenditure in the name, or for the account, of the Client; and
 - (ii) Service Provider must not make any representations, warranties or undertakings on behalf of the Client or hold itself out as having authority to bind the Client except to the extent necessary to properly provide the Services (as determined by Service Provider acting reasonably).

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DELEGATION AND SUBCONTRACTING

- (a) Service Provider shall not subcontract any material part of the Services without the prior written consent of the Client (not to be unreasonably withheld or delayed).
- (b) Service Provider will use reasonable endeavours to ensure that such persons comply with the provisions of these Terms, however a breach by such persons of these Terms will not be deemed a breach by Service Provider, that said, the Service Provider remains responsible for ensuring the performance of all Services.

14

DATA & PRIVACY

14.1

DATA PROTECTION

- (a) Words and phrases in this section shall have the meaning given to them by applicable data protection and privacy laws, including the General Data Protection Regulation 2016/679 (**GDPR**) and applicable national legislation that implements or supplements the GDPR or otherwise applies to data protection and privacy, and any statutory instrument, order, rule or regulation made thereunder, as from time to time amended, extended, re-enacted or consolidated (**Data Protection Legislation**) and the terms “controller”, “processor”, “process” and “personal data” shall have the meanings given to those terms in such Data Protection Legislation.

- (b) During and after the delivery of the Services, the Client acknowledges that the Service Provider acts as an independent controller in respect of personal data processed for its own legitimate business purposes, including::
 - (i) account administration, service delivery management, billing and contract management;;
 - (ii) support communications and operational service management;
 - (iii) compliance with legal, regulatory and audit obligations;;
 - (iv) internal business operations, including corporate governance, business restructuring, merger or acquisition activity; and; and
 - (v) marketing communications where the Client has provided valid consent or where otherwise permitted by applicable law.
- (c) To the extent that the Service Provider processes personal data via the Enterprise Mobility Management (EMM) platform or related device management services on behalf of the Client, the Service Provider shall act as a processor and the Client shall act as the controller for the purposes of the Data Protection Legislation. This processor activity may include, without limitation:
 - (i) device identifiers and technical device telemetry;
 - (ii) user account identifiers associated with managed devices;
 - (iii) application management metadata;
 - (iv) security policy enforcement data; and
 - (v) compliance and configuration status data.
- (d) Where acting as a processor, the Service Provider shall process personal data solely on the documented instructions of the Client. Prior to commencing such processing, the parties shall, to the extent not included in the above, document:
 - (i) the subject matter and duration of the processing;
 - (ii) the nature and purpose of the processing;
 - (iii) the categories of personal data and data subjects; and
 - (iv) any applicable security or compliance requirements,
 in the Schedule.
- (e) The Service Provider shall implement appropriate technical and organisational measures to protect personal data processed on behalf of the Client against unauthorised or unlawful processing, accidental loss, destruction or damage.. The Client authorises the Service Provider to engage sub-processors for infrastructure, hosting, support and operational delivery purposes, provided that equivalent data protection obligations are imposed on such sub-processors.
- (f) The Client warrants that it has identified a valid lawful basis for any personal data provided to the Service Provider and that it has complied with all applicable transparency and notice obligations under the Data Protection Legislation.. The Client remains responsible for determining the purposes and means of processing carried out through the EMM platform and for ensuring that its end users are informed of such processing.
- (g) Each party shall comply with the terms of the Data Protection Legislation.

14.2 THIRD PARTY DATA

- (a) The Client warrants, in relation to the personal information and all other data that it provides to Service Provider in connection with this agreement (**Third Party Data**), that:
 - (i) the Client has all necessary rights in relation to Third Party Data, such that the Services can be performed in respect of that data;

- (ii) the Client is not breaching any Law by providing Service Provider with Third Party Data;
 - (iii) Service Provider will not breach any Law by performing the Services in relation to any Third Party Data;
 - (iv) there are no restrictions placed on the use of the Third Party Data (including by any Third Party Terms) and if there are any such restrictions, the Client has notified Service Provider of this, and Service Provider has agreed to perform the Services in respect of that data (being under no obligation to do so); and
 - (v) Service Provider will not breach any Third Party Terms by performing the Services in relation to any Third Party Data.
- (b) The Client agrees at all times to indemnify and hold harmless Service Provider and its officers, employees and agents from and against any loss (including reasonable legal costs) or liability incurred or suffered by any of those parties, where such loss or liability was caused or contributed to a breach of a warranty in clause 14.2(a)).

15 INDEMNITIES

- (a) Except to the extent caused or contributed to by the negligent act or omission, wilful misconduct or breach of these Terms by Service Provider, the Client indemnifies Service Provider against any direct losses, liabilities, costs, charges or expenses and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other reasonable professional costs and expenses suffered or incurred by Service Provider arising out of or in connection with:
- (i) any claim made against Service Provider and/or the Client by a third party arising out of or in connection with the provision of the Services;
 - (ii) any reliance by the Client or a third party on the Services or any advice, information or deliverable provided in connection with the provision of the Services and/or these Terms;
 - (iii) any negligent act, omission or wilful misconduct of the Client.
- (b) The Client must make payments under this clause 14:
- (i) in full without set-off or counterclaim, and without any deduction in respect of taxes unless prohibited by law; and
 - (ii) in the currency in which the payment is due, and otherwise in pound sterling, in immediately available funds.

16 LIMITATION OF LIABILITY

- (a) Service Provider provides the Services on an “as is” basis and without any warranties, representations, or conditions of any kind, whether express, implied or statutory, to the extent permitted by law. Subject to the other terms of this clause, Service Provider excludes all rights, representations, guarantees, conditions, warranties, undertakings, remedies or other terms in relation to the Services that are not expressly set out in these Terms to the maximum extent permitted by law. The Client relies on the Services at its own risk.
- (b) To the maximum extent permitted by the applicable law, neither Service Provider, nor any of Service Provider’s employees, contractors, directors, officers or agents (**Personnel**) will be liable to the Client for:
- (i) any incidental, punitive, indirect, special or consequential damage, loss or expenses, including but not limited to any loss of business, contracts, revenue, or profits, any business interruption, security breach, loss of data, loss of goodwill or reputation or other pecuniary loss suffered by the Client, even if Service Provider or any of its Personnel have been advised of their possible existence, arising in connection with the provision of the Services or this agreement; nor

- (ii) any direct damage loss or expenses arising from loss of customers, loss of profits, loss of anticipated profits or loss of savings, arising in connection with the provision of the Services or this agreement.
- (c) To the extent that the provisions of any applicable law shall impose restrictions on the extent to which liability can be excluded under this agreement or in connection with the provision of the Services including, for the avoidance of doubt, the provisions of sections 3, 6 and 11 of the Unfair Contract Terms Act 1977 in England and Wales (and its equivalent in any other jurisdiction) relating to the requirement of reasonableness, the exclusions set out in this clause shall be limited in accordance with such restrictions. However, any exclusions of liability that are not affected by such restrictions shall remain in full force and effect.
- (d) Without prejudice to the limitation of liability provisions above, in the event that the Client incurs any loss, damage or expense arising out of this agreement, the Client agrees that Service Providers maximum liability to the Client shall be limited to the total amounts paid by the Client to Service Provider for the provisions of the Services under which the liability arose in respect of the 12 months prior to the claim arising.
- (e) This clause applies to the fullest extent permitted by law and shall survive any termination or expiration of these Terms.

16.2 TERMINATION

- (a) Either party may terminate these Terms by giving the other party 30 days' written notice.
- (b) In addition to the rights set out under clause 16.2(a), either party (the **non-defaulting party**) may terminate these Terms with immediate effect by giving written notice to the other party if the other party commits a breach of any term of these Terms and fails to remedy that breach within a period of 7 days after the other party has received written notice requesting it to do so.
- (c) The rights available to a party under this clause 16.2 do not affect any other right or remedy otherwise available to it.

16.3 CONSEQUENCES OF TERMINATION

- (a) On termination or expiry of these Terms:
 - (i) the Client shall promptly pay to the Service Provider all undisputed fees:
 - (A) properly accrued and payable in respect of Services performed up to the effective date of termination or expiry; and
 - (B) where a minimum service term or contractual notice period applies, falling due in respect of Services delivered during such minimum term or notice period,

whether or not such amounts have been invoiced at the date of termination, and the Service Provider may issue a final invoice for such amounts, which shall be payable in accordance with the standard payment terms.
 - (ii) any amounts that Service Provider would have otherwise been paid under these Terms had they not been terminated will become immediately due and payable. The amount payable hereunder must be paid to Service Provider within 7 days following receipt by the Client of a Tax Invoice for the amount.
 - (iii) the Client will, in addition to any amounts due as set out above, pay the Service Provider the Decommissioning Fee, payable to the Service Provider within 7 days following receipt by the Client of a Tax Invoice for the amount.
- (b) Termination or expiry of these Terms does not affect any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination or expiry, including the right to claim damages in respect of any breach of the Agreement which existed at or before the date of termination or expiry.

17 DISPUTE RESOLUTION

- (a) A party claiming that a dispute has arisen under or in connection with this agreement must not commence court proceedings arising from or relating to the dispute, other than a claim for urgent interlocutory injunction, unless that party has complied with the requirements of this clause.
- (b) A party that requires resolution of a dispute which arises under or in connection with this agreement must give the other party or parties to the dispute written notice containing reasonable details of the dispute and requiring its resolution under this clause.
- (c) Once the dispute notice has been given, each party to the dispute must then use its best efforts to resolve the dispute in good faith. If the dispute is not resolved within a period of 14 days (or such other period as agreed by the parties in writing) after the date of the notice, any party to the dispute may take legal proceedings to resolve the dispute.

18 FORCE MAJEURE

- (a) If a party (**Affected Party**) becomes unable, wholly or in part, to carry out an obligation under this agreement (other than an obligation to pay money) due to a Force Majeure Event, the Affected Party must give to the other party prompt written notice of:
 - (i) reasonable details of the Force Majeure Event; and
 - (ii) so far as is known, the probable extent to which the Affected Party will be unable to perform or be delayed in performing its obligation.
- (b) Subject to compliance with clause 18(a) the relevant obligation will be suspended during the Force Majeure Event to the extent that it is affected by the Force Majeure Event.
- (c) The Affected Party must use its reasonable endeavours to overcome or remove the Force Majeure Event as quickly as possible.
- (d) For the purposes of this agreement, a 'Force Majeure Event' means any:
 - (i) act of God, lightning strike, meteor strike, earthquake, storm, flood, landslide, explosion or fire;
 - (ii) strikes or other industrial action outside of the control of the Affected Party;
 - (iii) war, terrorism, sabotage, blockade, revolution, riot, insurrection, civil commotion, epidemic, pandemic; or
 - (iv) any decision of a government authority in relation to COVID-19, or any threat of COVID-19 beyond the reasonable control of the Affected Party, to the extent it affects the Affected Party's ability to perform its obligations.

19 REPRESENTATIONS AND WARRANTIES

- (a) Each party represents and warrants to the other that:
 - (i) it has full authority to enter into these Terms and is not bound by any agreement with any third party that adversely affects these Terms; and
 - (ii) it has and will maintain throughout the Term, all necessary powers, authority and consents to enter into and fully perform its obligations under these Terms.
- (b) Each party will immediately notify the other party if any of the foregoing representations and warranties cease to be true during the term of the Agreement.

20 NOTICES

- (a) A notice or other communication to a party under this agreement must be:
 - (i) in writing and in English; and
 - (ii) delivered via email to the other party, to the email address specified in this agreement, or if no email address is specified in this agreement, then the email

address most regularly used by the parties to correspond regarding the subject matter of this agreement as at the date of this agreement (**Email Address**). The parties may update their Email Address by notice to the other party.

- (b) Unless the party sending the notice knows or reasonably ought to suspect that an email was not delivered to the other party's Email Address, notice will be taken to be given:
 - (i) 24 hours after the email was sent, unless that falls on a Saturday, Sunday or a public holiday in the state or territory whose laws govern this agreement, in which case the notice will be taken to be given on the next occurring business day in that state or territory; or
 - (ii) when replied to by the other party,whichever is earlier.

21 GENERAL

21.1 GOVERNING LAW AND JURISDICTION

This agreement and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation shall be governed by and construed in accordance with the law of England and Wales. Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with this agreement or its subject matter or formation.

21.2 THIRD PARTY RIGHTS

This agreement does not give rise to any rights under the *Contracts (Rights of Third Parties) Act 1999* to enforce any term of this agreement.

21.3 AMENDMENTS

This agreement may only be amended in accordance with a written agreement between the parties.

21.4 WAIVER

No party to this agreement may rely on the words or conduct of any other party as a waiver of any right unless the waiver is in writing and signed by the party granting the waiver.

21.5 SEVERANCE

Any term of this agreement which is wholly or partially void or unenforceable is severed to the extent that it is void or unenforceable. The validity and enforceability of the remainder of this agreement is not limited or otherwise affected.

21.6 JOINT AND SEVERAL LIABILITY

An obligation or a liability assumed by, or a right conferred on, two or more persons binds or benefits them jointly and severally.

21.7 ASSIGNMENT

A party cannot assign, novate or otherwise transfer any of its rights or obligations under this agreement without the prior written consent of the other party.

21.8 COUNTERPARTS

This agreement may be executed in any number of counterparts. Each counterpart constitutes an original of this agreement and all together constitute one agreement.

21.9 COSTS

Except as otherwise provided in this agreement, each party must pay its own costs and expenses in connection with negotiating, preparing, executing and performing this agreement.

21.10 ENTIRE AGREEMENT

This agreement embodies the entire agreement between the parties and supersedes any prior negotiation, conduct, arrangement, understanding or agreement, express or implied, in relation to the subject matter of this agreement.

21.11 INTERPRETATION

- (a) **(singular and plural)** words in the singular includes the plural (and vice versa);
- (b) **(gender)** words indicating a gender includes the corresponding words of any other gender;
- (c) **(defined terms)** if a word or phrase is given a defined meaning, any other part of speech or grammatical form of that word or phrase has a corresponding meaning;
- (d) **(person)** a reference to “person” or “you” includes an individual, the estate of an individual, a corporation, an authority, an association, consortium or joint venture (whether incorporated or unincorporated), a partnership, a trust and any other entity;
- (e) **(party)** a reference to a party includes that party’s executors, administrators, successors and permitted assigns, including persons taking by way of novation and, in the case of a trustee, includes any substituted or additional trustee;
- (f) **(this agreement)** a reference to a party, clause, paragraph, schedule, exhibit, attachment or annexure is a reference to a party, clause, paragraph, schedule, exhibit, attachment or annexure to or of this agreement, and a reference to this agreement includes all schedules, exhibits, attachments and annexures to it;
- (g) **(document)** a reference to a document (including this agreement) is to that document as varied, novated, ratified or replaced from time to time;
- (h) **(headings)** headings and words in bold type are for convenience only and do not affect interpretation;
- (i) **(includes)** the word “includes” and similar words in any form is not a word of limitation;
- (j) **(adverse interpretation)** no provision of this agreement will be interpreted adversely to a party because that party was responsible for the preparation of this agreement or that provision; and
- (k) **(currency)** a reference to £, or “GBP”, is to pound sterling currency, unless otherwise agreed in writing.