

BACKUP & DISASTER RECOVERY AS A SERVICE TERMS AND CONDITIONS

This Agreement is made as of the [INSERT Docusign Signed Date]

Between

- (1) **DATABARRACKS LIMITED** incorporated and registered in Guernsey with company number 40662 whose registered office is Avenue House, St Julian's Avenue, St Peter Port, Guernsey, Channel Island, GY1 1WA ("**Databarracks**").
- (2) ***** incorporated and registered in England and Wales with company number ***** whose registered office is at ***** ("**Customer**" and "**you**").

Recitals

- (A) Databarracks is a provider of public cloud infrastructure, backup and disaster recovery services and solutions hosted from Public Cloud Platforms (as defined in this Agreement).
- (B) The Customer has selected and wishes to appoint Databarracks to provide to the Customer the Backup & Disaster Recovery Services (as defined in this Agreement, and as summarised in the Customer Service Order). Databarracks accepts such appointment upon the terms and conditions of this Agreement.

1. Definitions and Interpretation

- 1.1 In this Agreement (unless the context otherwise requires) the following words shall have the following meanings:

Additional Fees: means any additional fees (as referred to in the Customer Service Order which the Customer has agreed to pay for any additions to, or increase in, the Services;

Affiliates: means, in relation to the Customer, a company which is a subsidiary or holding company of it, or any company which is a subsidiary of any such holding company, "holding company" and "subsidiary" having the meanings ascribed to them in section 1159 of the Companies Act 2006;

Amazon Web Services: the various cloud services provided by Amazon, as more particularly described at <https://aws.amazon.com>;

Azure Site Recovery Software: means the disaster recovery software provided by Microsoft Azure Services;

Backup Services: means the backup services to be provided by Databarracks to the Customer on the terms of this Agreement, as more particularly set out in the Service Overview, but excluding the Transition and On-Boarding Services;

Backup & Disaster Recovery Services: means the Backup Services and Disaster Recovery Services;

Backup Software: means any third party software used to deliver the Services, including but not limited to including but not limited to the Commvault software as updated by Commvault;

Change Control Procedure: means the change control procedure referred to in Clause 7;

Charges: means the Non-Recurring Charges, the Recurring Charges and any Additional Fees as set out in Customer Service Order;

Commvault: means 1 Commvault Way, Tinton Falls, NJ 07724, USA;

Confidential Information: means all secret or confidential information including the terms of this Agreement, the Data, personal data, costs, and all other information whether of a commercial, financial, marketing, technical or business nature or otherwise relating in any manner to the business or affairs of the other party and / or its Affiliates, which either party may receive or has received before or after the date of this Agreement in connection with this Agreement, together with any reproductions of all or any part of such information, and regardless of the form or medium by which such information is supplied;

Consultancy Services: means the delivery of professional services should the Customer failover and/or fallback the Customer Recovery Environment as detailed in the Service Overview;

Customer Authorised Contact: has the meaning given in Clause 3.2;

Customer Data: means all data, files, information, reports and materials sent or made available to Databarracks by the Customer, Affiliates of the Customer or by Databarracks on the Customer's behalf for the purpose of using the Services or facilitating the Customer's use of the Services, including any data and/or information derived from such information;

Customer Personal Data: means any personal data which may be supplied by the Customer or its Affiliates to Databarracks under this Agreement and/or which the Databarracks (and/or any Sub-Contractor) generates, collects, stores, transmits or otherwise processes either on behalf of the Customer or its Affiliates or as a data controller in connection with this Agreement;

Customer Portal: means any web portal that may be made available by Databarracks to the Customer for managing and/or configuring the Customer Recovery Environment (as appropriate);

Customer Recovery Environment: means the environment hosted on the Microsoft Azure Cloud Platform which is configured by Databarracks and/or through the Customer Portal to accept and contain (i) the Customer Data and (ii) those parts of the Customer's systems which the Customer has selected to be replicated using the Disaster Recovery Services (as detailed in the Customer Service Order);

Customer Service Order: means the counter-signed order detailing the agreed Charges, the Services and Customer Recovery Environment;

Customer-Side Software: means such Disaster Recovery Software as is provided to the Customer by Databarracks for installation on the Customer's equipment to facilitate the replication of certain of the Customer's data and systems to the Customer Recovery Environment, as configured through the Customer Portal;

Databarracks Personnel: means (i) any officers or employees of Databarracks who are engaged by Databarracks in connection with the provision of the Services and/or the Microsoft Azure Cloud Platform;

Data Protection Laws: all data protection and privacy laws applicable to any personal data processed under or in connection with this Agreement, including, without limitation, the UK Data Protection Act 2018, the General Data Protection Regulation

2016/679 (known as "GDPR"), the Privacy and Electronic Communication Directive 2002/58/EC and all national legislation implementing or supplementing the foregoing and all associated codes of practice and other guidance issued by any applicable supervisory authority, all as amended, re-enacted and/or replaced and in force from time to time;

Design Document: means the technical low level design document provided to the Customer as part of the Transition and On-Boarding Services;

Disaster: an unplanned event or circumstance resulting in an interruption of, corruption of, or inaccessibility to, any or all of the Customer servers and/or data as listed in the attached Appendix, as may be updated from time to time;

Disaster Recovery Services: means the disaster recovery services to be provided by Databarracks to the Customer on the terms of this Agreement, as more particularly set out the Customer Service Order, but excluding the Transition and On-Boarding Services;

Disaster Recovery Software: means the Zerto Software or Azure Site Recovery Software which Databarracks employs as part of the Databarracks Cloud Computing Platform as updated from time to time by Zerto or third party authorised by Zerto;;

DocuSign: an electronic signature technology used to facilitate and execute legally binding contracts and documents;

Effective Date: means the date of this Agreement;

Force Majeure: means the circumstances set out in Clause 14;

GB: means gigabyte, the unit of computer memory or storage capacity and **GHz:** means gigahertz, the unit of processing speed, both units of measure being used to calculate certain Charges;

Google Cloud Services: the various cloud services provided by Google, as more particularly described at <https://cloud.google.com/>;

Industry Good Practice: means the exercise of that degree of skill, care, prudence, efficiency and foresight as would be expected from a leading company within the relevant industry or business sector, at the time when that exercise was undertaken;

Initial Period: means the minimum term for the provision of the Disaster Recovery Services as set out in the Customer Service Order and starting immediately after the On-boarding Period;

Intellectual Property: means any and all intellectual property rights of any nature anywhere in the world, whether registered, registerable or otherwise, including patents, utility models, trademarks, registered designs and domain names, applications for any of the foregoing, trade or business names, goodwill, copyright and rights in the nature of copyright, design rights, rights in databases, moral rights, and any other intellectual property rights which subsist in computer software, computer programs, websites, documents, information, techniques, business methods, drawings, logos, instruction manuals, lists and procedures and particulars of customers, marketing methods and procedures and advertising literature;

Invocation: is defined in Clause 5.1 and 'Invoke' etc. shall be interpreted accordingly;

ISO 27001: means the family of standards which help organisations keep information assets secure, as developed and published by the International Organisation for Standardization;

ISO9001: means the family of standards for quality management systems, as developed and published by the International Organization for Standardization;

Monthly Measurement Period: the first Monthly Measurement Period starts at the beginning of the first day of the Initial Period and ends at the end of that calendar month. Subsequent Monthly Measurement Periods cover a calendar month, unless the Agreement or the relevant period ends during a calendar month. Where a Monthly Measurement Period covers less than a calendar month, payments calculated with reference to the Monthly Measurement Period are reduced pro-rata;

Microsoft Azure Services: means one or more of the Microsoft services and features identified at <https://azure.microsoft.com/en-us/services> and which Databarracks agrees to provide to the Customer as part of the Services;

Microsoft Azure Cloud Platform: means the platform and services provided and hosted by Microsoft Azure Services containing the Customer Environment, and associated management and operating systems software;

Non-Recurring Charges: means the one-off charges payable by the Customer in the Customer Service Order;

Normal Business Hours: means 8 a.m. to 6: p.m. UK time on a Working Day;

Public Cloud Platform: means the platform and services provided and hosted by Amazon Web Service, Microsoft Azure Services or Google Cloud Service containing the Backup Services Customer Environment, and associated management and operating systems software;

Public Cloud Services: the various cloud services provided by Amazon, Google and/or Microsoft, as more particularly described at <https://aws.amazon.com>, <https://cloud.google.com> and <https://azure.microsoft.com>;

On-boarding Period: means the period between the Effective Date and the commencement of the Initial Period during which the Backup Services and the Disaster Recovery Services are configured and tested;

Reasonable Endeavours: a party under an obligation to use Reasonable Endeavours shall use all resources available to it bring about the required result, and shall prioritise those endeavours ahead of all of its other activities and resources, provided that it shall not be required to do anything which (1) would render it liable to insolvency; (2) would render it in material breach of any agreement with a third party; (3) would be impossible and (4) would be unlawful;

Recurring Charges: means ongoing Charges payable by the Customer for the duration of the Initial Period, any extension of the Initial Period or any Renewal Period as detailed within the Customer Service Order;

Services: means (i) the Transition and On-boarding Services, (ii) the Backup Services, (iii) the Disaster Recovery Services (iv) Service Desk and Incident Resolution (v) Storage Services (vi) Backup Software (vii) Disaster Recovery Software, and 'Service' shall mean any element of such services;

Services Commencement Date: means the dates (Initial Period Start Date) set out in Customer Service Order as being the date on which the Transition and On-Boarding Services commence;

Service Overview: means the Service Overview set out in the Customer Service Order;

Services Table: means the table in Clause 2.3;

Transition and On-Boarding Services: means the services to be provided by Databarracks as set out in Customer Service Order;

Update: means any future upgrade, new version, release, change, modification, enhancement and/or correction to any of the Backup Software, Disaster Recovery Software and/or the Public Cloud Platform (as applicable), in each case from time to time (and Updated shall be interpreted accordingly);

Working Day: means Monday to Friday in any week, excluding Bank and other public holidays in England; and

Zerto Software: means the disaster recovery software provided by Zerto Ltd with registered office at 6 Maskit Street, Herzelia, Israel 46733.

- 1.2 References to Clauses and Customer Service Order are to the Clauses of and Customer Service Order to this Agreement.
- 1.3 Clause, Schedule and Paragraph headings shall not affect the interpretation of this Agreement.
- 1.4 The words “including”, “such as” and “in particular” and any similar words or expressions are by way of illustration and emphasis only and do not operate to limit the generality or extent of any other words or expressions.
- 1.5 A reference to a company shall include any company, corporation or other body corporate, wherever and however incorporated or established and a reference to a person includes a natural person, company or unincorporated body (whether or not having separate legal personality) and that person's personal representatives, successors or permitted assigns.
- 1.6 Words in the singular shall include the plural and vice versa.
- 1.7 A reference to one gender shall include a reference to the other genders.
- 1.8 A reference to a statute or statutory provision is a reference to it as it is in force for the time being, taking account of any amendment, extension or re-enactment, and includes any subordinate legislation for the time being in force made under it.
- 1.9 A reference to data controller, data processor, data subject, personal data and supervisory authority shall have the meaning under UK Data Protection Laws.
- 1.10 A reference to “writing” or “written” does not include faxes or email.(unless explicitly so stated in this Agreement).
- 1.11 Agreement means this agreement and the Customer Service Order and any agreed Appendices to it.

2. Service Provision

- 2.1 Databarracks shall provide access to the Services 24 hours a day, 365 days of the year (including leap years) and with all reasonable skill and care.
- 2.2 Services are intended for the benefit of the Customer alone and the Customer shall not sell or make available the Services or any part of them for the benefit of third parties.
- 2.3 The table below summarises the key aspects of the Services being delivered pursuant to this Agreement, the Customer Recovery Environment is detailed in the Customer Service Order;

Service Name	Description
Databarracks Disaster Recovery Services	The Microsoft Azure Cloud Platform is architected to provide resilient cloud computing capability onto which the Customer can fail-over in the event of suffering a Disaster. Following an Invocation, Databarracks will provide an private instance of the Microsoft Azure Cloud Platform to run the Disaster Recovery Services (“the Customer Recovery Environment”).
Backup Services	The Public Cloud Platform is architected to provide resilient storage services and the backup software configured to support the Customers data retention policies.
Storage Services	The service is engineered to provide a highly available and scalable storage service to run the Backup Services and the Disaster Recovery Service as well as accommodating additional ‘on demand’ compute servers to those on the Customer Recovery Environment.
Support Services	Databarracks shall provide monitoring of the computing, operating and networking infrastructure to detect and correct abnormalities in the Backup & Disaster Recovery Services. This includes environment monitoring, LAN monitoring, load balancing, firewall and replicated servers to support the Disaster Recovery Services. Databarracks will provide regular service delivery reviews and reporting.
Backup Software	Databarracks shall provide backup software licensing for the Backup Services licensed as set out in this Agreement.
Disaster Recovery Software	Databarracks shall provide replication software licensing for the Disaster Recovery Services licensed as set out in this Agreement.
On-boarding Services	The service will be set-up under the Transition and On-boarding services as specified in Customer Service Order

- 2.4 Databarracks is not liable for any failure of the Backup Software, Disaster Recovery Software, Public Cloud Platform or Public Cloud Services.
- 2.5 The Customer agrees to the terms of use for the Public Cloud Platform, as amended from time to time with such relevant terms included in the Customer Service Order.
- 2.6 Databarracks is not liable for any failure of the service due to the failure of the customer’s internet connection, virtual private network or other communication equipment.
- 2.7 The Customer acknowledges that in order to receive and access the Services it shall procure, and shall procure that its Affiliates procure, its and their own internet access facilities through a third-party ISP or telecommunications provider which will be payable by the Customer and its Affiliates.
- 2.8 Databarracks cannot be liable for any failure of the service which has been caused by a member of the Customers staff or Customers contractor accessing and changing systems or software configurations. Anti-Virus, Firewalling and equipment security for any Databarracks hardware used within the customers’ business address as part of this contract are the responsibility of the customer.
- 2.9 Databarracks shall deploy and configure the Backup Services in accordance with the Design Document.

3. Pre-Provision Obligations and Related Ongoing Obligations

- 3.1 The Customer undertakes to co-operate with Databarracks in relation to the provision of the Backup & Disaster Recovery Services, and to provide such information as Databarracks may reasonably request promptly and accurately, and to use reasonable endeavours to procure that any third parties contracted by the Customer and whose co-operation is necessary for the proper performance of the Backup & Disaster Recovery Services co-operate likewise. Databarracks shall not be liable for any default or delay in carrying out its obligations under this Agreement to the extent such default or delay is directly and solely attributable to the Customer's failure to provide information in a timely manner (irrespective of whether the Customer has used reasonable endeavours to procure such information from a third party).
- 3.2 The Customer will nominate two named senior employees with authority to handle all of the matters within the subject-matter of this Agreement (the "Customer Authorised Contacts"), and provide Databarracks with all necessary contact details, including private mobile telephone number, or email and give Databarracks authority to contact such employee at any time.
- 3.3 The Customer will notify Databarracks immediately should the identity of either Customer Authorised Contact, or any related information given to Databarracks by the Customer, change. Either Customer Authorised Contact may, from time to time, notify Databarracks of an alternate contact at the Customer who, in the absence of a Customer Authorised Contact, is authorised to act as a Customer Authorised Contact.
- 4. Availability and Service Levels**
- 4.1 Databarracks shall use all reasonable endeavours to provide the Customer Recovery Environment to a 99.99% level of availability during each 365 day period, save that due to the nature and complexity of computer systems and networks, it cannot warrant that such Customer Recovery Environment will be always free from error, or failure from time to time. Detail on availability and maintenance schedules is detailed in Customer Service Order.
- 5. Invocation of DR Services**
- 5.1 In the event of a Disaster event affecting the Customer, the Customer may, via the Customer Authorised Contact, notify Databarracks and Databarracks will assist the Customer in making the Customer's computer systems, as replicated through the use of the Services, available, , the process for achieving such availability is as set out in Clause 5.2 and referred to as 'Invocation'.
- 5.2 Notification of a Disaster event affecting the Customer may be given by the Customer Authorised Contact to the Databarracks service desk via telephone call or email and, notwithstanding Clause 25, shall be deemed to have been received by Databarracks when the call is answered or the email is received.
- 5.3 The Customer acknowledges and agrees that:
- a) Invocation is only capable of re-instating systems or data to the point when they were last replicated using the Disaster Recovery Services;
 - b) Invocation may require the purchase of additional software or licences to make use of the systems which have been backed up (for example, remote access software);
 - c) performance of the re-instated systems may not be equivalent to the performance of live systems running on their original equipment; and
 - d) correct functioning of the re-instated systems may require that certain external systems update their domain name system records or references to static IP addresses to function correctly.
- 5.4 Upon Invocation, If either party identifies any Intellectual Property used by the Customer which is needed by Databarracks in order to provide the Disaster Recovery Services, then the Customer will:
- a) arrange for the novation, sub-license or transfer of the relevant licences to Databarracks (and, where such licences bear any cost reimburse Databarracks for all relevant costs); or
 - b) terminate the Customer's own licences to such Intellectual Property and assist Databarracks in obtaining licences directly from the licensor on similar terms; or
 - c) grant Databarracks a royalty-free licence to use such Intellectual Property for the purpose of providing the Disaster Recovery Services for the duration of this Agreement.
 - d) The Services provided pursuant to Invocation are as set out in the Customer Service Order. Additional services are to be dealt with through the Change Control as per Clause 7 of this Agreement.
- 6. Charges and Payment**
- 6.1 In consideration of the provision of the Services, the Customer shall pay the Charges set out in Customer Service Order.
- 6.2 Non-Recurring Charges are payable 30 days after the receipt of invoice. Invoices for Non-Recurring Charges shall be issued as set out in Customer Service Order.
- 6.3 In the event that the Customer reasonably considers that any invoice submitted by Databarracks is defective or if the Customer has any queries, disputes or complaints regarding any invoice, then the Customer shall, within 30 Working Days of the date of receipt of the relevant invoice, notify Databarracks accordingly, and Customer shall be entitled to withhold payment of such disputed amount without prejudice to any rights and remedies the Customer may have. Both parties agree to work together in good faith to resolve any disputed invoice.
- 6.4 In the event of late payment by the Customer of any sums properly due and payable under this Agreement (and provided that the Customer has been given at least 30 days' written notice to cure such late payment (the "Late Payment Notice") and subject to Clause 6.3, Databarracks reserves the right to charge interest on the amount of the late payment from the due date to the date of receipt by Databarracks at the annual rate of the lower of 1.5% above the base rate of Barclays Bank Plc from time to time. Such interest shall accrue on a daily basis both before and after any judgment. The parties agree that the right to claim interest under this Clause 6.4 is a substantial remedy for late payment and is in substitution for any statutory right to claim interest under the Late Payment of Commercial Debts (Interest) Act 1998.
- 6.5 Invoices payable in respect of the Recurring Charges will be generated on a monthly basis. Invoices will be sent to the Customer via email unless requested otherwise and are payable 30 days from the date of receipt of the relevant invoice by the Customer .
- 6.6 All amounts and Charges stated or referred to in this Agreement are exclusive of value added tax, which shall be added to invoice(s) at the appropriate rate.
- 6.7 Databarracks reserves the right to increase all Recurring Charges once per annum on 1st January. Such Recurring Charges shall be increased by no more than the Consumer Prices Index (CPIH) for the preceding 12 months (as published by the UK Office for National Statistics).

- 6.8 Databarracks shall provide half a day per year for supplier assessment and audits, required by the Customer at no additional cost. Any time required above half a day for supplier assessment and audits shall be chargeable as per the Additional Fees in the Customer Service Order. Standard service and organisation information will be provided at no cost to the customer in writing or via Databarracks' supplier management software tool. Any Customer supplier management software costs paid by Databarracks shall be recharged to The Customer.
- 7. Change Control**
- 7.1 If either party wishes to change the scope of the Backup & Disaster Recovery Services (including Customer requests for additional services), it shall submit details of the requested change to the other party in writing.
- 7.2 If either party requests a change to the scope or terms of the Backup & Disaster Recovery Services, Databarracks shall, within 30 days, provide a written estimate to the Customer of:
- a) the likely time required to implement the change;
 - b) any variations to the Customer's payments arising from the change; and
 - c) any other impact of the change on the terms of this Agreement;
 - d) which estimate shall remain open for acceptance for a period of 14 days from the date of issue, and shall lapse if not accepted in writing by the Customer within that time. Where the estimate is accepted by the Customer in writing, it shall take effect on the terms and conditions of this Agreement.
- 7.3 The parties hereby acknowledge that this Clause 7 is designed to offer operational and service flexibility to allow the Services to flex if/as the Customer's requirements change during the period of this Agreement and will not be used as a means to effect a termination, as such where any change results in a reduction in the Customer Recovery Environment then such a reduction shall be limited to 25% of the Recurring Revenue as agreed at the Effective Date.
- 8. Data Protection & Customer Data**
- 8.1 Both parties will comply with all applicable requirements of the Data Protection Laws.
- 8.2 Databarracks and the Customer acknowledge that for the purposes of the Data Protection Laws, the Customer in using the Services is the data controller of Customer Personal Data in respect of which Databarracks will be the processor.
- 8.3 Without prejudice to the generality of Clause 8.1, the Customer will ensure that it and its Group have all necessary appropriate consents and / or notices in place to enable lawful transfer of Customer Personal Data to Databarracks for the duration and purposes of this Agreement. Databarracks shall, in relation to Customer Personal Data:
- a) process the personal data only to the extent, and in such a manner, as is necessary for the purpose for which the personal data is collected and processed as notified to Databarracks by the Customer and in accordance with the Customer's instructions from time to time and shall not process the personal data for any other purpose;
 - b) ensure it has in place appropriate technical and organisational measures against the unauthorised or unlawful processing of personal data and against the accidental loss or destruction of, or damage to, personal data;
 - c) ensure that access to the personal data is limited to those Personnel who need access to the personal data to meet Databarracks' obligations under this Agreement;
 - d) not transfer the personal data outside the United Kingdom or the European Economic Area without the prior written consent of the Customer;
 - e) assist the Customer, at the Customer's cost, in responding to any request from a data subject and in ensuring compliance with its obligations under the Data Protection Laws with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators;
 - f) notify the Customer without undue delay if, in its opinion, the Customer's instructions infringe the Data Protection Laws or upon Databarracks becoming aware of a personal data breach;
 - g) at the written direction of the Customer and upon the payment of Databarracks' reasonable costs where applicable, delete or return personal data and copies thereof to the Customer on termination of this Agreement unless required or permitted by applicable law to store the personal data;
 - h) at the written direction of the Customer and upon the payment of Databarracks' reasonable costs where applicable (including any required software or tools, and time taken by suitably qualified personnel), conduct audits and inspections; and
 - i) maintain records of any types of processing of personal data it carries out on behalf of the Customer and provide such records to Customer promptly upon receipt of Customer's request.
- 8.4 The Customer consents to Databarracks appointing a sub-contractor (or third-party processor) of personal data under this agreement. Databarracks will confirm if requested by the Customer in writing of the identities of such third parties and that it has entered or (as the case may be) will enter a written agreement with such third parties incorporating terms which are substantially similar to those set out in this clause.
- 8.5 Databarracks shall inform the Customer without undue delay if any of Customer Data or Customer's Personal Data is lost or destroyed or becomes damaged, corrupted, or unusable. Databarracks shall use reasonable endeavours to restore the lost or damaged Customer's Personal Data or Customer Data. Without prejudice to any other term of this Agreement, in the event of any loss or damage to Customer's Personal Data or Customer Data caused by (i) a breach by Databarracks of this Agreement or (ii) any act or omission of any Databarracks Personnel, then Databarracks will restore such Customer Data or Customer Personal Data at its own expense. Databarracks shall not be responsible for any loss, destruction, alteration or disclosure of Customer Data or Customer's Personal Data caused by the Customer, or the Customer's employees or agents unless such loss, destruction, alteration or disclosure was caused by the Customer or any of its Affiliates following Databarracks instructions or advice.
- 8.6 Where, as part of the Services, Databarracks provides professional services relating to the configuration and operation of the Customer's IT environment, the Customer acknowledges that Databarracks is advising the Customer as to the means and purpose for which Customer's Personal Data are processed as opposed to making any determination on the Customer's behalf, and that any decisions are made by Customer alone and that accordingly, Databarracks is neither sole or co-data controller in respect of such personal data.
- 8.7 To the extent that any Customer's Personal Data is being processed in the Customer's IT environment, it is the Customer, and not Databarracks, which determines the purposes for which, and the means by which, it is so processed and the Customer, and not Databarracks, which configures the Customer's IT environment, and thereby acts as data controller.

- 8.8 The Customer acknowledges and confirms that it is permitted to transmit to Databarracks pursuant to this Agreement all Customer Data without breach of any law, agreement, arrangement or duty or the rights of any third party.
- 8.9 The parties undertake to each other that, if required by ICO guidance or Good Practice, they shall enter into a separate data processing agreement that will supplement the provisions of this Clause in order to cover the data processing obligations that will arise under the GDPR and that they shall negotiate the provisions of that agreement in good faith.

9. Proprietary Rights & Intellectual Property

- 9.1 The Customer acknowledges and agrees that, as between the parties, Databarracks and/or its licensors (including but not limited to the proprietors of the Customer-Side Software) own all Intellectual Property in the Services and subject to Clause 9.5 in any material developed or produced in connection with the Services by Databarracks, its officers, employees, subcontractors or agents including Intellectual Property in all concepts, ideas, methods, methodologies, procedures, processes, techniques (including, without limitation, function, process, system and data models); templates; the generalised features of the structure, sequence and organisation of software, user interfaces and screen designs; general purpose consulting and software tools, utilities and routines; and logic, coherence and methods of operation of systems; proprietary computer software, software libraries, algorithms, and any documents made available to the Customer by Databarracks which set out a description of the Services and the user instructions for the Services ("Services Materials"). Except as expressly stated in this Agreement, this Agreement does not grant the Customer any rights to such Intellectual Property. Databarracks shall not disclose any Customer specific information in any material developed or produced in connection with the Services by Databarracks, its officers, employees, subcontractors or agents to any third party.
- 9.2 Databarracks hereby grants to or procures for the Customer and its Affiliates a non-exclusive, royalty free licence and authorisation to (i) the Customer-Side Software, and to access and use the Customer Recovery Environment and the Microsoft Azure Cloud Platform to the extent necessary for the Customer to make use of the Services as contemplated by this Agreement, such licence and authorisation to terminate on termination of this Agreement; (ii) use the Services Materials for the purpose of receiving the Services and shall only copy them as necessary for its use of the Services. The Customer will return any copies of documents made available to the Customer by Databarracks which set out a description of the Services and the user instructions for the Services (but excluding any training materials containing information specific to Customer) if so requested on termination of this Agreement. Databarracks will be responsible for maintenance and Updates to the Customer-Side Software, Backup software and Disaster Recovery Software.
- 9.3 Databarracks hereby undertakes to fully and effectively indemnify and hold harmless the Customer and its Affiliates, and keep the Customer and its Affiliates so indemnified from and against all losses, liabilities, damages, costs and expenses (including legal fees) arising from
- a) any claim that the Customer's use or possession of, or access to, the Customer-Side Software and / or Services Materials, in accordance with the terms of this Agreement infringes any third party, copyright, database right or registered patent or trade mark or other intellectual property right. The foregoing indemnity shall be conditional on (i) Databarracks being given as much notice as reasonably possible of such claim or circumstances likely to give rise to such a claim; (ii) Databarracks being given conduct of the defence of the claim and the right to counterclaim, compromise or settle it at its own cost; and (iii) Databarracks being permitted to exercise its rights as set out in Clause 9.4 ; and
 - b) any breach of Databarracks, obligations pursuant to Clause 2.
- 9.4 Databarracks may at any time enter into any agreement with a third party to obtain or perfect any rights it considers necessary to enable it to grant the licence and authorisation set out in Clause 9.2. Where Databarracks believes it is not able to obtain such rights, it may (i) require the Customer to install and use substitute Customer-Side Software provided that such substitute Customer-Side Software remains otherwise compliant with the provisions of this Agreement or (ii), where the foregoing is not commercially feasible and Databarracks reasonably believes it is unable to provide the licence and authorisation set out in Clause 9.2, Databarracks may give the Customer 60 days' notice of termination of this Agreement, and repay to the Customer any prepaid sums *pro rata* in respect of any period for which the Customer is no longer able to use the Customer-Side Software
- 9.5 Databarracks acknowledges that as between the parties, the Customer shall own all right, title and interest in and to all of the Customer Data. The Customer is responsible for ensuring that it or its Affiliates own all material held by Databarracks or that is appropriately licensed. In particular, where the Customer uses the Services to replicate computer systems, the Customer shall ensure that it holds valid licences from the rights holders of all software and data which it transmits and stores using the Services to permit it to do so. The Customer further acknowledges that it may require further licences or permissions from the relevant rights holders should it Invoke the Disaster Recovery Services either for testing or in response to a disaster.

10. Suspension of Services

- 10.1 Without prejudice to any other remedy it may pursue Databarracks is permitted to suspend the Services:
- a) for such time as the Customer is in material breach of any term of this Agreement and such breach (being capable of remedy) has not been remedied within 14 days of the Customer being given notice specifying such breach;
 - b) if the Customer fails to pay any Charge over £500 due under this Agreement; and
 - c) only for the period necessary where Databarracks reasonably suspects that the security of its systems is or is about to be compromised by the Customer or any third party having access to the Customer's equipment or credentials.
- 10.2 Should Databarracks invoke such suspension, it shall give the Customer prior notice of the intended suspension (including the reasons for such suspension).
- 10.3 Databarracks shall retain any Customer Data stored pursuant to the Backup & Disaster Recovery Services while any such suspension is in place.
- 10.4 The Customer's licence to use the Customer-Side Software is suspended for such time as the Backup & Disaster Recovery Services are suspended per Clause 10.1

11. Term and Termination

- 11.1 This Agreement shall commence on the Effective Date and shall, unless terminated in accordance with Clauses 11.2 and 11.3, subsist for the On-boarding Period and then the Initial Period.
- 11.2 Following the expiry of the Initial Period, this Agreement shall, subject to the termination provisions, continue for a further 12 months and thereafter shall automatically be extended for like periods, unless either party gives the other written notice to terminate 3 months prior to the anniversary of the Effective Date. The Customer and Databarracks acknowledge and agree that this notice requirement is a reasonable notice requirement, and that the automatic renewal provision is also reasonable given the nature of the Service(s).

- 11.3 Either party shall be entitled forthwith to terminate this Agreement by 30 Working Days written notice to the other if:
- a) the other party commits a material breach this Agreement, and, where such breach is capable of remedy, fails to remedy such breach in all material respects within 30 days of receiving a written notice from the other party specifying the breach and requiring it to be remedied provided that in relation to payment of Charges, this Clause shall not apply until 30 days after Customer's receipt of a Suspension Notice; or
 - b) an encumbrancer takes possession or a receiver, administrator or similar officer is appointed over any of the property or assets of that other party; or
 - c) that other party makes any voluntary arrangement with its creditors pursuant to the Insolvency Act 1986, or suspends payment to creditors; or
 - d) that other party goes into liquidation (except for the purposes of amalgamation or reconstruction and in such manner that the company resulting therefrom effectively agrees to be bound by or assume the obligations imposed on that other party under this Agreement); or
 - e) that other party ceases, or threatens to cease, to carry on business; or
 - f) any step is taken with a view to any of the matters set out in Clause 11.3 b) and d); or
 - g) anything analogous to any of the foregoing under the law of any jurisdiction occurs in relation to that other party.

12. Effect of Termination

- 12.1 The termination of this Agreement, for whatever reason, shall not affect the rights or remedy of either of the parties that may have accrued before the termination of this Agreement; or
- (a) which expressly or by their nature are intended to survive the termination of this Agreement
- 12.2 Upon termination of this Agreement for reasons other than a material breach by the Customer, a pro-rated amount equivalent to the Charges paid by the Customer in advance for any Services which have not been performed by Databarracks shall be reimbursed by Databarracks to the Customer within thirty (30) days of the date of termination.
- 12.3 In the event of termination or expiry of this Agreement for any reason:
- 12.3.1 save as set out in this Clause, on termination of this Agreement howsoever caused Databarracks' obligation to retain any Customer Data or provide the Backup & Disaster Recovery Services shall cease. The Customer Data shall be retained in a form which enables it to be retrieved by the Customer-Side Software, and the Customer's licence to use the Customer-Side Software shall be extended for such 60 day period solely for the purpose of retrieving the Customer Data, subject to the Customer paying Databarracks reasonable costs incurred for providing such assistance. Databarracks shall promptly (i) return to the Customer, subject to the Customer paying Databarracks' reasonable costs necessarily incurred in providing such assistance; or (ii) dispose of in accordance with Customer's instructions from time to time (as determined by the Customer in its sole and absolute discretion) Customer Data and/or all information (including any Confidential Information) and all other records, documentation or data and copies thereof disclosed or supplied to Databarracks pursuant to or in relation to this Agreement; and
- 12.3.2 Databarracks shall co-operate with the Customer and/or any new provider of the Services (or services similar to the Services) appointed by the Customer in ensuring the smooth handover and continued handover of the Services and, in particular, Databarracks shall render such assistance to the Customer and/or the new provider as the Customer may reasonably request, subject to the Customer paying Databarracks' reasonable costs necessarily incurred in providing such assistance.

13. Confidentiality and Use of Customer Information

- 13.1 Each party may be given access to Confidential Information from the other party in order to perform its obligations under this Agreement. Confidential Information shall not include information that:
- a) is or becomes publicly known other than through any act or omission of the receiving party;
 - b) was in the other party's or its Affiliates' lawful possession before the disclosure without restriction on disclosure;
 - c) is lawfully disclosed to the receiving party or its Affiliates' by a third party without restriction on disclosure;
 - d) is independently developed by the receiving party or its Affiliates', which independent development can be shown by written evidence; or
- 13.2 Databarracks agrees to protect and treat as confidential all Customer Data and Customer Personal Data to the extent to which Databarracks has access thereto and use such Customer Data and Customer Personal Data solely for the purpose of providing the Customer and its Affiliates with the Services.
- 13.3 The receiving party shall maintain in strict confidence all Confidential Information of the disclosing party under this Agreement. The receiving party agrees to limit disclosure and copying of the Confidential Information of the disclosing party to only those it deems necessary for the provision of the Services in accordance with this Agreement. Neither party shall disclose to a third party Confidential Information of the other party. The receiving party shall use the same degree of care as it uses to protect the confidentiality of its own confidential information of like nature, but no less than a reasonable degree of care, to maintain in confidence the Confidential Information of the disclosing party.
- 13.4 The obligations of confidentiality in this Clause 13 with respect to any Confidential Information shall continue following any termination of this Agreement.
- 13.5 The obligations of confidentiality under this Agreement shall not extend to Confidential Information that is required by law or other regulatory or taxation body to be disclosed provided that (i) that any disclosure is limited to the minimum extent required to be disclosed under applicable law or regulation or by a decision of any court or tribunal of competent jurisdiction; (ii) such disclosure does not otherwise relieve the receiving party of its obligations of confidence in relation to such Confidential Information, and (iii) its promptly notifies the disclosing party (where permitted to do so), and if so requested, provides reasonable cooperation to the disclosing party in resisting or limiting the disclosure.
- 13.6 Subject to Clause 11, upon termination of this Agreement, the receiving party, at the option and written request of the disclosing party, will return or destroy all Confidential Information belonging to the other party except to the extent that it is necessary to retain such Confidential Information to comply with any applicable legal requirements and any such retained Confidential Information shall be used solely for the purpose for which it is legally required to be retained. Confidential Information shall be deemed to be destroyed provided that its deletion is undertaken in compliance with guidelines issued by the Information Commissioner from time to time. To the extent that Confidential Information is contained within the Customer Recovery Environment, the Customer's right to retrieve such Confidential Information, and the means of such retrieval, are as set out in Clause 12.

- 13.7 The confidentiality provisions of this Agreement shall preclude publicity referring to the existence of this Agreement. Furthermore no announcement or information concerning this Agreement or any ancillary matter shall be made or released or authorised to be made or released in any advertising publicity promotional or other marketing activities by either of the parties without the prior written consent of the other party. Databarracks may not use the Customer name and logo in advertising to indicate that the Customer is a client of Databarracks.

14. Force Majeure

- 14.1 Neither party shall be in breach of or liable for delay in performing its obligations to the extent that it is prevented from, or delayed in, performing its obligations under this Agreement, or from carrying on its business, by acts, events, omissions or accidents beyond its reasonable control, including, without limitation, act of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, storm or default of Databarracks' subcontractors, provided that the affected party promptly notifies the other party in writing of such an event and its expected duration. In such circumstances the affected party shall be entitled to a reasonable extension of the time for performing such obligations.
- 14.2 If a default due to an event of Force Majeure shall continue for more than 90 days then the party not affected shall be entitled to terminate this Agreement by giving 14 Working Days notice.

15. Liability

- 15.1 Subject to Clauses 15.2 and 15.3, the total aggregate liability of Databarracks to the Customer:
- a) in respect of loss or damage suffered under this Agreement in any one calendar year shall not exceed 125% of the Charges paid and/or payable by the Customer in the 12 month period immediately preceding the event giving rise to the Liability.
- 15.2 Subject to Clause 15.3, neither party shall, in any event, be liable or responsible to the other party for any indirect, special or consequential loss, damage, cost or expense of any kind whatsoever and howsoever caused whether arising under contract, tort (including negligence), breach of statutory duty or otherwise, including any indirect, special or consequential: (i) loss of profits; (ii) loss of contracts; (iv) loss of operation or staff time; (vi) loss of goodwill; and (vii) loss of anticipated savings, even if it has been advised of the possibility of such event occurring.
- 15.3 Neither party excludes or limits its liability for:
- a) death or personal injury caused that party's negligence;
 - b) fraud or fraudulent misrepresentation; or
 - c) any breach of Clauses 3 and 12; or
 - d) in relation to the indemnity in Clause 9.3; and
 - e) any other liability that cannot be excluded or limited by law.
- 15.4 The express representations, obligations and warranties given in this Agreement are in lieu of all warranties, conditions, terms, representations, undertakings and obligations (express or implied) imposed by statute, common law or otherwise all of which are hereby excluded to the maximum extent permitted by law.

16. Warranties

- 16.1 Databarracks warrants and represents to the Customer that:
- a) Databarracks has full power and authority to enter into and perform its obligations under this Agreement;
 - b) Databarracks is fully entitled to grant to the Customer use of or access to the Customer-Side Software, the Customer Portal, the Customer Recovery Environment and the Microsoft Azure Cloud Platform as contemplated by this Agreement;
 - c) Databarracks has and will maintain all necessary licences, consents, and permissions necessary for the performance of its obligations under this Agreement;
 - d) Databarracks is, and shall during the term of this Agreement take all reasonable commercial steps to remain, compliant in-line with ISO 27001 and ISO9001;
 - e) it shall provide the Services with the highest level of skill, care and diligence and in a good and workmanlike manner in accordance with the provisions of this Agreement;
 - f) it shall inform the Customer promptly in writing and in any event within 24 hours in writing, giving details of the circumstances, reasons and likely duration, in the event that it becomes aware of anything of whatsoever nature and whether or not the result of any act or omission on the part of Databarracks or its personnel or sub-contractors which may prevent Databarracks from fulfilling its obligations in accordance with this Agreement;
 - g) in providing the Services, it shall not cause the Customer or its Affiliates to be in breach of any third party rights including Intellectual Property in the Disaster Recovery Software and that the Customer and its Affiliates do not require any licence of the Disaster Recovery Software not granted under this Agreement in order to receive the benefit of the Disaster Recovery Services;
 - h) in providing the Services, it shall not cause the Customer to be in breach of the Backup Software Licence
 - i) it shall not at any time introduce any computer virus or other contamination, whether knowingly or not into the Customer's and / or its Affiliates' software, systems or any other equipment (including any computer hardware or software) which is either owned or used by the Customer and / or its Affiliates;
 - j) the Services shall be provided by adequate numbers of properly skilled and competent persons experienced and skilled in the provision of services of a similar nature to the Services in a good and workmanlike manner and in accordance with the provisions of this Agreement including the performance standards specified in the Service Levels;
 - k) if at any time Databarracks fails to provide the Services in accordance with the Service Levels, Databarracks shall, without prejudice to the Customer's other rights and remedies available to it under this Agreement, at no additional cost or expense to the Customer:
 - l) promptly and in any event within 5 Working Days remedy any failure to meet the Service Levels and re-perform any non-conforming Service (if applicable);
 - m) use all reasonable endeavours to arrange all such additional resources as are necessary to perform the Services in accordance with the Service Levels as early as practicable thereafter; and

- n) this Agreement is executed by a duly authorised representative of Databarracks.
- 16.2 The Customer warrants and represents to Databarracks that:
- a) the Customer has full power and authority to enter into and perform its obligations under this Agreement; and;
 - b) this Agreement is executed by a duly authorised representative of the Customer.
- 17. Equipment**
- 17.1 Any Equipment provided by Databarracks to the Customer in connection with the provision of the Services, shall be and shall remain the property of Databarracks.
- 17.2 Anti-virus, firewalling and equipment security for any Databarracks hardware used within the customers' business address as part of this contract are the responsibility of the customer.
- 17.3 The Customer shall use the Public Cloud Platform and the Equipment in accordance with any reasonable instructions for use provided in writing by Databarracks.
- 17.4 Databarracks shall be responsible for ensuring that the Equipment installed by Databarracks on the Customer's premises is adequately insured.
- 17.5 Databarracks shall regularly carry out routine maintenance of the Equipment and shall pay for the costs of any repair, maintenance or replacement of such Equipment. In the event that any of the Equipment is faulty (and such fault is not caused by the Customer), the Customer shall notify Databarracks and Databarracks shall promptly arrange for the repair of the Equipment. If it is not possible for the Equipment to be repaired within 24 hours of the Customer notifying Databarracks, Databarracks shall promptly arrange for such Equipment to be replaced as soon as reasonable possible. Databarracks will at Databarracks' expense and risk send to the relevant member of the Customer's staff by courier new Equipment to replace the relevant faulty Equipment.
- 17.6 Databarracks shall be allowed reasonable access to the relevant member of the Customer's premises to deliver, install and maintain the Equipment. The parties shall work together to agree a roll-out timetable in respect of the delivery and installation of the Equipment following execution of this Agreement and within 30 days of Customer's request to do so. Maintenance of the Equipment shall be carried out upon reasonable notice at a date and time agreed between the parties. Databarracks shall ensure that such access to the relevant member of the Customer's premises does not unreasonably disrupt or interfere with the Customer's business or the provision of the Services by Databarracks to the Customer.
- 17.7 Databarracks shall, upon termination of this Agreement for any reason and at Databarracks' cost, remove the Equipment from the premises of the Customer at a date and time agreed by the relevant member of the Customer and the Customer shall procure that the Customer shall provide all access reasonably necessary to do so. Databarracks shall ensure that such access to the Customer's premises does not unreasonably disrupt or interfere with the Customer's business.
- 18. Insurance**
- Databarracks agrees throughout the term of this Agreement to maintain professional indemnity, public and product liability, and employers liability with a reputable insurer with a limit of £10,000,000 in respect of each claim. Databarracks will provide the Customer with a copy of the relevant policy and evidence that it remains in force on reasonable request from time to time. Databarracks may change insurers and the terms of the relevant policy from time to time provided that the coverage is not materially less than that provided under this Clause.
- 19. Waiver And Forbearance**
- If either party fails to rely on its rights under this Agreement or otherwise, such failure shall not prevent it from relying on those rights in the future.
- 20. Cumulative Remedies**
- 20.1 The provisions of this Agreement, and the rights and remedies of the parties under it are cumulative and are without prejudice and in addition to any rights or remedies a party may have at law or in equity.
- 20.2 No exercise by a party of any one right or remedy under this Agreement, or at law or in equity, shall (save to the extent, if any, provided expressly in this Agreement, or at law or in equity) operate so as to hinder or prevent the exercise by it of any other such right or remedy.
- 21. Escalation and ADR**
- 21.1 If any dispute arises between the parties out of this Agreement, before taking any further action (such as requiring the party in default to remedy an alleged fault within a specific time), both parties agree that it will be discussed between a representative of each party who is a board director or of equivalent executive authority and who has authority to settle the dispute and who has, where possible, no direct involvement in the relevant matter.
- 21.2 Should the escalation mechanism set out in Clause 21.1 fail to be effective, the parties will attempt to settle it by mediation in accordance with the Centre for Dispute Resolution Model Procedure, or, failing that, a procedure administered by such other similar organisation as the President for the time being of the Law Society of England and Wales shall nominate. Unless the parties agree otherwise, the costs of the mediation shall be borne equally by each of them.
- 22. Publicity**
- No announcement concerning the transactions contemplated by this Agreement or any matter ancillary thereto shall be made by either party without prior approval of the other.
- 23. Assignment and Sub-contracting**
- 23.1 The Customer may assign or transfer this Agreement to an Affiliate or in its entirety to a successor entity that succeeds as a going concern to the business presently conducted by the Customer, provided that such successor entity assumes all of the Customer's business operations.
- 23.2 Databarracks shall not be entitled at any time to assign, transfer, novate, charge, or sub-contract the whole or any part of its rights or obligations under this Agreement to any third party without the Customer's prior written consent. If Databarracks does sub-contract any such obligations Databarracks shall remain liable to the Customer for the acts and omissions of that third party and Databarracks shall procure that that third party provides the Services (or the relevant part thereof) in accordance with the terms and conditions of this Agreement and Databarracks remain liable as if Databarracks was performing the relevant Services itself. The Customer hereby consents to Databarracks sub-contracting the datacentre and associated services to the proprietors for the time being of the Public Cloud Services.
- 24. Severability**

- 24.1 If any provision of this Agreement is found by a court or other competent authority to be void or unenforceable;
- a) that provision shall be deemed to be deleted from this Agreement and the remaining provisions of this Agreement shall continue in full force and effect; and
 - b) the parties shall negotiate in good faith in order to agree the terms of a mutually satisfactory provision to be substituted for that provision.

25. Whole Agreement

- 25.1 Subject to Clause 25.3 this Agreement (including the documents referred to in it and attached as Exhibits to this Agreement) supersedes and extinguishes all prior representations, arrangements, understandings and agreements between the parties relating to its subject matter and is the entire complete and exclusive agreement and understanding between the parties relating to its subject matter.
- 25.2 Each party acknowledges that it has not relied on any representation, arrangement, understanding or agreement (whether written or oral) not expressly set out or referred to in this Agreement.
- 25.3 Clauses 25.1 and 25.2 shall not apply to the extent that they relate to any warranty, representation or undertaking made fraudulently in which case the other party shall be entitled to all the remedies available under English law.

26. Notices

- 26.1 Any notice or other communication given to a party under or in connection with this Agreement shall be in writing, addressed to that party at its registered office (if it is a company) or its principal place of business (in any other case) or such other address as that party may have specified to the other party in writing in accordance with this Clause, and shall be delivered personally, sent by pre-paid first class post or other next Working Day delivery service, commercial courier, fax. Relevant details for such notices if to Customer are detailed in hereto.
- 26.2 A notice or other communication shall be deemed to have been received: if delivered personally, when left at the address referred to in Clause 26.1; if sent by pre-paid first class post or other next Working Day delivery service, at 9.00 am on the second Working Day after posting; if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed; or, if sent by fax, eight hours after transmission during Normal Business Hours or, if transmission is not during Normal Business Hours, at the start of Normal Business Hours on the following Working Day but subject to production by the sender of confirmation from the transmitting facsimile machine that a satisfactory transmission has been completed.

27. Rights of Third Parties

This Agreement is not intended to convey a benefit on any person not a party to it and accordingly the provisions of the Contracts (Rights of Third Parties) Act 1999 are excluded.

28. Counterparts

This Agreement may be entered into in any number of counterparts, all of which taken together shall constitute one and the same instrument. Either party may enter into this Agreement by signing any such counterpart.

29. Anti- Bribery And Anti- Slavery

- 29.1 Customer and its Group are committed to running a business free from discreditable behaviour of any kind and Databarracks confirms that it shares Customer's commitment in respect of its own business dealings. In particular, Databarracks warrants that it is not associated with bribery or the commissioning of any acts of bribery, nor does it associate with any party in relation to such matters. Databarracks undertakes that it will not commit nor commission any act of bribery and will take all reasonable steps to ensure that the individuals it utilises to perform the Services act accordingly.
- 29.2 With regard to its activities carried out in relation to this Agreement, Databarracks shall comply with applicable laws by which it is bound that concern slavery. In the case of the United Kingdom, these laws include the Modern Slavery Act 2015.
- 29.3 Databarracks shall notify Customer promptly in writing if it becomes aware that it is in breach of this Clause 28 and shall (i) promptly provide to Customer such relevant information relating to such breach as Customer reasonably requests and (ii) co-operate with Customer and any relevant public authorities in relation thereto.

30. Variation

- 30.1 This Agreement may be modified or amended from time to time by the mutual agreement of the parties provided however that no such modification or amendment shall be effective unless and until reduced to writing and signed by duly authorised representatives of the parties.

31. Governing Law and Jurisdiction

This Agreement shall be governed by the laws of England and subject to Clause 20 the parties agree to submit to the exclusive jurisdiction of the English Courts.

32. Signatures

By signing by hand or through DocuSign, I confirm I am duly authorised on behalf of the Customer to be bound by this Agreement and the attached Customer Service Order detailing the Charges, the Services and Customer Recovery Environment delivered under these terms and conditions.

Signed for and on behalf of the Customer:

Signed for and on behalf of Databarracks Ltd:

SIGNATURE: _____

SIGNATURE: _____

NAME: _____

NAME: James Watts

TITLE: _____

TITLE: Managing Director, Databarracks Ltd

DATE: _____

DATE: _____