

PUBLIC CLOUD MANAGED SERVICES 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**" and "**we**" and "**us**").
- (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 Public Cloud Managed 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 The definitions and rules of interpretation in this clause apply in this Agreement.

Additional Fees: means any additional charges as referred to in the Charges and Term which the Customer has agreed to pay for any increase in the Services;

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

Business Day: any day on which banks are open for business in the city of London, not including Saturday, Sunday or any day which is a public holiday in England and Wales;

Charges: means the Non-Recurring Charges, the Recurring Charges and any Additional Fees as described in Charges and Term;

Confidential Information: information that is proprietary or confidential and which is either labelled as such or else which should reasonably be considered as confidential because of its nature and the manner of its disclosure including any information or material relating to the parties' systems, websites (including any related website code and/or website user data howsoever stored), applications (including any related application code and/or application user data howsoever stored), operations, opportunities, business or advertising plans, intentions, market opportunities, know-how, trade secrets, Intellectual Property, personnel, research, costs, prices, finances and business affairs;

Configuration: means the configuration and implementation of Covered Services provided by Databarracks as more particularly set out in Services Overview;

Consultancy: means advice on Public Cloud Services provided to the Customer by Databarracks as more particularly set out in Services Overview;

Covered Service: means a Public Cloud service and/or a Public Cloud Instance configured or to be configured by Databarracks for the Customer under this Agreement as set out in Services Overview;

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

Customer Data: means any information or data which is provided by the Customer to the Public Cloud provider as part of Customer's use of a Covered Service, including any information derived from such information;

Customer Personal Data: means any personal data which may be supplied by Customer 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 Customer or as a data controller in connection with this Agreement;

Data Protection Laws: all privacy laws applicable to any Personal Data processed under or in connection with this Agreement, including, without limitation, the UK Data Protection Act 2018 (known as "GDPR"), the Data Protection Directive 95/46/EC, 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;

Effective Date: means the date of this Agreement;

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

Initial Period: means the minimum term for the provision of the 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, registrable or otherwise, including patents, utility models, trade marks, 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 and moral rights;

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;

Normal Business Hours: 8.30 am to 6.00 pm local UK time on a Business Day;

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

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

Public Cloud: 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>;

Public Cloud Instance: means any virtual server or service running in Public Cloud and supported by us;

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

Recurring Charges: means ongoing Charges payable by the Customer in the Customer Service Order;

Services: means the Consultancy, the Configuration and (where applicable) the Support and set up services relating to each Covered Service set out in the Customer Service Order;

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

Software: means any software to be installed in a virtual machine as part of the Databarracks monitoring services;

Support: means any configuration changes, updates, upgrades, Incident management and Incident resolution services that Databarracks may provide or perform with respect to a Covered Service, as well as any other support or training services provided to the Customer under this Agreement;

Term: means the period from the Commencement Date until the Agreement is terminated by either party in accordance with clause 11.4; and

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

- 1.2 Clause, schedule and paragraph headings shall not affect the interpretation of this Agreement.
- 1.3 A reference to a company shall include any company, corporation or other body corporate, wherever and however incorporated or established.
- 1.4 Words in the singular shall include the plural and vice versa.
- 1.5 A reference to one gender shall include a reference to the other genders.
- 1.6 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.
- 1.7 A reference to writing or written includes faxes but not e-mail.
- 1.8 Any phrase introduced by the words including, includes, in particular or for example, or any similar phrase, shall be construed as illustrative and shall not limit the generality of the related general words.
- 1.9 References to clauses and schedules are to the clauses and schedules of this Agreement. References to paragraphs are to paragraphs of the relevant schedule.
- 1.10 A reference to "data controller", "data processor", "data subject", "personal data" and "supervisory authority" shall have the meaning under the Data Protection Laws.
- 1.11 A person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality) and that person's personal representatives, successors or permitted assigns.
- 1.12 If, during the continuance of this Agreement, there shall be any conflict between the provisions of the Agreement and the provisions of the appendices and schedules then, during such period the provisions of this Agreement shall prevail as between Databarracks and the Customer over the appendices and schedules (save as expressly set out in this Agreement).

2. Consultancy, Configuration and Support

- 2.1 Databarracks shall provide Consultancy, Configuration and Support as set out in the Customer Service Order.
- 2.2 When Databarracks considers that a Covered Service is ready for Customer testing it shall notify the Customer and Databarracks and the Customer shall co-operate in testing the Covered Service.
- 2.3 Databarracks shall use reasonable efforts to correct any Configuration error within a reasonable time and, on completion, re-submit a Covered Service to the Customer testing as set out in clause 2.2 above.
- 2.4 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.

3. Customer Obligations

- 3.1 The Customer confirms and acknowledges that the Covered Services are provided by the Public Cloud provider and not by Databarracks, and accepts and acknowledges that:
 - a) liability (if any) for performance or non-performance of the Covered Service rests with the Public Cloud provider and is governed by the terms of an agreement between the Public Cloud provider and the Customer, under which Databarracks has no rights or obligations;
 - b) Databarracks is not liable for the performance of the Covered Service;
 - c) Databarracks is not liable for the Public Cloud provider's compliance with law, regulation or its contract;
 - d) the Customer itself has selected the Public Cloud provider as an appropriate entity to provide the Covered Services.
- 3.2 The Customer will provide to Databarracks all information relating to its business, processes, personnel, plans, technology, hardware and software necessary for Databarracks to carry out the Services and notify Databarracks promptly throughout the Term when any such new information arises, or changes.
- 3.3 The Customer agrees to the Public Cloud provider's terms of use, as amended from time to time. Links to the relevant terms are found in schedule 3.

- 3.4 The Customer will throughout the Term comply with the terms of all licences applicable to the Software, and will ensure that all Software is appropriately licensed. The Customer acknowledges that Databarracks is not (unless explicitly otherwise agreed in writing between the parties) providing any Software under this Agreement.
- 3.5 The Customer shall not do anything to unreasonably hinder or interfere with Databarracks in carrying out the Services in accordance with this Agreement.
- 3.6 Each party shall provide the other with details of any credentials (for example, username and password) in its possession relating to the Covered Services which Databarracks requires to carry out the Services or which the Customer requires to make use of the Covered Services, and each party shall notify the other as soon as it becomes aware that any credentials have or may have been compromised so that appropriate steps can be taken to assert security. Except where the breach arises from Databarracks default, Databarracks may charge for work done to rectify the breach at its then-current consultancy rates. Credentials relating to the Covered Services are Confidential Information of the Customer.
- 3.7 The Customer shall throughout the Term provide Databarracks with all reasonable co-operation which may be necessary in relation to this Agreement; and all reasonable access to such information, personnel and equipment as may reasonably be required by Databarracks in order to render the Services in accordance with this Agreement, including but not limited to security access information and hardware and software interfaces to the Customer's other business applications.
- 4. Customer Data**
- 4.1 The Customer acknowledges that the Public Cloud provider provides certain functionality to maintain resilience, and that on request to Databarracks (and as chargeable Consultancy) Databarracks will provide advice on the implementation of this resilience, or of other solutions as appropriate in order to reduce the risk of loss of Customer Data. However, the Customer acknowledges that such strategies may reduce risk, but do not eliminate it, and subject to clause 2 Databarracks provides no guarantee in relation to loss or damage to Customer Data.
- 4.2 Both parties will comply with all applicable requirements of the Data Protection Laws.
- 4.3 Databarracks and the Customer acknowledge that for the purposes of the Data Protection Laws, the Customer is the data controller of certain personal data in respect of which Databarracks will be the processor.
- 4.4 Without prejudice to the generality of clause 4.2, the Customer will ensure that it has all necessary appropriate consents and notices in place to enable lawful transfer of the personal data to Databarracks for the duration and purposes of this agreement. Databarracks shall, in relation to any personal data processed in connection with the performance by Databarracks of its obligations under this agreement:
- 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.
- 4.5 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.
- 4.6 Databarracks shall inform the Customer without undue delay if any of 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 Data. Without prejudice to any other term of this Agreement, in the event of any loss or damage to 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 personal data at its own expense. Databarracks shall not be responsible for any loss, destruction, alteration or disclosure of Customer Data caused by the Customer, or the Customer's employees or agents.
- 4.7 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.
- 4.8 The Customer acknowledges that the Customer is able to configure the Customer's IT environment in ways which may breach its obligations as data controller, such as deletion, amendment, blocking, erasure and unauthorised transmission. The Customer therefore acknowledges that it is the Customer's responsibility to configure its environment(s) such that it

remains compliant with its obligations as data controller.

- 4.9 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.
- 4.10 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.
- 4.11 Upon termination of this Agreement for any reason Databarracks will co-operate with the Customer and its new nominated supplier of Services in transferring or retrieving the Customer Data in accordance with the wishes of the Customer as set out in this Agreement or Databarracks' standard exit management policy.
- 4.12 The parties undertake to each other that, if required by ICO guidance or best 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.

5. Databarracks obligations

- 5.1 Databarracks warrants that each Service will be performed with all reasonable skill and care and that it will be provided substantially in accordance with the relevant Specification.
- 5.2 The warranty in clause 5.1 shall not apply to the extent of any non-conformance which is caused by use of a Covered Service contrary to Databarracks reasonable instructions, Public Cloud provider's instructions, or in contravention of this Agreement.
- 5.3 Databarracks shall comply with all applicable laws and regulations with respect to its activities under this Agreement.
- 5.4 As it is not provided by Databarracks, Databarracks does not provide any warranty about the Customer's use of a Covered Service including that it will be uninterrupted or Error free.

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 any Service or Covered Service (including Customer requests for additional services), it shall submit details of the requested change to the other in writing.
- 7.2 If either party requests a change to the scope or execution of the Services or Covered Services, Databarracks shall, within a reasonable time, provide a written estimate to the Customer of:
 - a) the likely time required to implement the change;
 - b) any variations to the Charges arising from the change; and
 - c) any other impact of the change on the terms of this Agreement.
- 7.3 If Databarracks requests a change to the scope of the Services or Covered Services, the Customer shall not unreasonably withhold or delay consent to it.
- 7.4 If the Customer wishes Databarracks to proceed with the change, Databarracks has no obligation to do so unless and until the parties have agreed in writing the necessary variations to its charges and any other relevant terms of this Agreement to take account of the change.

8. Proprietary rights

- 8.1 The parties acknowledge and agree that each party retains ownership of its respective Intellectual Property either existing

in any material developed or produced by the party before the Effective Date and/or that which is subsequently developed or produced by the party in connection with this Agreement.

9. Confidentiality

- 9.1 Each party may be given access to Confidential Information from the other party in order to perform its obligations under this Agreement. A party's 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 lawful possession before the disclosure;
 - c) is lawfully disclosed to the receiving party by a third party without restriction on disclosure;
 - d) is independently developed by the receiving party, which independent development can be shown by written evidence; or
 - e) is required to be disclosed by law, by any court of competent jurisdiction or by any regulatory or administrative body.
- 9.2 Each party shall keep the other's Confidential Information secure and hold it in confidence and, unless required by law, shall not make the other's Confidential Information available to any third party or use the other's Confidential Information for any purpose other than the implementation of this Agreement.
- 9.3 The Customer acknowledges that Databarracks Confidential Information includes any designs, plans, software or other materials created by Databarracks in connection with a Covered Service and the Customer agrees not to make use of any such material for any purpose other than receipt of a Covered Service from Databarracks.
- 9.4 Databarracks acknowledges that Customer's Confidential Information includes any designs, plans, software or other materials created by Customer in connection with fulfilling its obligations under this Agreement and Databarracks agrees not to make use of any such material for any purpose other than to fulfil its obligations under this Agreement.
- 9.5 Each party shall take all reasonable steps to ensure that the other's Confidential Information to which it has access is not disclosed or distributed by its employees or agents in violation of the terms of this Agreement.
- 9.6 Databarracks acknowledges that the Customer Data is the Confidential Information of the Customer and any use of such Customer Data without obtaining Customer's consent other than in accordance with this Agreement shall be classified as a material breach of this Agreement for the purposes of clause 9.1 (a).
- 9.7 This clause 9 shall survive termination of this Agreement, however such termination occurs.

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 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 Disaster Recovery Services are suspended per Clause 10.1

11. Liability

- 11.1 Subject to Clauses 11.2 and 11.3, 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.
- 11.2 Subject to Clause 11.3, 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.
- 11.3 Nothing in this Agreement excludes or limits the liability of either party for:
- a) death or personal injury caused solely by a party's negligence;
 - b) fraud or fraudulent misrepresentation; or
 - c) any other liability which cannot lawfully be excluded or limited.
- 11.4 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.

12. Term and termination

- 12.1 This Agreement shall commence on the Effective Date and shall, unless terminated in accordance with Clauses 12.2 and 12.3, subsist for the On-boarding Period and then the Initial Period.
- 12.2 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).

- 12.3 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 12.3 (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.
- 13. Force majeure**
- 13.1 Neither party shall have any liability to the other under this Agreement if either 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, strikes, lock-outs or other industrial disputes (whether involving either party's workforce or that of any other party), failure of a utility service or transport network, 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, provided that the party not affected is notified of such an event and its expected duration. If the period of delay or non-performance continues for 12 weeks or more, the party not affected may terminate this agreement by giving 14 days' written notice to the affected party.
- 14. Waiver**
- 14.1 A waiver of any right under this Agreement is only effective if it is in writing and it applies only to the party to whom the waiver is addressed and to the circumstances for which it is given.
- 14.2 Unless specifically provided otherwise, rights arising under this Agreement are cumulative and do not exclude rights provided by law.
- 15. Severance**
- 15.1 If any provision (or part of a provision) of this Agreement is found by any court or administrative body of competent jurisdiction to be invalid, unenforceable or illegal, the other provisions shall remain in force.
- 15.2 If any invalid, unenforceable or illegal provision would be valid, enforceable or legal if some part of it were deleted, the provision shall apply with whatever modification is necessary to give effect to the commercial intention of the parties.
- 16. Entire Agreement**
- 16.1 This Agreement, and any documents referred to in it, constitute the whole Agreement between the parties and supersede any previous arrangement, understanding or Agreement between them relating to the subject matter they cover.
- 16.2 Each of the parties acknowledges and agrees that in entering into this Agreement it does not rely on any undertaking, promise, assurance, statement, representation, warranty or understanding (whether in writing or not) of any person (whether party to this Agreement or not) relating to the subject matter of this Agreement, other than as expressly set out in this Agreement.
- 17. Assignment**
- 17.1 The Customer shall not, without the prior written consent of Databarracks, assign, transfer, charge, subcontract or deal in any other manner with all or any of its rights or obligations under this Agreement.
- 17.2 Databarracks may at any time assign, transfer, charge, subcontract or deal in any other manner, with all or any of its rights or obligations under this Agreement without the consent of the Customer.
- 18. No partnership or agency**
- 18.1 Nothing in this Agreement is intended to, or shall, operate to create a partnership between the parties, or authorise either party to act as agent for the other, and neither party shall have the authority to act in the name or on behalf of, or otherwise to bind, the other in any way (including, but not limited to, the making of any representation or warranty, the assumption of any obligation or liability and the exercise of any right or power).
- 19. Third-party rights**
- 19.1 This Agreement is made for the benefit of the parties to it and (where applicable) their successors and permitted assigns, and is not intended to benefit or be enforceable by anyone else.
- 20. Counterparts**
- 20.1 This Agreement may be executed in one or more counterparts but shall not be effective until each party has executed at least one counterpart and each such counterpart shall constitute an original of this Agreement but all the counterparts shall together constitute the same instrument.
- 21. Notices**
- 21.1 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.
- 21.2 A notice or other communication shall be deemed to have been received: if delivered personally, when left at the address

referred to in Clause 21.1; 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.

22. Anti- Bribery And Anti- Slavery

22.1 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.

22.2 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.

22.3 Databarracks shall notify Customer promptly in writing if it becomes aware that it is in breach of this Clause 22 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.

23. Variation

23.1 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.

24. 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.

25. 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 Changes, 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: _____