

GENERAL TERMS

THE CUSTOMER'S ATTENTION IS PARTICULARLY DRAWN TO CLAUSE 10.

1. Interpretation

1.1 The following definitions and rules of interpretation apply in these terms and conditions (the **General Terms**):

ABC Laws	Means, as applicable, the UK Bribery Act 2010 and associated guidance published by the Secretary of State for Justice under the UK Bribery Act 2010 and all other applicable UK legislation, statutory instruments and regulations in relation to bribery or corruption, the US Foreign Corrupt Practices Act; the UK Criminal Finances Act 2017; anti-trafficking legislation, including the UK Modern Slavery Act 2015; and any similar or equivalent legislation in any other relevant jurisdiction.
Acceptable Use Policy	Axion Solutions’ acceptable use policy, as updated and made available to the Customer from time to time.
Activation Date	The date from which Axion Solutions considers that the Managed Services are ready for activation.
Affiliate	Any entity that controls, is controlled by, or is under common control with, another entity where 'control' means having at least a 50% ownership interest in, or otherwise having the ability to direct the legal affairs of, an entity.
Annuity Services	The Services to be supplied by Axion Solutions to the Customer on an ongoing, renewable basis pursuant to a Contract, including software-as-a-service, support, managed, cloud and connectivity services etc.
Business Day	Monday to Friday excluding public holidays in England.
Business Hours	9.00 a.m. to 5.00 p.m. on Business Days.

Cancellation Charges	<p>(a) In respect of the Products and Services, if the cancellation takes effect after a Contract has been formed, the Fees that would otherwise would have been payable in accordance with that Contract; and</p> <p>(b) In respect of the Managed Services, an amount equal to:</p> <p class="list-item-l1">(i) if the cancellation takes effect after the later of the Contract Start Date and the Activation Date, the Fees that would otherwise have been payable from the date the Managed Service is cancelled to the date such Managed Service was scheduled to expire in accordance with the Managed Services Contract; and</p> <p class="list-item-l1">(ii) if the cancellation takes effect before the later of the Contract Start Date and the Activation Date, any non-recurring charges payable pursuant to paragraph 1.3 plus 50% of the other Managed Services Fees payable during the Initial Term,</p> <p>plus, in each case, any other amounts specified as payable as part of the Cancellation Charges in the Work Order.</p>
Change Control Procedure	The procedures for changing the Managed Service Specification referred to in paragraph 5 of Schedule 2.
Confidential Information	All information, technical data or know-how, (whether written, oral or by another means and whether directly or indirectly) relating to and/or provided by one of the Parties whether created before or after these Conditions come into force including personal data, research, products, services, customers markets, software, developments, inventions, processes, designs, drawings, engineering, marketing or finances, which is reasonably deemed to be confidential or proprietary. Confidential Information includes the information of a third party that is in the possession of one of the Parties and is disclosed to the other Party in confidence. Confidential Information does not include information, technical data or know-how which: (i) is in the possession of the receiving Party at the time of disclosure, as shown by the receiving Party's files and records immediately prior to the time of disclosure; (ii) prior to or after the time the disclosure becomes part of the public knowledge or literature, not as a result of any inaction or action of the receiving Party; (iii) is expressly approved in writing for release by the disclosing Party; or (iv) had

	been independently developed by the receiving Party without the use of any Confidential Information of the other Party.
Contract	A P/S Contract or a Managed Services Contract.
Contract Start Date	The date specified as such in the Work Order.
Customer	The person, company or other body purchasing the Deliverables from Axion Solutions pursuant to a Contract.
Customer Data	Any data uploaded to, stored on or processed using the Managed Services by the Customer.
Customer Representative(s)	The contact(s) referred to in the Contract (as updated and notified to Axion Solutions from time to time) or, if no such individual has been notified to Axion Solutions, such other employee or representative of the Customer who liaises with Axion Solutions on behalf of the Customer.
Customer Site	Any premises occupied by the Customer at which it receives the Products, Services and/or Managed Services.
Customer Site Equipment	Any equipment located or to be located on a Customer Site but controlled or to be controlled exclusively by Axion Solutions as part of the Managed Services.
Data Controller	As defined in the Data Protection Laws.
Data Processing Agreement	Axion Solutions' version of the document required by Article 28(3) (and equivalent provisions) of the UK GDPR, unless otherwise agreed in writing between the Parties.
Data Processor	As defined in the Data Protection Laws.
Data Protection Laws	All applicable data protection and privacy legislation in force from time to time in the UK including without limitation, the UK GDPR; the Data Protection Act 2018 (and regulations made thereunder); and all other legislation and regulatory requirements in force from time to time which apply to a Party relating to the use of personal data.

Deliverables	Products, Services or Managed Services and any agreed outputs.
Documentation	The solution documentation made available to the Customer by Axion Solutions from time to time which may set out any additional description of the Managed Services and/or contain the user instructions for the Managed Services.
Due Date	The date 30 calendar days after the date of the relevant invoice.
eCat	Axion Solutions' e-business platform, which a Customer may be authorised by Axion Solutions to access, in which case that Customer may, subject to these Conditions, use the platform to submit Orders and enter into Contracts, and use ancillary services, such as order tracking.
EULA	The end user licence agreement applicable to (1) the relevant Product or Services, as stipulated by the Manufacturer; or, where relevant, (2) the Managed Services, in respect of third party Software provided to the Customer as part of the Managed Services.
Excused Outage	Any outage, unavailability, delay or other degradation of Service related to, associated with or caused by: planned maintenance events; any Service not supported by a Axion Solutions traversing Hardware component; any third party plugin or ancillary equipment not supplied by Axion Solutions; a Customer application running on a server (virtual or physical) which is not supported by Axion Solutions; the Customer actions or inactions or those of any third party excluding any sub- contractor or IT Partner of Axion Solutions directly involved in the performance, operation or maintenance of the Customer's Managed Service.
Fees	The sums payable by the Customer to Axion Solutions pursuant to a Contract.
Force Majeure Event	Any circumstance not within a Party's reasonable control.
Good Industry Practice	The degree of skill and care which it is reasonable to expect of a typical provider of services similar to the Services and/or Managed Services (as applicable) being provided under the relevant Contract.

Hardware	All physical telecommunications, networking and computer equipment (including switches, routers, cables, servers, racks, cabinets and peripheral accessories) provided and used by Axion Solutions pursuant to a Contract.
Initial Term	The initial term of the Managed Services Contract specified in the Work Order, measured from the later of the Contract Start Date and the Activation Date.
Initial Work Order	The work order document issued by Axion Solutions in response to the Customer's request for Managed Services, setting out details of the Managed Services to be provided (including any applicable Service Description), and the Fees.
Intellectual Property Rights	Patents, rights in inventions, copyright and related rights, moral rights, trade marks, business names and domain names, rights in get-up, goodwill and the right to sue for passing off, design rights, database rights, rights to use and protect the confidentiality of know-how and trade secrets, and all other intellectual property rights, in each case whether registered or unregistered, and including all applications and associated rights (including renewals, extension and enforcement), and all similar or equivalent rights or protections which subsist now or will subsist in the future in any jurisdiction.
IT Partner	A third party used by either Party in the provision of IT services.
Maintenance Contract	Hardware and Software support contracts held on supported devices and supplied by the manufacturer or recognised vendor support partner.
Managed Service(s)	The managed services to be provided to the Customer by Axion Solutions, as set out in the relevant Work Order.
Managed Services Contract	The agreement between Axion Solutions and the Customer comprising these Conditions and the Work Order for the Managed Services.
Managed Services Software	Any software used by Axion Solutions to provide the Managed Services to the Customer.

Manufacturer	The manufacturer, developer, distributor or licensor of the relevant Product or Services, as applicable.
Order	The Customer's order for Products, Services and/or Managed Services as set out in the Customer's purchase order or other written communication, including via eCat or a signed Initial Work Order (in accordance with paragraph 1.1 of Schedule 2).
Particular Losses	Without limitation, pure economic loss, loss of profit, loss of revenue, loss of data or interference with business, loss of opportunity, loss of business and/or depletion of goodwill or anticipated savings, and any indirect, consequential, special or punitive loss.
Party	Either of Axion Solutions or the Customer, together the Parties .
Personal Data	The "personal data" (as defined in the Data Protection Laws) over which the Customer is the Data Controller.
P/S Contract	The transaction-specific agreement between the Customer and Axion Solutions, comprising the Order and these Conditions in respect of the Products and/or Services.
Processing	As defined in the Data Protection Laws (and Process & Processed shall be interpreted accordingly).
Product	Any Hardware, Software or other goods supplied by Axion Solutions to the Customer pursuant to a Contract.
Quote	Axion Solutions' written quotation setting out details of the applicable Products, Services and/or Managed Services and the proposed Fees.
Renewal Term	Unless otherwise specified in the relevant Contract, a period of 12 months from the expiry of the Initial Term or the previous Renewal Term, as the case may be.

Replacement Supplier	A third party replacing Axion Solutions as the provider of replacement services to a Managed Service following the termination or expiry of a Managed Services Contract.
Services	The services (excluding Managed Services) to be supplied by Axion Solutions to the Customer pursuant to a Contract, being (a) services provided on a case-by- case basis (including consultancy, advice, design, installation, implementation, configuration etc.) and (b) Annuity Services.
Service Credit	Any credits payable to the Customer in accordance with the Service Level Arrangements.
Service Description	The service description issued by Axion Solutions and referenced in the relevant Work Order which provides details of the applicable Managed Services.
Service Level Arrangement or SLA	The service level arrangements applicable to the Services or Managed Services, as applicable, and as set out in the Service Description/relevant Contract.
Service Levels	The metrics for measuring the performance of the Services or Managed Services, as applicable, set out in the SLA.
Axion Solutions	Axion Solutions Ltd, a company registered in England and Wales with registered number 15823734, whose registered office address is 63 Mill Lane, London, NW6 1NB, UK.
Axion Solutions' System	The information and communications technology system to be used by Axion Solutions in performing the services provided under these Conditions, including the Hardware, the Managed Services Software, the Customer Site Equipment and communication links between the Hardware and the Customer Site Equipment and the Customer's Operating Environment.
Software	The pre-packaged software or electronic licence supplied to the Customer by Axion Solutions pursuant to a Contract.

Specification	The summary of the technical abilities, functionality and limitations of the Products, Services and/or Managed Services including, where applicable, the Service Description.
Supplementary Work Order	Any document issued by Axion Solutions and entitled “Work Order” which, notwithstanding that it may be a separate document and/or delivered at a later date, supplements an Initial Work Order and, once accepted by the Customer in accordance with paragraph 1.2 of Schedule 2, forms part of the Work Order.
TUPE	The Transfer of Undertakings (Protection of Employment) Regulations 2006 as amended by the Collective Redundancies and Transfer of Undertakings (Protection of Employment) (Amendment) Regulations 2014.
Transition Assistance Period	Has the meaning given to it in paragraph 8.2.3 of Schedule 2.
VAT	Value added tax or other sales tax payable in the UK or elsewhere.
Work Order	Collectively, the Initial Work Order and any Supplementary Work Order, and all documents incorporated in or attached to them, including any applicable Service Description.

- 1.2 Clause, schedule and paragraph headings shall not affect the interpretation of these Conditions.
- 1.3 Any phrase introduced by the words **including, includes, in particular** or **for example**, or any similar phrase, shall be construed as illustrative and shall not limit the generality of the related general words and, unless the context otherwise requires, words in the singular shall include the plural, and in the plural shall include the singular.
- 1.4 The term **writing** or **written** includes email.
- 1.5 A person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality) and that person's personal representatives, successors or permitted assigns.
- 1.6 A reference to a statute or statutory provision is a reference to it as amended, extended, or re-enacted from time to time and shall include all subordinate legislation made from time to time under that statute or statutory provision.

- 1.7 Any obligation on a Party not to do something includes an obligation not to allow that thing to be done.

2. Application of Conditions and Order Process

- 2.1 Unless the Parties agree otherwise in writing, these General Terms, together with all Schedules identified below (collectively, these **Conditions**) apply to all dealings between Axion Solutions and the Customer to the exclusion of all other terms and conditions that the Customer may seek to impose (whether by reference in a purchase order or otherwise), or which are implied by law, trade custom, practice, or course of dealing.
- 2.2 Schedule 1 shall apply to P/S Contracts and form part of these Conditions.
- 2.3 Schedule 2 shall apply to Managed Services Contracts and form part of these Conditions.
- 2.4 Unless expressly stated otherwise:
 - (a) each Quote is only valid until the end of the calendar month in which it is issued; and
 - (b) a Quote shall not constitute an offer capable of immediate acceptance by the Customer; and
 - (c) any samples, specifications, descriptions, sales literature, or other documentation quoted or provided by Axion Solutions are illustrative only and shall not form part of any Contract other than as approximations, and any typographical, clerical or other error or omission in any such information shall be subject to correction by Axion Solutions without liability.
- 2.5 An Order constitutes an offer by the Customer to purchase Products, Services and/or Managed Services in accordance with these Conditions. The Order shall only be deemed to be accepted when Axion Solutions issues written acceptance of the Order or takes other steps to fulfil the Order, at which point the Contract shall be formed.
- 2.6 If there is any conflict between the General Terms of these Conditions, a Schedule to these Conditions, a Contract and/or a EULA, the terms set out in the following documents shall prevail to the extent of that conflict in the order in which the documents appear in this list (highest priority first):
 - 2.6.1 EULA;
 - 2.6.2 Contract;
 - 2.6.3 Schedule;
 - 2.6.4 General Terms.

3. Fees and Payment

- 3.1 Subject to clauses 3.2 and 3.3, the Fees payable by the Customer shall be as set out in the relevant Contract. All Fees quoted are exclusive of any applicable VAT or other taxes and all

costs and charges relating to import and export charges, which (unless otherwise agreed in writing) shall be borne by, and shall be the sole responsibility of, the Customer.

- 3.2 Axion Solutions may increase the Fees before a Contract has been entered into or by giving notice to the Customer at any time before delivery to reflect any increase in the cost of the Deliverables or otherwise performing its obligations due to:
 - 3.2.1 any factor beyond Axion Solutions' control (including foreign exchange fluctuations, increases in taxes and duties, and increases in labour, materials, logistics and other costs);
 - 3.2.2 in accordance with clause 6 (Customer Obligations).
- 3.3 The Customer acknowledges that Axion Solutions may source Products and Services from outside the UK and may purchase in a currency other than GBP/pounds sterling, in which case the Fees proposed to the Customer in a Quote are based on Axion Solutions' currency exchange rates (including any applicable commissions for currency conversion) on the day of that Quote (available on request). Unless otherwise agreed between the Parties in writing:
 - 3.3.1 Fees stated in such a Quote are illustrative only and subject to currency fluctuation;
 - 3.3.2 the Fees to be paid by the Customer will be payable in GBP/pounds sterling and will be calculated on the Business Day in the UK on which the Contract is formed, based on the currency exchange rates applicable that day (plus any relevant commissions for currency conversion), and Fees calculated will become automatically binding at that time.
- 3.4 Unless otherwise agreed in writing between the Parties, invoices will be raised and dated by Axion Solutions on or after the date of dispatch of the Products, or on or after commencement of the Services and/or Managed Services. Where both Products and Services or Managed Services are supplied under the same Contract, a separate invoice may be raised for each.
- 3.5 The Customer shall pay each invoice in full (subject to any genuine dispute) by the Due Date.
- 3.6 If any deduction or withholding from the Fees is required by way of tax, excise, customs or otherwise from a jurisdiction other than the UK, the Customer agrees to pay as Fees to Axion Solutions any additional amounts necessary to ensure that the net amount that Axion Solutions receives, after any deduction and withholding, equals the amount Axion Solutions would have received absent such deduction or withholding.
- 3.7 Where the Fees for a Contract are not invoiced at the same time (e.g., where the Fees for each year of a multi-year Contract are invoiced at the start of each respective year), the Customer acknowledges and agrees that, in entering into the Contract, it is committing to continue to make those payments over the entire period agreed in the Contract.

- 3.8 While the Customer is in default under a Contract (including for non-payment of undisputed Fees), then Axion Solutions may withhold or suspend the supply of any Deliverables to the Customer (whether or not under that specific Contract).
- 3.9 Axion Solutions may charge interest on any Fees not paid by the Due Date at a rate of four per cent (4%) per annum above the Bank of England base rate or if lower, four per cent (4%) per annum. Such interest shall accrue on a daily basis from the Due Date until actual payment of the overdue amount and accrued interest.
- 3.10 If, in Axion Solutions' reasonable opinion, the credit rating of the Customer deteriorates and/or the Customer is a persistently late payer of Fees, Axion Solutions shall have the right to alter the Due Date for payment of Fees, in which case Axion Solutions shall notify the Customer of the alternative Due Date.
- 3.11 The Customer acknowledges that the Fees for some Services and Managed Services may be based on the Customer's actual usage, which is controlled by the Customer. The Customer therefore agrees in respect of such Services and Managed Services to pay such Fees as the Customer may incur as a result of its actual usage, without the requirement for any additional purchase order, and that such Fees may vary from any estimated Fees included in a Quote or Contract, based on information provided by the Customer and the Customer's anticipated usage.
- 3.12 Axion Solutions may accelerate the issue of an invoice for any Fees which have yet to be invoiced under a Contract, if:
 - 3.12.1 Axion Solutions serves a notice of termination of a Contract other than for convenience;
 - 3.12.2 there is (in the reasonable opinion of Axion Solutions) a material adverse change in the creditworthiness of the Customer; or
 - 3.12.3 the Customer fails to pay any undisputed Fees which are due and payable.
- 3.13 If the Customer, acting in good faith, disputes any portion of an invoice, the Customer must submit a written claim for the disputed amount no later than 30 calendar days after delivery of the relevant invoice, and shall at all times remain liable for the payment of all undisputed amounts. Where the Customer's level of usage of the Deliverables is in dispute, Axion Solutions' records of such usage shall be presumed to be accurate unless proven otherwise by an independent expert jointly appointed by both Parties.
- 3.14 The Customer waives the right to dispute any Fees not disputed within 30 calendar days of receipt of the relevant invoice (other than in relation to Fees invoiced in advance).

- 3.15 When a dispute regarding amounts payable under a Contract is resolved to the Customer's reasonable satisfaction, the amounts payable, as resolved, will become due to Axion Solutions immediately or such later date as the Parties may agree in writing.
- 3.16 All amounts due under a Contract shall be paid in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law).
- 3.17 On expiry or termination of a Contract for any reason, any Fees incurred but unpaid shall become immediately due and payable and shall represent a debt due from the Customer to Axion Solutions.
- 3.18 If the Customer enters into a separate finance agreement with Axion Solutions to enable it to defer payment of the Fees, the terms of the relevant payment schedule or other documentation setting out such arrangements shall prevail over these Conditions.

4. Additional provisions for Products

- 4.1 Axion Solutions or its agent shall deliver the Products to any premises in any country agreed in the Contract and the Customer shall be liable for any and all costs incurred by Axion Solutions in relation to carriage, postage and packing and any other applicable taxes and duties.

5. Additional provisions for Services and Managed Services

- 5.1 Any increase in Fees for Annuity Services shall be applied no more than once per year at or around each anniversary of the commencement of those Services, and shall not exceed the increase in the UK Retail Price Index or Consumer Price Index (whichever is lower) calculated over the preceding 12 months unless Axion Solutions can demonstrate that its costs in providing such Service have increased by a sum exceeding that figure. Axion Solutions shall notify the Customer in writing (a) at least 90 days in advance of any increase in the Fees for the Services, or (b) if Axion Solutions is notified of such increase less than 90 days in advance of it becoming effective, as soon as is reasonably practicable thereafter.
- 5.2 The Customer acknowledges that fees charged by the upstream supplier of certain Managed Services will vary from time to time during the Term, and Axion Solutions may vary the Fees to reflect such changes in upstream fees. Axion Solutions will use reasonable endeavours to provide reasonable notice of such variations.
- 5.3 When the Customer first orders a Managed Service not previously supplied, or it is agreed by the Parties as being either an addition or change to an existing Managed Service being supplied, a non-recurring charge for installation of additional network infrastructure, cabling, electronics or other materials or consultancy may be specified as part of the Fees. Non-recurring Fees are payable by the Customer after delivery of the relevant Managed Service

and will be billed in arrears. If the Customer fails to pay such non-recurring Fees within 30 calendar days following Axion Solutions' invoice for such non-recurring Fees, then:

- 5.3.1 such failure to pay shall be an Excused Outage for the purposes of provisioning and/or installation of the Managed Services;
- 5.3.2 Axion Solutions may issue a revised Contract Start Date and/or Activation Date; and
- 5.3.3 Axion Solutions may suspend installation of the Managed Service until payment of such non- recurring Fees plus any late payment interest that may have accrued in accordance with clause 3.9.

6. Customer Obligations

6.1 The Customer shall, at its own expense:

- 6.1.1 use, and procure that its officers, employees, workers and subcontractors use, the Deliverables only in accordance with these Conditions and all applicable laws, and observe the requirements of the Acceptable Use Policy;
- 6.1.2 ensure users of the Deliverables are adequately trained to use them;
- 6.1.3 appoint a Customer Representative and the Customer will use reasonable endeavours to ensure continuity of the Customer's Representative;
- 6.1.4 promptly furnish Axion Solutions with all reasonable co-operation, assistance and/or accurate, complete and sufficiently detailed information as reasonably requested by Axion Solutions or which the Customer knows, or ought reasonably to know, is required to enable Axion Solutions to perform its obligations;
- 6.1.5 without prejudice to clause 6.1.4, disclose to Axion Solutions, as soon as practicable and in any event prior to formation of a Contract, the details of any of its, or its current or former suppliers', employees whose contracts of employment will be transferred to Axion Solutions pursuant to TUPE as a result of Axion Solutions' provision of the Contract;
- 6.1.6 allow Axion Solutions or its subcontractors (as applicable) to enter the Customer Site(s) and access the Customer Site Equipment as required to deliver the Deliverables, provide Axion Solutions with any relevant policies and procedures in relation to such Customer Site(s) (and, where such policies and procedures require time and/or materials over and above what would be normally expected to permit entry to the average business premises, provide these to Axion Solutions before the Contract is formed, or make payment for reasonable additional costs and expenses which arise in meeting the requirements of such policies and procedures), and take all reasonable precautions to protect the health and safety of those personnel whilst at the Customer Site(s);

- 6.1.7 provide at the relevant Customer Site(s) all suitable computer hardware, software and telecommunications equipment required to enable Axion Solutions to perform its obligations (other than those specified to be provided by Axion Solutions in the relevant Contract);
 - 6.1.8 unless otherwise provided by Axion Solutions in the relevant Contract, implement effective and appropriate backup and other procedures for the protection of the Customer's data;
 - 6.1.9 comply with all applicable laws and regulations with respect to its activities under the Contract;
 - 6.1.10 carry out its responsibilities to Axion Solutions in a timely and efficient manner and observe any other obligations or requirements set out in the relevant Contract;
 - 6.1.11 obtain and maintain all necessary licences, permissions and consents which may be required for the Deliverables to be provided at the Customer Site(s) or on the Customer Equipment; and
 - 6.1.12 keep all materials, equipment, documents and other property of Axion Solutions or its subcontractors (Supplier Materials) at the Customer Site(s) in safe custody at its own risk until returned to Axion Solutions, and not dispose of or use the Supplier Materials other than in accordance with Axion Solutions' written instructions or authorisation.
- 6.2 If Axion Solutions' performance of any of its obligations under the Contract is prevented or delayed by any act or omission by the Customer or any third party, including a failure to comply with this clause 6 (**Customer Default**):
- 6.2.1 without limiting or affect any other right or remedy available to it, Axion Solutions shall have the right to suspend performance of its obligations until the Customer remedies the Customer Default to Axion Solutions' reasonable satisfaction, and to rely on the Customer Default to relieve it from the performance of any of its obligations to the extent it is prevented from doing so by the Customer Default;
 - 6.2.2 Axion Solutions shall not be liable for any costs or losses sustained or incurred by the Customer arising directly or indirectly from Axion Solutions' failure or delay to perform any of its obligations as set out in clause 6.1;
 - 6.2.3 the Customer shall reimburse Axion Solutions on written demand for any costs or losses sustained or incurred by Axion Solutions arising directly or indirectly from the Customer Default; and
 - 6.2.4 Axion Solutions shall, if requested by the Customer, use reasonable endeavours to mitigate the impact of such prevention or delay in the performance of Axion Solutions' obligations but reserves the right to charge the Customer for any additional Fees incurred in doing so.

7. Warranties

7.1 The Customer warrants that:

- 7.1.1 it has (and any of the Customer's Representatives have) authority to enter into a Contract and bind the Customer and that the Customer's Representatives who deal with Axion Solutions have the Customer's authority to do so and that, unless the Customer has specifically advised Axion Solutions in writing that any individual does not have such authority, the Customer will take responsibility for any employee, ex-employee or other person who holds themselves out to be the representative of the Customer;
- 7.1.2 it has and shall maintain all necessary licences, permits, rights, consents, registrations, approvals and titles necessary for Axion Solutions to use or host any software, hardware, documentation or other materials provided by the Customer for use in the provision of the Deliverables;
- 7.1.3 any information and materials supplied by the Customer to Axion Solutions shall be accurate and complete, and Axion Solutions' use of such shall not cause Axion Solutions to infringe the rights, including any Intellectual Property Rights, of any third party; and
- 7.1.4 it is a business and not dealing with Axion Solutions as a private consumer.

7.2 Axion Solutions warrants that:

- 7.2.1 it has the full capacity and authority to enter into and perform each Contract and that each Contract is executed by a duly authorised representative of Axion Solutions;
- 7.2.2 all personnel and subcontractors used by Axion Solutions in the performance of a Contract are adequately skilled and experienced in the activities they are required to perform;
- 7.2.3 any Deliverables will materially conform to any relevant Specifications; and
- 7.2.4 any Services and Managed Services will be provided in a diligent and professional manner, with reasonable skill and care and in accordance with Good Industry Practice.

7.3 Axion Solutions does not warrant that the Customer's use of any Deliverables will be uninterrupted and/or error-free.

7.4 The Customer may receive from a Manufacturer warranties (subject to any relevant limitations and exclusions imposed by such Manufacturer). Axion Solutions will provide the Customer with details of such warranties upon request and will use reasonable efforts at the Customer's cost and expense to pass through the benefit of any warranties in relation to Products which are given by a Manufacturer in favour of Axion Solutions.

8. Intellectual Property Rights and End User Licence Agreements

- 8.1 Unless expressly provided otherwise, nothing in these Conditions will change the ownership of any of the Intellectual Property Rights of either Party.

- 8.2 Each Party grants to the other a non-exclusive, limited, revocable licence to use its Intellectual Property Rights solely to the extent necessary for the other Party to perform its obligations under a Contract. The Parties agree that all Intellectual Property Rights which existed prior to the date of a Contract shall remain the property of the existing owner of those Intellectual Property Rights.
- 8.3 The title to and the Intellectual Property Rights in the Deliverables (including in any associated media) do not pass to the Customer. The Customer is licensed to use such Deliverables in accordance with these Conditions and any applicable EULA, and by entering into these Conditions and any Contract pursuant to them, the Customer agrees to enter into and comply with the terms of such EULA(s).
- 8.4 Axion Solutions (and/or its supply chain and subcontractors) shall own and be fully entitled to use in any way it deems fit any Intellectual Property Rights, including skills, techniques, materials, concepts or know-how, including improvements, acquired, developed or used in the course of providing or improving any Deliverables. Nothing herein shall be construed or shall give effect to any transfer of right, title or interest in the Customer's or Axion Solutions' Intellectual Property Rights.
- 8.5 Unless the relevant EULA permits such copying, the Customer shall not, without Axion Solutions' prior written consent, copy or reproduce in any way the whole or a part of the user manual or any other documentation which has been supplied to the Customer relating to any Deliverables.
- 8.6 Subject to clause 8.8, the Customer shall indemnify and keep Axion Solutions indemnified against all losses incurred by Axion Solutions arising from a third party alleging that the use of the Customer's Intellectual Property Rights by Axion Solutions in accordance with these Conditions and the relevant Contract, infringes such third party's Intellectual Property Rights.
- 8.7 Subject to clause 8.8, Axion Solutions shall indemnify and keep the Customer indemnified against all losses incurred by the Customer arising from a third party alleging that the use of the Intellectual Property Rights in the Deliverables by the Customer, in accordance with these Conditions, the relevant Contract and any applicable EULA, infringes such third party's Intellectual Property Rights.
- 8.8 If there is any alleged infringement of any Intellectual Property Rights, the indemnified Party must:
- 8.8.1 Promptly notify the other Party in writing of the alleged infringement;
 - 8.8.2 Make no admissions without the other Party's prior written consent (such consent not to be unreasonably withheld, delayed or conditioned);

8.8.3 At the other Party's request and expense, allow the other Party to conduct and/or settle all negotiations and litigation, and provide the other Party with all reasonable assistance.

8.9 If at any time any allegation of infringement of a third party's Intellectual Property Rights is made in respect of the Deliverables, or in Axion Solutions' reasonable opinion, is likely to be made, Axion Solutions may at its own expense:

8.9.1 modify or replace (or procure the modification or replacement of) the affected Deliverables so as to avoid the infringement; or

8.9.2 procure for the Customer the right to retain and continue to use the Deliverables.

9. TUPE

9.1 Should TUPE apply in relation to any Contract for the provision of Services or Managed Services with the effect that (a) any of the Customer's workers or employees, or those of its other current or former suppliers, will transfer to Axion Solutions (or any of Axion Solutions' subcontractors) on commencement of a Contract or otherwise as a result of the Contract, or, (b) any of Axion Solutions' workers or employees (or those of Axion Solutions' subcontractors) will transfer to the Customer or a third party employer following the termination or expiry of a Contract or otherwise as a result of the Contract, the Parties shall each comply with their respective obligations under TUPE.

9.2 Each Party shall indemnify the other Party for any liability arising out of a failure to comply with TUPE and/or any failure to comply with the notification obligations set out in clause 6.1.5 or paragraph 8.4 of Schedule 2.

10. General Exclusions and Limitations of Liability

THE CUSTOMER'S ATTENTION IS PARTICULARLY DRAWN TO THIS CLAUSE 10.

10.1 Except as expressly and specifically provided in the Contract:

10.1.1 all warranties, conditions and other terms implied by statute or common law are, to the fullest extent permitted by law, excluded from these Conditions and each Contract; and

10.1.2 the Customer assumes sole responsibility for results obtained from the use of the Deliverables, and for conclusions drawn from such use. Axion Solutions shall have no liability for any damage caused by errors or omissions in any information, instructions or scripts provided to Axion Solutions by the Customer in connection with the Deliverables, or any actions taken by Axion Solutions at the Customer's direction or request.

10.2 Nothing in these Conditions shall limit either Party's liability to the other Party for:

10.2.1 death or personal injury caused by negligence;

- 10.2.2 fraud or fraudulent misrepresentation;
- 10.2.3 payment of undisputed amounts due under the relevant Contract; or
- 10.2.4 any breach of clauses 8.6 or 8.7 (Intellectual Property Rights);
- 10.2.5 any breach of clause 9 (TUPE); or
- 10.2.6 any breach of clause 16 (Confidentiality).
- 10.3 Neither Party shall be liable for indirect or consequential losses, including Particular Losses, even if it has been advised of the possibility of such losses.
- 10.4 In respect of the Managed Services, and without prejudice to clause 10.3 above, Axion Solutions will not be liable for any loss or damage arising to the Customer's systems, data, information, equipment (including the Customer's operating environment) or any Intellectual Property Rights if such loss is in any way attributable to any of the following:
 - 10.4.1 any failure of the Customer's applications, databases or operating systems, including loss or corruption of data or (unless and to the extent that backup and restore services are to be provided by Axion Solutions under the terms of the Contract) failure to implement back-up procedures;
 - 10.4.2 any failure of any applicable Service Level if in the reasonable opinion of Axion Solutions the solution/systems have been tampered with by the Customer or any third party authorised by the Customer with or without Axion Solutions' knowledge;
 - 10.4.3 any failure of any Customer-managed IT Partner to provide its services in accordance with the relevant agreements;
 - 10.4.4 any internet failure outside the control of Axion Solutions; or
 - 10.4.5 any latent defect in any third party equipment or Software, or failure of such equipment or Software to perform in accordance with the manufacturer's specification.
- 10.5 Unless such liability is otherwise expressed to be unlimited or subject to a separate limit, the total liability that either Party shall owe to the other Party in respect of all claims under or in connection with each Contract (including liability in contract, tort (including negligence), misrepresentation, restitution or otherwise) shall not exceed 125% of the Fees paid or payable by the Customer in the last twelve (12) months in respect of the Contract to which the claim(s) relate.
- 10.6 Unless Axion Solutions undertakes Services with an expressly stated outcome of advising the Customer in writing on the Products, Services and/or Managed Services which it recommends to meet a particular requirement, the Customer acknowledges that it is relying solely upon its own skill

and judgement, and not that of Axion Solutions, in determining the suitability of any Products and/or Services and their fitness for any general or specific purpose.

- 10.7 The Parties agree that the limitations on liability in these Conditions are reasonable, given the Parties' respective commercial positions and each Party's ability to purchase appropriate insurance in respect of arising risks.

11. Non-Solicitation

- 11.1 The Parties agree that during the period of a Contract and for a period of six (6) months after its termination or expiry, unless such action is a result of a public recruitment process which is not specifically targeted at any of the staff at the other Party, neither Party shall directly or indirectly solicit or entice away or employ or engage directly or indirectly (without the other Party's prior written agreement, such consent not to be unreasonably withheld or delayed) or make any offer of employment or engagement to (or attempt to solicit or entice away, or employ or engage or make an offer to) any of the other Party's officers, employees or workers, including those of any of its subcontractors who have been involved in the course of the negotiation, conclusion and performance of a Contract.

- 11.2 If an officer, employee or worker of a Party leaves the employment of that Party (the non-defaulting party) a result of a breach of this clause 11 and commences employment with, or provides services to, the other Party (the defaulting party), the defaulting party shall (without limitation to any other remedy) pay the non-defaulting Party:

11.2.1 During the period of the relevant Contract and in the period of the first three (3) months after its termination, 50% of the higher of:

- a. the current annual remuneration (including salary and any benefits-in-kind, bonus payments, commissions and other benefits) of the individual at the date that they ceased to be engaged by the non-defaulting Party; or
- b. the annual remuneration of the individual (including salary and any benefits-in-kind, bonus payments, commissions and other benefits) at the time they commence engagement by the defaulting Party.

11.2.2 In the period of the second three (3) months after termination of the relevant Contract, 25% of the higher of:

- a. the current annual remuneration (including salary and any benefits-in-kind, bonus payments, commissions and other benefits) of the individual at the date that they ceased to be an engaged of the non-defaulting Party; or

- b. the annual remuneration (including salary and any benefits-in-kind, bonus payments, commissions and other benefits) of the individual at the time they commence engagement by the defaulting Party.

12. Force Majeure

- 12.1 Neither Party shall be in breach of a Contract or otherwise liable for any failure or delay in performing its obligations if that failure or delay results from a Force Majeure Event. The time for performance shall be extended accordingly and the affected Party shall use reasonable endeavours to mitigate the impact of the Force Majeure Event on the performance of its obligations including, where applicable, implementation of its business continuity plans.
- 12.2 If the Force Majeure Event prevents or delays the affected Party's performance of its obligations for a period of more than 20 Business Days, the other Party may terminate the affected Contract on no less than 5 Business Days' notice in writing.

13. Export Control

- 13.1 Neither Party shall export, directly or indirectly, any technical data acquired from the other Party to which these Conditions apply (or any products, including software, incorporating any such data) in breach of any applicable laws or regulations (**Export Control Laws**), including UK or USA export laws and regulations, to any country for which the government or any agency thereof at the time of export requires an export licence or other governmental approval without first obtaining such licence or approval.
- 13.2 Each Party undertakes:
 - 13.2.1 contractually to oblige any third party to whom it discloses or transfers any such data or products to make an undertaking to it in similar terms to the one set out above; and
 - 13.2.2 if requested, to provide the other Party with any reasonable assistance, at the reasonable cost of the other Party, to enable it to perform any activity required by any competent government or agency in any relevant jurisdiction for the purpose of compliance with any Export Control Laws.

14. Termination and consequences of termination

- 14.1 Without affecting any other right or remedy available to it, either Party may terminate a Contract with immediate effect by giving written notice to the other Party if:
 - 14.1.1 the other Party fails to pay any amount due under the Contract on the due date for payment and remains in default not less than 10 Business Days after being notified in writing to make such payment;

- 14.1.2 the other Party commits a material breach of any terms of the Contract which is irremediable or (if such breach is remediable) fails to remedy that breach within a period of 10 Business Days after being notified in writing to do so;
- 14.1.3 the other Party repeatedly breaches the Contract in such a manner as to reasonably justify the opinion that its conduct is inconsistent with it having the intention or ability to give effect to the Contract;
- 14.1.4 the other Party takes any step or action in connection with its entering administration, provisional liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), applying to court for or obtaining a moratorium, being wound up (either voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver appointed over any of its assets, or ceasing to carry, or, if the step or action is taken in another jurisdiction, in connection with any analogous procedure in the relevant jurisdiction;
- 14.1.5 the other Party suspends, ceases, or threatens to suspend or cease, carrying on all or a substantial part of its business;
- 14.1.6 the other Party's financial position deteriorates to such an extent that, in the terminating Party's reasonable opinion, the other Party's ability to fulfil its obligations under the Contract has been placed in jeopardy.
- 14.2 Axion Solutions may additionally terminate a Contract with immediate effect on written notice to the Customer if:
 - 14.2.1 there is a change of Control of the Customer (and, for the purposes of this clause 14, 'control' means having at least a 50% ownership interest in, or otherwise having the ability to direct the legal affairs of, an entity); or
 - 14.2.2 Axion Solutions reasonably believes that the Customer is likely to become subject to any of the circumstances set out in clauses 14.1.4 to 14.1.6.
- 14.3 Without prejudice to Axion Solutions' other rights or remedies, Axion Solutions may suspend the performance of its obligations under the Contract if the Customer is subject to any of the circumstances set out in clauses 14.1.4 to 14.1.6, or if clause 14.2.2 applies.
- 14.4 The Customer may additionally terminate a Contract at any time provided that the Customer pays to Axion Solutions the Cancellation Charges (which shall, unless the Parties explicitly agree otherwise in writing, be immediately payable). Axion Solutions shall use reasonable endeavours in the circumstances to mitigate any Cancellation Charges.
- 14.5 On termination or expiry of a Contract:

- 14.5.1 any Fees incurred but unpaid shall become immediately due and payable and (together with any applicable interest) shall represent a debt due from the Customer to Axion Solutions, and, in relation to any Deliverables supplied but not yet invoiced, Axion Solutions shall invoice the Customer and the Customer shall pay the invoice immediately on receipt;
- 14.5.2 The Customer shall return any Axion Solutions materials or Deliverables which have not been fully paid for. If the Customer fails to do so, and fails to pay any corresponding invoice issued in accordance with clause 14.5.1, Axion Solutions reserves the right to enter the Customer's premises to take possession of them, and the Customer shall be responsible for the safekeeping of those Deliverables pending collection by Axion Solutions.
- 14.6 Termination or expiry of a Contract shall not affect the rights, remedies, obligations or liabilities of the Parties that may have accrued prior to the date of termination or expiry, including the right to claim damages for any breach of Contract which existed prior to that date.
- 14.7 Any provision of the Contract that expressly or by implication is intended to come into or continue in force on or after termination or expiry of the Contract shall remain in full force and effect.
- 15. Assignment and subcontracting**
- 15.1 The Customer shall not assign, transfer, charge, subcontract or otherwise deal with any or all of its rights and obligations under a Contract without the prior written consent of Axion Solutions, such consent not to be unreasonably withheld, delayed or conditioned. The Customer acknowledges that any such consent given by Axion Solutions shall be without prejudice to the terms of any applicable EULA.
- 15.2 Axion Solutions may assign, transfer, charge, subcontract or otherwise deal with any or all of its rights and obligations under a Contract to any of its Affiliates, or to any other third party on written notice to the Customer, and reference to a Manufacturer or subcontractor providing Products, Services and/or Managed Services in the Contract shall constitute written notice for the purpose of this clause. Axion Solutions shall be responsible and liable to the Customer for the acts and/or omissions of its Affiliates and subcontractors in the performance of its obligations under the Contract.
- 16. Confidentiality**
- 16.1 Each Party agrees with the other in respect of all Confidential Information:
- 16.1.1 to keep the Confidential Information in strict confidence and secrecy;

- 16.1.2 not to use the Confidential Information save for complying with its obligations under these Conditions;
- 16.1.3 not to disclose the Confidential Information to a third party (except to the extent compelled to by law); and
- 16.1.4 to restrict the disclosure of the relevant and necessary parts of the Confidential Information to such of its employees, agents, subcontractors and others who of necessity need it in the performance of their duties as envisaged by a Contract, and in those circumstances to ensure that those employees and others are aware of the confidential nature of the Confidential Information; provided however that where a part of the Confidential Information is already or becomes commonly known in the trade (except through a breach of the obligations imposed under these Conditions) then the foregoing obligations of confidentiality in respect of such part shall not apply or shall cease to apply (as the case may be).

17. Data Protection

- 17.1 Each Party warrants that it shall comply with the Data Protection Laws when performing its respective obligations under the Contract.
- 17.2 Where the Customer intends to, or might, include Personal Data in its use of the Products, Services or Managed Services purchased from Axion Solutions, it will inform Axion Solutions when it requests a Quote is requested and/or Work Order and, in any event, prior to a Contract being informed. Where so informed, Axion Solutions will identify whether Axion Solutions or a third party is the Data Processor for the purposes of the Processing and communicate that to the Customer at or prior to the point at which the Contract is formed.
- 17.3 Where Axion Solutions identifies that it is the Data Processor for the purposes of the Processing referred to in clause 17.2, the Parties will enter into a Data Processing Agreement where required by the Data Protection Laws.
- 17.4 Where Axion Solutions considers that it is the Data Controller, it will comply with all relevant requirements relating to a Data Controller under Data Protection Laws and the Parties will negotiate in good faith any data sharing agreement or protocol that the Parties deem necessary to put in place.

18. Anti-bribery and corruption laws and compliance

- 18.1 Each Party shall:
 - 18.1.1 comply with all ABC Laws;
 - 18.1.2 have, and shall maintain in place throughout the term of these Conditions, such policies and procedures as are reasonable to prevent the facilitation of offences by (a)

all of that Party's employees, (b) all others associated with that Party, and (c) all of that Party's subcontractors and/or IT Partners involved in the performance of these Conditions and each Contract; and

18.1.3 comply with all applicable laws, statutes and regulations relating to the collection and disposal of waste.

19. Insurance

19.1 Each Party shall at all times maintain appropriate policies of insurances with a reputable insurance company to cover their separate risks and liabilities under a Contract (such policies to include but not be limited to public liability insurance in an amount of not less than £5,000,000 for any event, unless the Parties agree otherwise in writing).

20. Notices

20.1 Any notice given to a Party under or in connection with these Conditions shall be in writing and shall be:

- (a) delivered by hand to its registered office (if a company) or its principal place of business (in another case) or by pre-paid first-class post or other next working day delivery service to its registered office (if a company) or its principal place of business (in any other case); and in the case of Axion Solutions such notice shall be addressed to the General Counsel, Legal Department;
- (b) sent by email to the following email addresses: (i) in the case of Customer to the Customer Representative and (ii) in the case of Axion Solutions to legal@Axion Solutions.com; (or an address substituted in writing by the Party to be served):

20.2 Any notice shall be deemed to have been received:

- (a) if delivered by hand, at the time the notice is left at the proper address as designated in clause 20.1(a) above;
- (b) if sent by pre-paid first-class post or other next working day delivery service, at 9.00 am on the second Business Day after posting; or
- (c) if sent by email, at the time of transmission, or, if this time falls outside Business Hours in the place of receipt, when Business Hours resume.

19.3 This clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

21. Entire Agreement and Variation

21.1 Each Contract (including these Conditions) constitutes the entire agreement between the Parties to the exclusion of all other terms and conditions that the Customer may seek to impose (whether by reference in a purchase order or otherwise), or which are implied by law,

trade custom, practice or course of dealing, and supersedes all previous discussions, correspondence, negotiations, arrangements, understandings and agreements between them relating to its subject matter.

21.2 Each Party acknowledges that in entering into a Contract it does not rely on, and shall have no remedies in respect of, any representation or warranty (whether made innocently or negligently) that is not set out in a Contract.

21.3 No alteration to or variation of these Conditions or a Contract once formed shall take effect unless and until the same is in writing and signed on behalf of each of the Parties by a duly authorised representative.

22. No Waiver

No failure or delay by a Party to exercise any right or remedy provided under a Contract or by law shall constitute a waiver of that or any other right or remedy, nor shall it preclude or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall preclude or restrict the further exercise of that or any other right or remedy.

23. Third-Party Rights

Nothing in these Conditions will confer any rights on any third parties and no third party may enforce any provision of these Conditions or any Contract by virtue of the Contracts (Rights of Third Parties) Act 1999 or any other method.

24. No partnership or agency

24.1 Nothing in these Conditions is intended to, or shall be deemed to, establish any partnership or joint venture between any of the Parties, constitute any Party the agent of another Party (and on any resale of a Product by the Customer, such resale shall be made by the Customer as principal), or authorise any Party to make or enter into any commitments for or on behalf of any other Party.

24.2 Each Party confirms it is acting on its own behalf and not for the benefit of any other person.

24.3 If a provision in these Conditions is held by any competent authority to be invalid or wholly or partly unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of these Conditions or any Contract.

25. Dispute Resolution

If there is a dispute, either Party may first attempt to resolve such dispute by sending a written notice to the other Party, including a description of the issues in dispute, relevant documents or materials, and the requested remedy. If the Parties are unable to resolve the dispute within 10 Business Days from the date of receipt of such notice, the matter shall be escalated to representatives of each Party at a more senior business management level. If the dispute is not resolved within a further 10 Business Days, the matter shall be escalated to the next senior business management representatives of the Parties. If the dispute is thereafter not resolved within 10 Business Days, either Party may pursue relief from the courts in accordance with clause 26.

26. Governing Law and Jurisdiction

These Conditions and each Contract and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with them or their 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 such dispute or claim.

Schedule 1 Products and Services

1 Ordering Products and Services

- 1.1 Axion Solutions may make any changes to the Specifications of Products or Services to conform to any applicable health and safety or legal requirement, or which do not materially negatively affect their quality or performance.

2 Delivery of Products

- 2.1 Axion Solutions shall use its reasonable endeavours to deliver the Products to the premises stated in the Contract (and/or, in the case of electronic delivery of Products, to the email address or other electronic location as agreed) and/or to supply the Services by any delivery date estimated by Axion Solutions. For the avoidance of doubt, the Customer acknowledges that such delivery date is not guaranteed or of the essence, and Axion Solutions shall in no circumstances be liable to the Customer for any losses, damages or charges (including Particular Losses) incurred by the Customer due to the late delivery of Products and/or Services.
- 2.2 The Customer agrees that it will inspect the Products immediately upon delivery or collection and in all cases shall:
- 2.2.1 not sign to accept the Products if the types/quantities of Products are incorrect or the Products and/or their packaging are damaged in any way; and/or
- 2.2.2 inform Axion Solutions in writing within 48 hours of delivery of any damage, shortages, defects or non-delivery of the Products which was not apparent at the time of delivery/collection,
- and, where the Customer fails to do so, the Customer shall be deemed to have accepted the Products.
- 2.3 If the Customer fails to take delivery of or, where agreed, collect the Products or fails to give Axion Solutions adequate delivery instructions at the time stated for delivery (save for circumstances beyond the Customer's reasonable control or by reason of Axion Solutions' fault) then Axion Solutions may at its sole discretion:
- 2.3.1 store the Products until actual delivery and charge the Customer for the reasonable costs (including insurance) of storage; and/or
- 2.3.2 sell the Products at the best price readily available and charge the Customer any shortfall below the Fees under the Contract.
- ### **3 Risk and Title**
- 3.1 Risk of damage to, or loss of, Products shall pass to the Customer at the earlier of:
- 3.1.1 the time at which Products are delivered to the Customer or the Customer collects the Products; or

3.1.2 the time when Axion Solutions has attempted to deliver the Products to the Customer and has been unable to complete delivery due to the actions or omissions of the Customer;

in accordance with the appropriate Incoterms.

3.2 Notwithstanding when risk in the Products passes to the Customer, title in the Products shall not pass to the Customer until the earlier of: (i) Axion Solutions having received cleared payment in full of the Fees for the Products and all other Products and Services (if applicable) supplied to the Customer for which payment is then due; (ii) Customer's resale of those Products, in which case title passes to the Customer immediately prior to such resale; or (iii) if the Customer fails to meet the terms of payment for those Products, immediately prior to Axion Solutions bringing legal action for payment of the Fees.

3.3 Until such time as title in the Products pass to the Customer:

3.3.1 the Customer shall keep the Products separate from other goods and properly stored, protected, insured & identified as Axion Solutions' property; and

3.3.2 after the Due Date, Axion Solutions shall be entitled to require the Customer to deliver up the Products to Axion Solutions and if the Customer fails to do so immediately the Customer shall allow (or procure permission for) Axion Solutions or its agents or representatives to enter upon the Customer's premises (or any other premises where the Products are stored) and repossess the Products.

4 Services

4.1 Where Axion Solutions agrees to provide Services, any Quote or other indication by Axion Solutions as to the number of man days or man hours required by Axion Solutions to undertake a specific task shall be an estimate only. Axion Solutions shall in no circumstances be liable for a delay or for any other loss, damage or other cost of whatsoever nature (including without limitation Particular Losses) suffered or incurred by the Customer where such estimate or indication is incorrect.

4.2 Unless stated otherwise in writing, the Fees agreed for the Services do not include travel, accommodation and subsistence expenses, nor the cost of time spent travelling incurred in the provision of the Services for which Axion Solutions shall charge the Customer at its or its subcontractors' (as applicable) then current rates, available on request.

4.3 Axion Solutions will normally carry out the Services during Business Hours but may, on reasonable notice, require the Customer to provide access to the Customer's premises at other times. This does not apply to Annuity Services, which will generally be available at any time, subject to any applicable Service Levels and Excused Outages.

4.4 At the Customer's request, Axion Solutions may agree to provide Services outside Business Hours.

However, this shall be subject to any reasonable additional Fees that may be made by Axion Solutions

for complying with such request. Such Fees shall be agreed in writing prior to the commencement of any work outside of Business Hours.

- 4.5 Axion Solutions expects that the Customer has adequate inspection, testing and approval processes and, on completion of any Services provided by Axion Solutions, the sign off by the Customer of such services shall be considered the Customer's absolute acceptance of the satisfactory completion of such Services. If the Customer has not confirmed its acceptance of the Services, nor raised any concerns about them, within 7 days of Axion Solutions notifying the Customer that the Services are complete, the Customer agrees it is reasonable for Axion Solutions to infer the Customer's acceptance and, where relevant, invoice for those Services.
- 4.6 Should the Customer become dissatisfied with the performance of any personnel assigned by Axion Solutions to perform the Services, the Customer shall notify Axion Solutions in writing with details of the unsatisfactory performance and, provided that Axion Solutions is satisfied that the Customer's dissatisfaction is reasonable, Axion Solutions shall re-assign personnel as soon as reasonably practicable. Axion Solutions shall be responsible for ensuring that any replacement personnel are fully briefed.
- 4.7 No liability shall accrue to Axion Solutions as a result of any defects in the delivery of the Services unless:
 - 4.7.1 a reasonably detailed inspection and testing procedure has been undertaken by the Customer to ascertain that the Services had been undertaken correctly and in full, and
 - 4.7.2 such inspection would not have been expected to identify the defect-causing loss (due to the latent and uncheckable nature of such defect).
- 4.8 Where Axion Solutions agrees to provide support and/or maintenance Services in respect of Products supplied to the Customer, unless otherwise set out in the relevant Contract, this will generally comprise reasonable assistance in the resolution of queries via a telephone call originated by the Customer's licensed users of such Products during Business Hours for the agreed period (limited to first line support only). If Axion Solutions is unable to resolve the query during a telephone call, the Customer may be required to contact the Manufacturer of the Product directly.
- 4.9 The Customer may from time to time wish to vary the scope of a Service. Axion Solutions will use reasonable commercial endeavours to accommodate that variation. Any changes in the Fees and/or timescales as a result of that variation shall be negotiated between the Customer and Axion Solutions, and where such negotiation has not concluded at the time the Customer confirms the variation is required, the Customer accepts that any increase in work required pursuant to the variation shall be provided on a time and materials basis at Axion Solutions' or its subcontractors' (as applicable) then current rates for the same, available on request.

5 Returns Policy

- 5.1 Where returns are permitted by Axion Solutions' supply chain, Axion Solutions allows Customers to return unopened Products within 30 days of delivery; however, all returns are at Axion Solutions' sole and absolute discretion, will depend on its suppliers' returns policies and may be subject to reasonable restocking fees or other conditions. Other than in line with the relevant Manufacturer's 'dead on arrival' (**DOA**) policies or warranties, Axion Solutions will not accept returns with a value below £50.
- 5.2 Under no circumstances will Axion Solutions accept returns of opened Products unless those Products are faulty and the provisions of the remainder of this paragraph 5 of Schedule 1 are met. For the avoidance of doubt, no Software on which the seals have been broken can be returned. Software licences provided electronically (i.e., other than in physical format) are non-refundable.
- 5.3 In circumstances where return of Product(s) is permitted by Axion Solutions, it will issue a credit note to the Customer so the invoice for the relevant Product is deemed cancelled and, if the Customer has already paid for those Products, a refund will be granted.
- 5.4 The refund or replacement of faulty or defective Products is subject strictly to individual Manufacturer's DOA policies or warranty, available on request.
- 5.5 The Customer must observe the requirements of the Manufacturer's DOA policy and/or warranty, including notifying Axion Solutions of a defect in the Products within the required time limit.
- 5.6 Although Axion Solutions may make reasonable endeavours to troubleshoot any problems the Customer experiences with the Products, the Customer acknowledges that Axion Solutions is not the Manufacturer of the Products and that Axion Solutions may be contractually limited by that Manufacturer as to the extent of the assistance Axion Solutions is permitted to provide. Accordingly, the Customer may be required to contact the Manufacturer's technical department to troubleshoot and/or to obtain DOA authorisation (which shall be retained by the Customer, along with any call/case reference numbers, and presented to Axion Solutions upon request).
- 5.7 In the case where it is established that Products are faulty or defective within the relevant Manufacturer warranty or DOA period, Axion Solutions' customer service department will arrange with the Customer to have the Products collected or returned. In some instances, the Manufacturer's warranties require the Customer to contact a repair agent directly. If this is the case, the Customer will be informed by Axion Solutions' customer service department and provided with the contact details for the relevant Manufacturer to discuss such collection or return.

- 5.8 Where Axion Solutions has indicated to the Customer that the return of a Product is permitted, the Customer is responsible for ensuring that the Products are returned to Axion Solutions (or the relevant third party) in their original packaging together with all disks, manuals, cables and any other peripherals, accessories, consumables and other parts or items with which they were boxed or inseparably supplied so as to ensure satisfaction of the Manufacturer's DOA policy and/or warranty stipulations (as appropriate), safe transit and ease of identification. The external packaging must not be damaged or defaced so it is recommended the goods are re-boxed for transport.
- 5.9 The Products will be tested on receipt. If no fault is found the Products shall be returned to the Customer at the Customer's cost. If a fault is found and the applicable Manufacturer's DOA period is exceeded, then the Products will be repaired and/or replaced under the terms of the Manufacturer's warranty, to the extent that such warranty remains in force at that time.
- 5.10 If the Manufacturer's DOA cover and/or warranty have lapsed, expired, been invalidated or did not apply, Axion Solutions shall have no liability to the Customer for such Product(s).

Schedule 2 Axion Solutions Managed Services

1. Ordering Managed Services

- 1.1. In response to a request by the Customer, Axion Solutions will prepare and send to the Customer an Initial Work Order. If the Customer wishes to contract with Axion Solutions to provide the Managed Services set out in that Initial Work Order, it will indicate its acceptance of the Initial Work Order by signing it and returning a signed copy to Axion Solutions. For the purposes of clause 2.5 of the General Terms, the Initial Work Order signed by the Customer shall constitute the Order and, once accepted by Axion Solutions, the Managed Services Contract will be formed.
- 1.2. Depending on the nature of the Managed Services, the Customer recognises that it may be necessary for Axion Solutions to perform additional preparatory design or specification work before proceeding to installation, provisioning and/or “go live”, in which case Axion Solutions will provide to the Customer upon completion of that additional preparatory work a Supplementary Work Order setting out further detail on how the Managed Services will be provided. The Customer may request reasonable changes to the Supplementary Work Order, and Axion Solutions will use reasonable efforts to accommodate such changes within the scope of the Fees set out in the Initial Work Order, failing which Axion Solutions and the Customer, each acting reasonably, will agree such changes to the Managed Services and the corresponding Fees as may be required to give effect to the Customer's request. The Customer can accept a Supplementary Work Order in writing, by email, or by requesting through any medium that Axion Solutions proceed with providing the Managed Services, and in the absence of a written indication to the contrary will be deemed to have accepted a Supplementary Work Order 7 days after Axion Solutions sends it to the Customer. Once accepted, a Supplementary Work Order forms part of the Work Order and, therefore, part of the Managed Services Contract.
- 1.3. Axion Solutions will then provide the Customer with a provisional Activation Date for each of the ordered Managed Services. Axion Solutions will use reasonable efforts to begin delivering the relevant Managed Services by such provisional Activation Date, subject to payment by the Customer of any Fees which are payable in advance and the Customer's compliance with the terms of the Managed Services Contract (and in particular its obligations in clause 6 of the General Terms), but time shall not be of the essence in this regard and the Customer acknowledges that the actual Activation Date may differ.
- 1.4. If Axion Solutions has agreed with the Customer that any Fees will be payable in arrears, the delivery of the Managed Services is subject to credit approval.

- 1.5. The Customer acknowledges that Axion Solutions provides, and prices, Managed Services only on the

basis of these Conditions and any agreed Work Orders. No other terms will apply, regardless of the form or timing of delivery.

2. Service Provision

- 2.1. Any applicable Service Level Arrangements shall apply with effect from the start of the first complete month occurring after the Activation Date.
- 2.2. The Customer is responsible for the use to which it puts the Managed Services under its control, including any use by third parties (whether fraudulent or invited by the Customer). In particular, the Customer acknowledges that the Managed Services are not designed to be used in circumstances in which errors or failures in the Managed Services could lead to death, personal injury or severe physical or environmental damage. Therefore, unless expressly agreed otherwise in the Work Order, the Customer will not use the Managed Services for such purposes.
- 2.3. The Customer Site Equipment is at the Customer's risk from the point of installation.
- 2.4. The Customer shall not provide the Managed Services to third parties or permit any third party to access or benefit from the Managed Services, nor to access the Customer Site Equipment, unless otherwise expressly agreed to in writing by Axion Solutions.
- 2.5. Axion Solutions reserves the right to:
 - 2.5.1. modify Axion Solutions' System, its network, system configurations or routing configuration; or
 - 2.5.2. modify or replace any Hardware or Managed Services Software in its network or in equipment used to deliver any Managed Service over its network,provided that so doing will have no material adverse effect on either Party's ability to perform its obligations under the Managed Services Contract. If such changes will have such a material adverse effect, the affected Party will notify the other and the Parties will follow the Change Control Procedure.
- 2.6. If a Managed Service to be delivered by Axion Solutions is no longer readily available or is in short supply at the agreed time of delivery, Axion Solutions may substitute another product or service in its place. The substituted product will have equivalent or better performance and function and will be provided at no additional cost to the Customer.
- 2.7. If the Customer uses a Managed Service, or requires Axion Solutions to implement or configure a Managed Service, in a manner contrary to the Documentation or Axion Solutions' reasonable

recommendations, Axion Solutions' obligation to provide that Managed Service will be limited to reasonable endeavours.

- 2.8. Time shall not be of the essence in respect of the delivery of the Managed Services.
- 2.9. Axion Solutions reserves the right to modify and increase the Fees and implementation timescale associated with any Managed Service if there is any material revision to Customer Site, Customer Site Equipment, or any other infrastructure of the Customer, which Axion Solutions determines, in its sole discretion, impacts its performance. Any resulting delay shall not be considered a breach of the Contract by Axion Solutions.

3. Disaster Recovery and Customer Data

- 3.1. The Customer acknowledges that certain risks, such as data loss, are an inherent part of using services such as the Managed Services. Axion Solutions can, where agreed with the Customer, provide backup and restore services as part of the Managed Services, which can form part of a Customer's wider business continuity and recovery strategy. However, Axion Solutions does not provide general business continuity planning and execution services. Business continuity planning, and the execution and testing of such plans, is the responsibility of the Customer, and the Customer acknowledges that Axion Solutions' backup and restore services are not a complete substitute for such arrangements. Therefore, if backup and restore services are not included in the Managed Services, Axion Solutions will have no liability for any loss of or damage to Customer Data, however caused. If backup and restore services are included in the Managed Services, Axion Solutions will perform such backup and restore services as are set out in the Work Order to the appropriate Service Level and in accordance with Good Industry Practice. However, the Customer acknowledges that:

- 3.1.1. Axion Solutions is not in a position to develop, evaluate or test the Customer's wider business continuity or disaster recovery arrangements, and can only provide such backup and recovery services as form part of the contracted Managed Services, and the selection and testing of appropriate backup and recovery solutions and strategies is therefore the Customer's responsibility; and

- 3.1.2. Axion Solutions is not in a position to verify the accuracy, completeness or integrity of the Customer Data, and can only back up the Customer Data as of its then-current state. Therefore, Axion Solutions will not be liable if any Customer Data backed up or restored by Axion Solutions is inaccurate, incomplete or corrupted, provided that the restore and corresponding backup job completed without error.

3.2. Notwithstanding paragraph 3.1 of this Schedule 2, Axion Solutions will not itself delete any Customer Data unless specifically permitted to do so by the Contract or instructed to do so by the Customer.

3.3. The Customer acknowledges that Axion Solutions is not an insurer. Therefore, where Customer Site Equipment must be replaced in the course of a disaster recovery, Axion Solutions may provide assistance in doing so, and will provide break/fix services to the extent that such services are within the scope of the Managed Services, but all replacement, relocation and/or reinstallation costs in respect of Customer Site Equipment will otherwise be borne by the Customer.

4. IT Partners and third party agreements

4.1. The Customer may contract directly with an IT Partner for provision of software or services related to the Managed Services. Unless managing such contracts falls within the scope of the Managed Services, the Customer will (as between the Customer and Axion Solutions) be solely responsible for all matters arising out of such contracts.

4.2. Where Axion Solutions provides the Customer with access to or use of third party Managed Services Software in the course of providing the Managed Services, the Customer agrees to comply with the terms of any EULA applicable to such Managed Services Software. Where required by an upstream supplier of such Managed Services Software, the Customer agrees to provide to such upstream supplier sufficient access to relevant systems and records to allow such upstream supplier to verify compliance with such end user licence agreements.

4.3. The Customer shall licence or procure a licence for the use of any software, programs and/or applications used by the Customer and not supplied by Axion Solutions (including the Customer's operating environment). These may or may not be indirectly related to the Managed Services.

5. Change Control Procedure

5.1. The Customer acknowledges that changes to services such as the Managed Services must be carefully managed. Therefore, if either Party wishes to change the scope of any of the Managed Services (including Customer requests for additional services), it shall submit a change request to the other Party and the Parties will then proceed according to Axion Solutions' change control procedure as notified to the Customer from time to time (the **Change Control Procedure**).

6. Term and Renewal

6.1. The Managed Services Contract will continue for the Initial Term and will thereafter

automatically renew for successive Renewal Terms unless:

- 6.1.1. either Party notifies the other party of termination, in writing, at least 30 days before the end of the Initial Term or the then-current Renewal Term, in which case the Contract will terminate upon the expiry of the Initial Term or then-current Renewal Term, as the case may be; or
- 6.1.2. otherwise terminated in accordance with the terms of the Managed Services Contract, including these Conditions.
- 6.2. Certain Managed Services are subject to longer cancellation periods imposed by the upstream supplier. The cancellation period for such Managed Services will be as set out in the relevant Managed Services Contract, and in respect of such Managed Services paragraph 6.1.1 of this Schedule 2 will be deemed to be varied accordingly.
- 6.3. The Customer acknowledges that the Managed Services Fees are subject to variations caused by, among other things, increases in upstream supplier charges and general inflation, and that Axion Solutions may therefore vary the Fees payable by the Customer for Renewal Terms. At least 45 days before the expiry of the Initial Term and each Renewal Term, Axion Solutions will notify the Customer of any adjustment in the Fees payable for the subsequent Renewal Term and, unless
 - (a) the Customer terminates the Managed Services Contract in accordance with paragraph 6.1.1 of this Schedule 2, or (b) the Parties agree otherwise in writing, such adjusted Fees will apply automatically from the start of such Renewal Term.

7. Suspension

- 7.1. Axion Solutions may suspend all or any part of any Managed Service without liability to the Customer if:
 - 7.1.1. Axion Solutions reasonably believes that the Managed Services have been, are being or are likely to be used in breach of the Managed Services Contract;
 - 7.1.2. Axion Solutions discovers that the Customer is affiliated in any manner with a person who is subject to a sanction, or has previously acted in a manner which Axion Solutions deems (in its sole discretion) to be unethical, and/or who has been engaged in poor business practices;
 - 7.1.3. the Customer does not reasonably co-operate with Axion Solutions' investigation of any suspected breach of the Managed Services Contract;
 - 7.1.4. Axion Solutions reasonably believes that the Customer has permitted the Managed Services to

be accessed or manipulated by a third party without Axion Solutions' prior written consent;

- 7.1.5. Axion Solutions reasonably believes that Customer applications, databases or operating systems hosted on the Managed Services have been hacked or compromised (unless such hack or compromise is directly attributable to Axion Solutions' failure to perform its obligations under the Managed Services Contract);
- 7.1.6. Axion Solutions reasonably believes that suspension of the Managed Services is necessary to
protect Axion Solutions' System or Axion Solutions' other customers; or
- 7.1.7. Axion Solutions is required to do so by law or a regulatory or government body.
- 7.2. Axion Solutions will give the Customer advance notice of a suspension under this paragraph 7 of at least 12 Business Hours unless Axion Solutions determines in its reasonable judgment that a suspension on shorter or contemporaneous notice is necessary to protect Axion Solutions, the Customer and/or Axion Solutions' other customers from imminent and significant operational, legal, or security or financial risk (including non-payment of undisputed Fees).
- 7.3. If Axion Solutions suspends any Managed Services pursuant to any of paragraphs 7.1.1, 7.1.3, 7.1.4 or 7.1.7 of this Schedule 2, then Axion Solutions may continue to charge the Customer the Managed Services Fees for the Managed Services during the period of suspension, and may charge the Customer a reasonable reinstatement fee upon reinstatement of the Managed Services. If Axion Solutions suspends any Managed Services pursuant to paragraph 7.1.5 of this Schedule 2, then the Customer must address the underlying vulnerability prior to Axion Solutions placing the Managed Services back in service. If the Customer requests, and subject to the Parties reaching agreement on the applicable Fees, Axion Solutions may be able to perform this work for the Customer as a supplementary service.

8. Exit Assistance, Return of Customer Data and Transfer of Employees and Assets

- 8.1. Reasonably promptly following expiry or termination of the Managed Services Contract for any reason, Axion Solutions will provide the Customer with one electronic copy of the Customer Data, in the format it is then in and on an "as-is" basis. Thereafter, subject to paragraph 8.3 of this Schedule 2, Axion Solutions may delete the Customer Data at its discretion.
- 8.2. Reasonably promptly following expiry or termination of the Managed Services Contract for reasons other than those set out in clause 14.1 of the General Terms, Axion Solutions will:
 - 8.2.1. provide to the Customer copies of existing technical documentation of the Managed Services;

- 8.2.2. hand over to the Customer all relevant passwords specific to the Managed Services provided to the Customer; and

- 8.2.3. provide the Customer with such reasonable assistance and information in transitioning the Managed Services to a Replacement Supplier as the Customer may request, free of charge for a period of up to 30 days following such expiry or termination, and thereafter chargeable to the Customer on a time and materials basis at Axion Solutions' then-current rates for a further period of no more than 90 days following such expiry or termination (together, the **Transition Assistance Period**).
- 8.3. If requested to do so by the Customer, upon expiry or termination of the Managed Services Contract for reasons other than those set out in clause 14.1 of the General Terms and subject to continuing payment by the Customer of the applicable Managed Services Fees, Axion Solutions will use reasonable endeavours to continue to provide such of the Managed Services as the Customer may require for up to 30 days following such termination or expiry so as to allow the Customer to transition to a Replacement Supplier. The Customer acknowledges that certain upstream suppliers may not permit such transitional provision, and therefore agrees that this paragraph 8.3 will not apply in respect of Managed Services which are dependent upon such upstream suppliers.
- 8.4. As soon as practicable after the commencement of the Transition Assistance Period, Axion Solutions will disclose to the Customer whether any of its workers or employees (or those of its subcontractors) will transfer to the Customer or the Replacement Supplier by operation of TUPE upon expiry or termination of the Managed Services Contract. If TUPE will apply to any such employees or workers, Axion Solutions shall provide, or procure the provision of (as applicable), all reasonably requested information relating to such individuals to the Customer and the Parties shall each comply with their obligations under TUPE and shall co-operate to ensure that any requirement to inform and consult employees and/or their representatives is fulfilled.
- 8.5. If applicable, on expiry or termination of the Contract Axion Solutions shall sell to the Customer, and the Customer shall buy, the Customer Site Equipment for net book value, calculated in accordance with Axion Solutions' reasonable then-current depreciation policy. Title to such Customer Site Equipment shall pass to the Customer on payment.