

DATED

[insert date]

MASTER SERVICES AGREEMENT

between

ASSURED CYBER SOLUTIONS LTD

and

[insert name of customer]

CONTENTS

----- CLAUSE

1.	INTERPRETATION	4
2.	COMMENCEMENT AND DURATION	7
3.	STATEMENTS OF WORK	8
4.	USE OF THIRD PARTY PLATFORM	8
5.	SUPPLIER'S RESPONSIBILITIES	8
6.	CUSTOMER'S OBLIGATIONS	9
7.	NON-SOLICITATION AND EMPLOYMENT	10
8.	CHANGE CONTROL.....	10
9.	CHARGES AND PAYMENT	11
10.	INTELLECTUAL PROPERTY RIGHTS	13
11.	COMPLIANCE WITH LAWS AND POLICIES	15
12.	DATA PROTECTION	15
13.	CONFIDENTIALITY	18
14.	LIMITATION OF LIABILITY:.....	18
15.	TERMINATION	20
16.	OBLIGATIONS ON TERMINATION AND SURVIVAL	21
17.	FORCE MAJEURE	22
18.	NOTICES	22
19.	MULTI-TIERED DISPUTE RESOLUTION PROCEDURE	23

20. GENERAL.....	24
------------------	----

SCHEDULE

SCHEDULE 1 TEMPLATE SOW	27
----------------------------------	----

SCHEDULE 2 PROCESSING, PERSONAL DATA AND DATA SUBJECTS	29
---	----

1. PARTIES' ROLES	29
----------------------------	----

2. PARTICULARS OF PROCESSING	29
---------------------------------------	----

3. TECHNICAL AND ORGANISATIONAL MEASURES	29
---	----

This agreement is dated [insert date]

PARTIES

- (1) **ASSURED CYBER SOLUTIONS LTD** incorporated and registered in England and Wales with company number 14060481 whose registered office is at 5 Technology Park Colindeep Lane, Colindale, London, England, NW9 6BX (**Supplier**)
- (2) [INSERT FULL COMPANY NAME OF CUSTOMER] incorporated and registered in England and Wales with company number [INSERT COMPANY NUMBER] whose registered office is at [INSERT COMPANY'S REGISTERED OFFICE ADDRESS] (**Customer**)

BACKGROUND

- (A) The Supplier is in the business of providing the Supplier Services.
- (B) The Customer wishes to obtain and the Supplier wishes to provide the Supplier Services on the terms set out in this agreement.

AGREED TERMS

1. Interpretation

1.1 The following definitions and rules of interpretation apply in this agreement:

Applicable Data Protection Laws: means: all applicable data protection and privacy legislation in force from time to time in the UK including the UK GDPR; the Data Protection Act 2018 (DPA 2018) (and regulations made thereunder) and the Privacy and Electronic Communications Regulations 2003 (SI 2003/2426) as amended 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 (including, without limitation, the privacy of electronic communications); and the guidance and codes of practice issued by the Information Commissioner or other relevant regulatory authority and applicable to a party.

Applicable Laws: all applicable laws, statutes, regulation and codes from time to time in force.

Business Day: a day, other than a Saturday, Sunday or public holiday in England, when banks in London are open for business.

Business Hours: the period from 8.30am to 5.00pm on any Business Day.

Change Order: has the meaning given in clause 8.1.

Control: has the meaning given in section 1124 of the Corporation Tax Act 2010, and **controls**, **controlled** and the expression **change of control** shall be construed accordingly.

Customer Materials: all documents, information, items and materials in any form, whether owned by the Customer or a third party, which are provided by the Customer to the Supplier in connection with the Services, including the items provided pursuant to clause 6.1(d).

Customer Personal Data: any personal data which the Supplier processes in connection with this agreement, in the capacity of a processor on behalf of the Customer.

Customer's Equipment: any equipment, including tools, systems, cabling or facilities, provided by the Customer, its agents, subcontractors or consultants which is used directly or indirectly in the supply of the Services including any such items specified in a SOW.

Customer's Manager: the individual identified as such in a SOW, as appointed pursuant to clause 6.1(b).

Deliverables: any output of the Services to be provided by the Supplier to the Customer as specified in a SOW and any other documents, products and materials provided by the Supplier to the Customer in relation to the Services [(excluding the Supplier's Equipment)].

Force Majeure Event means any circumstance not within a party's reasonable control including, without limitation: (a) acts of God, flood, drought, earthquake or other natural disaster; (b) epidemic or pandemic; (c) terrorist attack, civil war, civil commotion or riots, war, threat of or preparation for war, armed conflict, imposition of sanctions, embargo, or breaking off of diplomatic relations; (d) nuclear, chemical or biological contamination or sonic boom; (e) any law or any action taken by a government or public authority, including without limitation imposing an export or import restriction, quota or prohibition, or failing to grant a necessary licence or consent; (f) collapse of buildings, fire, explosion or accident; (g) in the case of the Supplier, any labour or trade dispute, strikes, industrial action or lockouts; (h) in the case of the Supplier, non-performance by suppliers or subcontractors; and (i) interruption or failure of utility service.

Intellectual Property Rights or IPRs: patents, utility models, rights to inventions, copyright and neighbouring and related rights, moral rights, trade marks and service marks, business names and domain names, rights in get-up and trade dress, goodwill and the right to sue for passing off or unfair competition, rights in designs, rights in computer software, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how and trade secrets) and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.

Milestone: a date or timescale by which a part or all of the Services is to be completed, as set out in a SOW.

Representatives: a party's employees, officers, representatives, contractors, subcontractors or advisers.

Services: the Services which are provided by the Supplier under a SOW.

SoW Charges: the sums payable for the Services as set out in a SOW.

Statement of Work or SOW: a detailed plan, agreed in accordance with clause 3, describing the services to be provided by the Supplier, the timetable for their performance and the related matters listed in the template statement of work set out in Schedule 1.

Supplier's Equipment: any equipment, including tools, systems, cabling or facilities, provided by the Supplier to the Customer and used directly or indirectly in the supply of the Services, including any such items specified in a SOW but excluding any such items which are the subject of a separate agreement between the parties under which title passes to the Customer].

Supplier Personal Data: any personal data that the Supplier processes in connection with this agreement, in the capacity of a controller.

Supplier Services: the services set out at <https://assured.co.uk/advisory/services> or in any brochure provided by the Supplier to the Customer, in each case from time to time.

- a) To the extent the EU GDPR applies, the law of the European Union or any member state of the European Union to which the Supplier is subject, which relates to the protection of personal data.
- b) To the extent the UK GDPR applies, the law of the United Kingdom or of a part of the United Kingdom which relates to the protection of personal data.

UK GDPR: has the meaning given to it in section 3(10) (as supplemented by section 205(4)) of the Data Protection Act 2018.

VAT: value added tax or any equivalent tax chargeable in the UK or elsewhere.

- 1.2 Clause, Schedule and paragraph headings shall not affect the interpretation of this agreement.
- 1.3 A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality). A reference to a **company** shall include any company, corporation or other body corporate, wherever and however incorporated or established.
- 1.4 The Schedules form part of this agreement and shall have effect as if set out in full in the body of this agreement. Any reference to this agreement includes the Schedules. References to clauses and Schedules are to the clauses and Schedules of this agreement and references to paragraphs are to paragraphs of the relevant Schedule.
- 1.5 Unless the context otherwise requires, (i) words in the singular shall include the plural and in the plural shall include the singular; and (ii) a reference to one gender shall include a reference to the other gender.

- 1.6 This agreement shall be binding on, and enure to the benefit of, the parties to this agreement and their respective personal representatives, successors and permitted assigns, and references to any party shall include that party's personal representatives, successors and permitted assigns.
- 1.7 Unless expressly provided otherwise in this agreement, a reference to legislation or a legislative provision; (i) is a reference to it as amended, extended or re-enacted from time to time; and (ii) shall include all subordinate legislation made from time to time under that legislation or legislative provision.
- 1.8 A reference to **writing** or **written** includes email but not fax.
- 1.9 Any obligation on a party not to do something includes an obligation not to allow that thing to be done.
- 1.10 A reference to **this agreement** or to any other agreement or document is a reference to this agreement or such other agreement or document, in each case as varied or novated from time to time.
- 1.11 Any words following the terms **including, include, in particular, for example** or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.

2. Commencement and duration

- 2.1 This agreement shall commence on the date when it has been signed by all the parties and shall continue, unless terminated earlier in accordance with clause 15 (Termination), until either party gives to the other party at least 90 days' written notice to terminate. Such notice shall be served no earlier than the first anniversary of the date of this agreement and shall expire on the completion of all SOWs entered into before the date on which it is served.
- 2.2 If there are no uncompleted SOWs as at the date notice to terminate is served under clause 2.1 such notice shall terminate this agreement with immediate effect.
- 2.3 The parties shall not enter into any further SOWs after the date on which notice to terminate is served under clause 2.1.
- 2.4 The Customer may procure any of the Supplier Services by agreeing a SOW with the Supplier pursuant to clause 3 (*Statements of Work*).

- 2.5 The Supplier shall provide the Services from the date specified in the relevant SOW.

3. Statements of Work

- 3.1 Each SOW shall be agreed in the following manner:

- (a) the Customer shall ask the Supplier to provide any or all of the Supplier Services and shall provide the Supplier with as much information as the Supplier reasonably requests in order to prepare a draft SOW for the Supplier Services requested;
- (b) following receipt of the information requested from the Customer the Supplier shall, as soon as reasonably practicable either:
 - (i) inform the Customer that it declines to provide the requested Supplier Services; or
 - (ii) provide the Customer with a draft SOW.
- (c) if the Supplier provides the Customer with a draft SOW pursuant to clause 3.1(b)(ii), the parties shall discuss and agree that draft SOW; and
- (d) both parties shall sign the draft SOW when it is agreed.

- 3.2 Once a SOW has been agreed and signed in accordance with clause 3.1(d), no amendment shall be made to it except in accordance with clause 8 (*Change control*) or clause 20.2 (*Variation*).

- 3.3 Each SOW shall be part of this agreement and shall not form a separate contract to it.

4. Use of third party platform

The parties acknowledge and agree that where the Services are provided to the Customer on or using a third party platform, the Customer shall be subject to, and shall be responsible for complying with, the third party platform provider's terms and conditions for use of such platform. For the avoidance of doubt, the Supplier shall have their own licence with the third party platform provider but no such licence is provided to the Customer.

5. Supplier's responsibilities

- 5.1 The Supplier warrants to the Customer that the Services will be provided using reasonable care and skill.

- 5.2 The Supplier shall use reasonable endeavours to provide the Services, and deliver the Deliverables to the Customer, in all material respects in accordance with the applicable SOW.
- 5.3 The Supplier shall use reasonable endeavours to meet the Milestones specified in a SOW but any such dates shall be estimates only and time for performance by the Supplier shall not be of the essence of this agreement.
- 5.4 The Supplier shall use reasonable endeavours to observe all health and safety and security requirements that apply at any of the Customer's premises and that have been communicated to it under clause 6.1(e), provided that it shall not be liable under this agreement if, as a result of such observation, it is in breach of any of its obligations under this agreement.

6. Customer's obligations

- 6.1 The Customer shall:
 - (a) provide the Supplier with all necessary co-operation in all matters relating to the Services;
 - (b) ensure that the Customer's Manager has authority to contractually bind the Customer on all matters relating to the Services (including by signing Change Orders);
 - (c) provide, for the Supplier, its agents, subcontractors, consultants and employees, in a timely manner and at no charge, access to the Customer's premises, office accommodation, data and other facilities as required by the Supplier including any such access as is specified in a SOW;
 - (d) provide to the Supplier in a timely manner all documents, information, items and materials in any form (whether owned by the Customer or a third party) required under a SOW or otherwise reasonably required by the Supplier in connection with the Services and ensure that they are accurate and complete;
 - (e) inform the Supplier in writing of all health and safety and security requirements that apply at any of the Customer's premises to which the Supplier will require access to provide the Services. If the Customer wishes to make a change to those requirements which will materially affect provision of the Services, it can only do so via the change control procedure set out in clause 8 (*Change control*);

- (f) ensure that all the Customer's Equipment is in good working order and suitable for the purposes for which it is used and conforms to all relevant United Kingdom standards or requirements;
- (g) obtain and maintain all necessary licences and consents and comply with all relevant legislation as required to enable the Supplier to provide the Services, including in relation to the installation of the Supplier's Equipment, the use of all Customer Materials and the use of the Customer's Equipment, in all cases before the date on which the Services are to start;
- (h) keep, maintain and insure the Supplier's Equipment in accordance with the Supplier's instructions from time to time and not dispose of or use the Supplier's Equipment other than in accordance with the Supplier's written instructions or authorisation; and
- (i) comply with any additional responsibilities of the Customer as set out in the relevant SOW.

6.2 If the Supplier's performance of its obligations under this agreement is prevented or delayed by any act or omission of the Customer, its agents, subcontractors, consultants or employees then, without prejudice to any other right or remedy it may have, the Supplier shall be allowed (i) an extension of time to perform its obligations equal to the delay caused by the Customer; and (ii) to charge the Customer for any and all losses, costs and expenses incurred due to such delay.

7. Non-solicitation and employment

7.1 Except in respect of any transfer of employees of the Supplier to the Customer pursuant to the Transfer of Undertakings (Protection of Employment) Regulations 2006 (SI 2006/246), the **OR** The] Customer shall not, without the prior written consent of the Supplier, at any time from the date on which any Services commence to the expiry of 12 months after the completion of such Services, solicit or entice away from the Supplier or employ or attempt to employ any person who is, or has been, engaged as an employee, consultant or subcontractor of the Supplier in the provision of such Services.

8. Change control

8.1 Either party may propose changes to the scope or execution of the Services but no proposed changes shall come into effect until a relevant **Change Order** has been signed by both parties. A Change Order shall be a document setting out the proposed changes and the effect that those changes will have on:

- (a) the Services;
- (b) the SoW Charges;
- (c) the timetable for the Services; and
- (d) any of the other terms of the relevant SOW.

8.2 If the Supplier wishes to make a change to the Services it shall provide a draft Change Order to the Customer.

8.3 If the Supplier submits a draft Change Order in order to comply with any applicable safety or regulatory requirements and such changes do not affect the nature, scope of, or charges for the Services, the Customer shall not unreasonably withhold or delay consent to it.

8.4 If the Customer wishes to make a change to the Services:

- (a) it shall notify the Supplier and provide as much detail as the Supplier reasonably requires of the proposed changes (including the timing of the proposed change) to enable the Supplier to prepare the draft Change Order; and
- (b) the Supplier shall, as soon as reasonably practicable after receiving the information at clause 8.4(a), provide a draft Change Order to the Customer.

8.5 If the parties:

- (a) agree to a Change Order, they shall sign it and that Change Order shall amend the relevant SOW; or
- (b) are unable to agree a Change Order, either party may require the disagreement to be dealt with in accordance with the dispute resolution procedure in clause 19_(Multi-tiered dispute resolution procedure).

9. Charges and payment

9.1 In consideration of the provision of the Services by the Supplier, the Customer shall pay the SoW Charges.

9.2 Any services, consulting time, or other deliverables specified in an SoW must be utilised within the term of that SoW. Any unused services, consultant time, or allocated hours that remain at the end of the SoW term shall automatically expire and shall not be carried forward, rolled over, or refunded, unless otherwise agreed in writing by the Supplier.

- 9.3 If the Supplier spends more time on the Services than originally anticipated and exceeds the SOW Charges, the Supplier reserves the right to charge further costs to the Customer in accordance with its daily fee rates as set out in the SOW.
- 9.4 30 days prior to the end of the SoW term, the supplier will notify the customer that any activities or days that have not been used will
- 9.5 The SoW Charges exclude the following, which shall be payable by the Customer monthly in arrears, following submission of an appropriate invoice:
 - (a) the cost of hotel, subsistence, travelling and any other ancillary expenses reasonably incurred by the individuals whom the Supplier engages in connection with the Services; and
 - (b) the cost to the Supplier of any materials or services procured by the Supplier from third parties for the provision of the Services as such items and their cost are set out in the SOW.
- 9.6 The Supplier shall invoice the Customer for the SoW Charges at the intervals specified, or on the achievement of the Milestones indicated, in the SOW. If no payment terms are specified in the SOW, the Supplier shall invoice the Customer upon completion of the Services.
- 9.7 Unless otherwise specified in the SOW, or otherwise agreed in writing by the Supplier, the Customer shall pay each invoice submitted to it by the Supplier:
 - (a) within 30 days of the date of the invoice; and
 - (b) in full and in cleared funds to a bank account nominated in writing by the Supplier from time to time.
- 9.8 Without prejudice to any other right or remedy that it may have, if the Customer fails to pay the Supplier any sum due under this agreement on the due date:
 - (a) the Customer shall pay interest on the overdue sum from the due date until payment of the overdue sum, whether before or after judgment. Interest under this clause will accrue each day at 5% a year above the Bank of England's base rate from time to time, but at 5% a year for any period when that base rate is below 0%; and
 - (b) the Supplier may suspend part or all of the Services until payment has been made in full.
- 9.9 All sums payable to the Supplier under this agreement:

- (a) are exclusive of VAT, and the Customer shall in addition pay an amount equal to any VAT chargeable on those sums on delivery of a VAT invoice; and
- (b) 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).

10. Intellectual property rights

10.1 In relation to the Customer Materials, the Customer:

- (a) and its licensors shall retain ownership of all IPRs in the Customer Materials; and
- (b) grants to the Supplier a fully paid-up, non-exclusive, royalty-free, non-transferable licence to copy and modify the Customer Materials for the term of this agreement for the purpose of providing the Services to the Customer.

10.2 In relation to the Deliverables:

- (a) the Supplier and its licensors shall retain ownership of all IPRs in the Deliverables, excluding the Customer Materials;
- (b) the Supplier grants the Customer, or shall procure the direct grant to the Customer of, a fully paid-up, worldwide, non-exclusive, royalty-free perpetual and irrevocable licence to copy and modify the Deliverables (excluding the Customer Materials) strictly and solely for the purpose of receiving and using the Services and the Deliverables in its business. For the avoidance of doubt, the Customer may not copy, reproduce, publish or distribute the Deliverables in any way whatsoever for any other purposes or provide any copies of the Deliverables to any third party; and
- (c) the Customer shall not sub-license, assign or otherwise transfer the rights granted in clause 10.2(b) to any third party.

10.3 The Customer:

- (a) warrants that the receipt and use in the performance of this agreement by the Supplier, its agents, subcontractors or consultants of the Customer Materials shall not infringe the rights, including any Intellectual Property Rights, of any third party; and
- (b) shall indemnify the Supplier against any amounts awarded against the Supplier in judgment or paid by the Supplier in settlement, arising out of or

in connection with any claim brought against the Supplier, its agents, subcontractors or consultants for actual or alleged infringement of a third party's IPRs arising out of, or in connection with, the receipt or use in the performance of this agreement of the Customer Materials.

10.4 The Supplier shall:

- (a) indemnify the Customer against any amounts awarded against the Customer in judgment or paid by the Customer in settlement, arising out of or in connection with any claim brought against the Customer for actual infringement of a third party's IPR, to the extent that the infringement or alleged infringement arising out of, or in connection with, the receipt, use or supply of the Services and the Deliverables; and,
- (b) have no liability and the Customer shall have no claim, under the indemnity at clause 10.4(a), to the extent the infringement arises from:
 - (i) the use of the Customer Materials in the development of, or the inclusion of the Customer Materials in any Deliverable;
 - (ii) any modification of the Deliverables or Services, other than by or on behalf of the Supplier; and
 - (iii) compliance with the Customer's specifications or instructions.

10.5 If either party (the **Indemnifying Party**) is required to indemnify the other party (the **Indemnified Party**) under this clause 10, the Indemnified Party shall:

- (a) notify the Indemnifying Party in writing of any claim against it in respect of which it wishes to rely on the indemnity at **Error! Bookmark not defined.Error! Reference source not found. (IPRs Claim)**;
- (b) allow the Indemnifying Party, at its own cost, to conduct all negotiations and proceedings and to settle the IPRs Claim, always provided that the Indemnifying Party shall obtain the Indemnified Party's prior approval of any settlement terms, such approval not to be unreasonably withheld;
- (c) provide the Indemnifying Party with such reasonable assistance regarding the IPRs Claim as is required by the Indemnifying Party, subject to reimbursement by the Indemnifying Party of the Indemnified Party's costs so incurred; and
- (d) not, without prior consultation with the Indemnifying Party, make any admission relating to the IPRs Claim or attempt to settle it, provided that the Indemnifying Party considers and defends any IPRs Claim diligently,

using competent counsel and in such a way as not to bring the reputation of the Indemnified Party into disrepute.

10.6 This clause 10 shall survive termination of the agreement.

11. Compliance with laws and policies

11.1 In performing its obligations under this agreement, each party shall comply with all Applicable Laws.

11.2 Changes to the Services required as a result of changes to the Applicable Laws shall be agreed via the change control procedure set out in clause 8 (*Change control*).]

12. Data protection

12.1 For the purposes of this clause 12, the terms **controller**, **processor**, **data subject**, **personal data**, **personal data breach** and **processing** shall have the meaning given to them in the UK GDPR.

12.2 Both parties will comply with all applicable requirements of Applicable Data Protection Laws. This clause 12 is in addition to, and does not relieve, remove or replace, a party's obligations or rights under Applicable Data Protection Laws.

12.3 The parties have determined that, for the purposes of Applicable Data Protection Laws:

- (a) the Supplier shall process the personal data as set out in paragraph 1.1 of Schedule 2 as processor on behalf of the Customer; and
- (b) the Supplier shall act as controller of the personal data set out in paragraph 1.2 of Schedule 2.

12.4 Should the determination in clause 12.3 change, the parties shall use all reasonable endeavours to make any changes that are necessary to this clause 12 and Schedule 2.

12.5 The Customer consents to, (and shall procure all required consents, from its personnel, representatives and agents, in respect of) all actions taken by the Supplier in connection with the processing of Supplier Personal Data, provided these are in compliance with the then-current version of the Supplier's privacy policy available at (<https://assured.co.uk/privacy-policy/>) (**Privacy Policy**). In the

event of any inconsistency or conflict between the terms of the Privacy Policy and this agreement, the Privacy Policy will take precedence.

- 12.6 Without prejudice to the generality of clause 12.2, the Customer will ensure that it has all necessary appropriate consents and notices in place to enable lawful transfer of the Supplier Personal Data and Customer Personal Data to the Supplier and lawful collection of the same by the Supplier for the duration and purposes of this agreement.
- 12.7 In relation to the Customer Personal Data, Schedule 2 sets out the scope, nature and purpose of processing by the Supplier, the duration of the processing and the types of personal data and categories of data subject.
- 12.8 Without prejudice to the generality of clause 12.2, the Supplier shall, in relation to Customer Personal Data:
- (a) process that Customer Personal Data only on the documented instructions of the Customer, which shall be to process the Customer Personal Data for the purposes set out in Schedule 20 unless the Supplier is required by Applicable Laws to otherwise process that Customer Personal Data (**Purpose**). Where the Supplier is relying on Applicable Laws as the basis for processing Customer Processor Data, the Supplier shall notify the Customer of this before performing the processing required by the Applicable Laws unless those Applicable Laws prohibit the Provider from so notifying the Customer on important grounds of public interest. The Supplier shall inform the Customer if, in the opinion of the Supplier, the instructions of the Customer infringe Applicable Data Protection Laws;
 - (b) implement the technical and organisational measures set out in Schedule 2 to protect against unauthorised or unlawful processing of Customer Personal Data and against accidental loss or destruction of, or damage to, Customer Personal Data, which the Customer has reviewed and confirms are appropriate to the harm that might result from the unauthorised or unlawful processing or accidental loss, destruction or damage and the nature of the data to be protected, having regard to the state of technological development and the cost of implementing any measures;
 - (c) ensure that any personnel engaged and authorised by the Supplier to process Customer Personal Data have committed themselves to confidentiality or are under an appropriate statutory or common law obligation of confidentiality;

- (d) assist the Customer insofar as this is possible (taking into account the nature of the processing and the information available to the Supplier), and at the Customer's cost and written request, in responding to any request from a data subject and in ensuring the Customer's compliance with its obligations under Applicable Data Protection Laws with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators;
- (e) notify the Customer without undue delay on becoming aware of a personal data breach involving the Customer Personal Data;
- (f) at the written direction of the Customer, delete or return Customer Personal Data and copies thereof to the Customer on termination of the agreement unless the Supplier is required by Applicable Law to continue to process that Customer Personal Data. For the purposes of this clause 12.8(f) Customer Personal Data shall be considered deleted where it is put beyond further use by the Supplier; and
- (g) maintain records to demonstrate its compliance with this clause 12, and allow for reasonable audits by the Customer or the Customer's designated auditor, for this purpose, on reasonable written notice.

12.9 The Customer provides its prior, general authorisation for the Supplier to:

- (a) appoint processors to process the Customer Personal Data, provided that the Supplier:
 - (i) shall ensure that the terms on which it appoints such processors comply with Applicable Data Protection Laws, and are consistent with the obligations imposed on the Supplier in this clause 12;
 - (ii) shall remain responsible for the acts and omission of any such processor as if they were the acts and omissions of the Supplier; and
 - (iii) shall inform the Customer of any intended changes concerning the addition or replacement of the processors, thereby giving the Customer the opportunity to object to such changes provided that if the Customer objects to the changes and cannot demonstrate, to the Supplier's reasonable satisfaction, that the objection is due to an actual or likely breach of Applicable Data Protection Law, the Customer shall indemnify the Supplier for any losses, damages, costs (including legal fees) and expenses suffered by the Supplier in accommodating the objection.

- (b) transfer Customer Personal Data outside of the UK as required for the Purpose, provided that the Supplier shall ensure that all such transfers are effected in accordance with Applicable Data Protection Laws. For these purposes, the Customer shall promptly comply with any reasonable request of the Supplier, including any request to enter into standard data protection clauses adopted by the Commissioner from time to time.

12.10 Either party may, at any time on not less than 30 days' notice, revise this clause 12 by replacing it with any applicable controller to processor standard clauses or similar terms forming part of an applicable certification scheme (which shall apply when replaced by attachment to this agreement).

13. Confidentiality

13.1 Each party undertakes that it shall not at any time disclose to any person any confidential information concerning the business, affairs, customers, clients or suppliers of the other party, except as permitted by clause 13.2(a).

13.2 Each party may disclose the other party's confidential information:

- (a) to its Representatives who need to know such information for the purposes of exercising the party's rights or carrying out its obligations under or in connection with this agreement. Each party shall ensure that its Representatives to whom it discloses the other party's confidential information comply with this clause 13; and
- (b) as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.

13.3 No party shall use the other party's confidential information for any purpose other than to exercise its rights and perform its obligations under or in connection with this agreement.

14. Limitation of liability:

14.1 The limits and exclusions in this clause reflect the insurance cover the Supplier has been able to arrange and the Customer is responsible for making its own arrangements for the insurance of any excess loss.

14.2 References to liability in this clause 14 include every kind of liability arising under or in connection with this agreement including but not limited to liability in contract, tort (including negligence), misrepresentation, restitution or otherwise.

- 14.3 Nothing in this clause 14 shall exclude or limit the Customer's payment obligations under a SOW and this agreement.
- 14.4 Nothing in this agreement excludes or limits any liability which cannot legally be excluded or limited, including but not limited to liability for:
- (a) death or personal injury caused by negligence;
 - (b) fraud or fraudulent misrepresentation; or
 - (c) breach of the terms implied by section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession) or other liability which cannot be limited or excluded by applicable law.
- 14.5 Subject to clauses 14.3, 14.4 and 14.5, the Supplier's total liability to the Customer:
- (a) in connection with this agreement shall not exceed [the greater of (i) £1,000,000, and (ii) the total SoW Charges payable under all SOWs entered into]; and
 - (b) in connection with any SOW, shall not exceed the total of the charges related to that SOW.
- 14.6 Subject to clauses 14.3 and 14.4, the Supplier shall not be liable for any:
- (a) wasted expenditure;
 - (b) loss of profits;
 - (c) loss of sales or business;
 - (d) loss of agreements or contracts;
 - (e) loss of anticipated savings;
 - (f) loss of use or corruption of software, data or information;
 - (g) loss of or damage to goodwill and/or similar losses;
- in each case whether direct or indirect; and
- (h) any special, indirect or consequential loss, costs, damages, charges or expenses;
- however arising under this agreement.
- 14.7 The Supplier has given commitments as to compliance of the Services with relevant specifications in clause 5.1 (*Supplier's responsibilities*). In view of these commitments, the terms implied by sections 3, 4 and 5 of the Supply of Goods

and Services Act 1982 are, to the fullest extent permitted by law, excluded from this agreement.

- 14.8 Unless the Customer notifies the Supplier that it intends to make a claim in respect of an event within the notice period, the Supplier shall have no liability for that event. The notice period for an event shall start on the day on which the Customer became, or ought reasonably to have become, aware of the event having occurred and shall expire 12 months from that date. The notice must be in writing and must identify the event and the grounds for the claim in reasonable detail.

15. Termination

- 15.1 Without affecting any other right or remedy available to it, either party may terminate this agreement with immediate effect by giving written notice to the other party if:
- (a) the other party commits a material breach of any term of this agreement and (if such breach is remediable) fails to remedy that breach within a period of 14 days after being notified in writing to do so;
 - (b) the other party takes or has taken against it (other than in relation to a solvent restructuring) any step or action towards its entering bankruptcy, administration, provisional liquidation or any composition or arrangement with its creditors, applying to court for or obtaining a moratorium under Part A1 of the Insolvency Act 1986, being wound up (whether voluntarily or by order of the court), being struck off the register of companies, having a receiver appointed to any of its assets, or its entering a procedure in any jurisdiction with a similar effect to a procedure listed in this clause 15.1(b);
 - (c) the other party suspends or ceases, or threatens to suspend or cease, carrying on all or a substantial part of its business; or
 - (d) the other party's financial position deteriorates so far as to reasonably justify the opinion that its ability to give effect to the terms of this agreement is in jeopardy.
- 15.2 Without affecting any other right or remedy available to it, the Supplier may terminate this agreement with immediate effect by giving written notice to the Customer if:
- (a) the Customer fails to pay any amount due under this agreement on the due date for payment; or
 - (b) there is a change of Control of the Customer.

- 15.3 If any of the circumstances in clause 15.1 or clause 15.2 occur, the Supplier may terminate the Customer's access to, or suspend the supply of, the Services and in such circumstances the Supplier shall have no liability (as defined in clause 14) in respect of such termination or suspension.

16. Obligations on termination and survival

16.1 Obligations on termination or expiry

On termination or expiry of this agreement:

- (a) the Customer shall immediately pay to the Supplier all of the Supplier's outstanding unpaid invoices and interest and, in respect of the Services supplied but for which no invoice has been submitted, the Supplier may submit an invoice, which shall be payable immediately on receipt;
- (b) the Customer shall, within a reasonable time, return all of the Supplier's Equipment. If the Customer fails to do so, then the Supplier may enter the Customer's premises and take possession of the Supplier's Equipment. Until the Supplier's Equipment has been returned or repossessed, the Customer shall be solely responsible for its safe keeping; and
- (c) the Supplier shall on request return any of the Customer Materials not used up in the provision of the Services.

- 16.2 The parties do not anticipate that any person will transfer from the Supplier or any of its sub-contractors to the Customer as a result of the termination or expiry of any of the Services.

16.3 Survival

- (a) On termination or expiry of this agreement, all existing Statements at Work shall terminate automatically.
- (b) Clauses 1 (Interpretation), 5.5 (Customer's consent under the Computer Misuse Act 1990), 7 (Non-solicitation and employment), 9 (Charges and payment), 10 (Intellectual property rights), 11 (Compliance with laws), 12 (Data Protection), 13 (Confidentiality), 14 (Limitation of liability), 15 (Termination), 16 (Obligations on termination and survival), 18 (Notices), 19 (Multi-tiered dispute resolution procedure) and 20 (General) shall remain in full force and effect.
- (c) Termination or expiry of this agreement shall 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. Force majeure

- 17.1 Provided it has complied with clause 17.2, if a party is prevented, hindered or delayed in or from performing any of its obligations under this agreement by a Force Majeure Event (**Affected Party**), the Affected Party shall not be in breach of this agreement or otherwise liable for any such failure or delay in the performance of such obligations. The time for performance of such obligations shall be extended accordingly.
- 17.2 The Affected Party shall:
- (a) as soon as reasonably practicable after the start of the Force Majeure Event notify the other party of the Force Majeure Event, the date on which it started, its likely or potential duration, and the effect of the Force Majeure Event on its ability to perform any of its obligations under the agreement; and
 - (b) use all reasonable endeavours to mitigate the effect of the Force Majeure Event on the performance of its obligations.
- 17.3 If the Force Majeure Event prevents, hinders or delays the Affected Party's performance of its obligations for a continuous period of more than 60 days, the party not affected by the Force Majeure Event may terminate this agreement by giving 30 days' written notice to the Affected Party.

18. Notices

- 18.1 Any notice given to a party under or in connection with this agreement shall be in writing and shall be:
- (a) delivered by hand or by pre-paid first-class post or other next Business Day delivery service at its registered office (if a company) or its principal place of business (in any other case); or
 - (b) or sent by email to the address specified below:
 - (i) **Supplier:** notices@assured.co.uk; and
 - (ii) **Customer:** to the email address specified in the SOW.
- 18.2 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;

- (b) if sent by pre-paid first-class post or other next Business Day delivery services, at 9.00 am on the second Business Day after posting; or
- (c) if sent 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.

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

19. Multi-tiered dispute resolution procedure

19.1 If a dispute arises out of or in connection with this agreement or the performance, validity or enforceability of it (**Dispute**) then the parties shall follow the procedure set out in this clause:

- (a) either party shall give to the other written notice of the Dispute, setting out its nature and full particulars (**Dispute Notice**), together with relevant supporting documents. On service of the Dispute Notice, a Company Director of the Customer a Company Director of the Supplier shall attempt in good faith to resolve the Dispute;
- (b) if the Company Director of the Customer and Company Director of the Supplier are for any reason unable to resolve the Dispute within 30 days of service of the Dispute Notice, the Dispute shall be referred to the Chief Executive of the Customer and Chief Executive of the Supplier who shall attempt in good faith to resolve it; and
- (c) if the Chief Executive of the Customer and the Chief Executive of the Supplier are for any reason unable to resolve the Dispute within 30 days of it being referred to them, the parties will attempt to settle it by mediation in accordance with the CEDR Model Mediation Procedure. Unless otherwise agreed between the parties, the mediator shall be nominated by CEDR. To initiate the mediation, a party must serve notice in writing (**ADR notice**) to the other party to the Dispute, requesting a mediation. A copy of the ADR notice should be sent to CEDR. The mediation will start not later than 30 days after the date of the ADR notice.

19.2 No party may commence any court proceedings under clause 20.12 in relation to the whole or part of the Dispute until 60 days after service of the ADR notice, provided that the right to issue proceedings is not prejudiced by a delay.

- 19.3 If the Dispute is not resolved within 60 days after service of the ADR notice, or either party fails to participate or to continue to participate in the mediation before the expiration of the said period of 60 days, or the mediation terminates before the expiration of the said period of 60 days, the Dispute shall be finally resolved by the courts of England and Wales in accordance with clause 20.12.

20. General

20.1 Assignment and other dealings

- (a) The Customer shall not assign, transfer, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any of its rights and obligations under this agreement without the Supplier's prior written consent.
- (b) The Supplier may at any time assign, mortgage, charge, delegate, declare a trust over or deal in any other manner with any or all of its rights under this agreement.

- 20.2 **Variation.** Subject to clause 8 (Change control), no variation of this agreement shall be effective unless it is in writing and signed by the parties (or their authorised representatives).

- 20.3 **Waiver.** A waiver of any right or remedy under this agreement or by law is only effective if given in writing and shall not be deemed a waiver of any subsequent right or remedy. A failure or delay by a party to exercise any right or remedy provided under this agreement or by law shall not constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict any further exercise of that or any other right or remedy. No single or partial exercise of any right or remedy provided under this agreement or by law shall prevent or restrict the further exercise of that or any other right or remedy. A party that waives a right or remedy provided under this agreement or by law in relation to one party, or takes or fails to take any action against that party, does not affect its rights in relation to any other party.

- 20.4 **Rights and remedies.** The rights and remedies provided under this agreement are in addition to, and not exclusive of, any rights or remedies provided by law.

- 20.5 **Severance.** If any provision or part-provision of this agreement is or becomes invalid, illegal or unenforceable, it shall be deemed deleted, but that shall not affect the validity and enforceability of the rest of this agreement. If any provision or part-provision of this agreement is deemed deleted under clause 20.5 the parties shall negotiate in good faith to agree a replacement provision that, to the

greatest extent possible, achieves the intended commercial result of the original provision.

- 20.6 **Entire agreement.** This agreement constitutes the entire agreement between the parties and supersedes and extinguishes all previous and contemporaneous agreements, promises, assurances and understandings between them, whether written or oral, relating to its subject matter. Each party acknowledges that in entering into this agreement it does not rely on, and shall have no remedies in respect of, any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in this agreement. Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in this agreement. Nothing in this clause shall limit or exclude any liability for fraudulent misrepresentation.
- 20.7 **Conflict.** If there is an inconsistency between any of the provisions of this agreement and the provisions of the Schedules, the provisions of this agreement shall prevail.
- 20.8 **No partnership or agency.** Nothing in this agreement 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, or authorise any party to make or enter into any commitments for or on behalf of any other party. Each party confirms it is acting on its own behalf and not for the benefit of any other person.
- 20.9 **Third party rights.** Unless it expressly states otherwise, 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. The rights of the parties to rescind or vary this agreement are not subject to the consent of any other person.
- 20.10 **Counterparts.** This agreement may be executed in any number of counterparts, each of which shall constitute a duplicate original, but all the counterparts shall together constitute the one agreement.
- 20.11 **Governing law.** 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.
- 20.12 **Jurisdiction.** 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.

This agreement has been entered into on the date stated at the beginning of it.

Signed by Liam
 Halfnight for and on
 behalf of **ASSURED** Director
CYBER SOLUTIONS LTD

Signed by [NAME OF
 DIRECTOR] for and on
 behalf of [INSERT NAME Director
 OF CUSTOMER]

SCHEDULE 1 TEMPLATE SOW

- Services: [List out all the services to be provided under this SOW (Services). The Services should be from the relevant website link in the definition of "Supplier Services" or in any brochure provided by the Supplier to the Customer from time to time].
- Customer's Manager & Supplier representative: [List out the relevant individuals and their email addresses] [Set out email address to which notices can be sent – see clause 18.]
- Start date and term: [Specify when the Services will commence, and the term of this SOW.]

[Penetration testing is scheduled to begin on [start date] and end on [end date].]

[Penetration testing scope:

- (i) The following items are in scope of the Testing Environment: [List the in-scope items (e.g., endpoints, networks)]
 - (ii) The following items are out of scope of the Testing Environment: [List specific systems or environments excluded from testing].]
- Reporting. [The report(s) will be delivered to the Customer within [X days] following the completion of the test. See clause 5.5(f).] Customer Materials: [List out the Customer Materials. E.g. laptops]
- Supplier's Equipment: [List out the Supplier's Equipment. E.g. laptops.]
- [Service Levels]: [Include any service levels, if applicable.]
- Timetable: [Set out the timetable for performing the Services.]
- Milestones: [Set out the milestones for the Services.]
- Deliverables: [Set out any deliverables for the Services.]
- [Acceptance Criteria: [Set out any criteria for accepting the Deliverables or the Milestones.]]
- SoW Charges: [Set out the charges for the Services. Set out day rates for additional time incurred.]
- [Materials and services charged to the Customer in addition to the SoW Charges]: [Specify what these are and the anticipated charges for them.]

- [Exit assistance: [Set out details of the exit assistance which the Supplier will provide to the Customer.]]

.....

Signed by [NAME OF CUSTOMER REPRESENTATIVE] for and on behalf of the Customer.

.....

Signed by [NAME OF SUPPLIER REPRESENTATIVE] for and on behalf of the Supplier.

SCHEDULE 2 PROCESSING, PERSONAL DATA AND DATA SUBJECTS

1. Parties' roles

- 1.1 Where the Supplier acts as a processor
- 1.2 [Where the Supplier acts as a controller]

2. Particulars of processing

- 2.1 Scope
- 2.2 Nature
- 2.3 Purpose of processing
- 2.4 Duration of the processing
- 2.5 Types of personal data. Corporate email addresses, first names, surnames, phone numbers.
- 2.6 Categories of data subject

3. Technical and organisational measures

