# AI Cost Recovery Engine

Terms and Conditions

G-Cloud 15

## MASTER TERMS AND CONDITIONS

| MTC EFFECTIVE DATE: | | | |
|---|---|---|---|
| **CAPITA ENTITY NAME:** | Capita Business Services Ltd | **CLIENT ENTITY NAME:** | [XXXXXXXXXXXX] |
| **CAPITA COMPANY NUMBER:** | 02299747 | **CLIENT COMPANY NUMBER:** | [XXXXXXXX] |
| **ADDRESS:** | 2 Kingdom St, Paddington, London, W2 6BD | **ADDRESS:** | [XXXXXXXXXXXXXXXX] |
| The parties have signed this MTC on the date last written below: | | | |
| **SIGNED:** ……………………………………………………………… | | **SIGNED:** ……………………………………………………………… | |
| NAME: | | NAME: | |
| TITLE: | | TITLE: | |
| DATE: | | DATE: | |

### 1. DEFINITIONS AND INTERPRETATION

1.1 Capitalised terms used in the MTC and not otherwise defined in a Schedule or SoW have the following meanings:

"**Agreement**" has the meaning given to it under Clause 2.2 (Scope of Agreement and Precedence).

"**Applicable Law**" means the laws of England and Wales and the European Union and any other laws, regulations, or regulatory policies which apply to the provision of the Services, including all applicable laws, statutes, regulations and codes relating to anti-bribery and anti-corruption in England and Wales, subject to any change of law provision specified within a Schedule or SoW.

"**Background IPR**" means any and all IPR owned by or licensed to either party and developed or obtained before or independently of the Agreement.

"**Capita**" means the Capita entity signing this MTC or its Group member as referred to in Clause 2.1, as relevant to the Agreement.

"**Client**" means the client entity signing this MTC or its Group member as referred to in Clause 2.1, as relevant to the Agreement.

"**Client Materials**" means all documents, information, items and materials in any format, whether owned by Client or a third party, as provided by Client to Capita in connection with the Agreement.

"**Client Personal Data**" means personal data made available to Capita by, or on behalf of, Client and processed by Capita in connection with the Agreement.

"**Confidential Information**" means all information and personal data which is confidential or proprietary in nature; relates to the Disclosing Party's business affairs (including any financial or technical data, trade secrets, know-how, IPR and/or derivative data or output) which the Disclosing Party directly or indirectly discloses, or makes available to the Receiving Party by whatever means before, on or after the date of the Agreement; and/or any other information clearly identified as being, or which ought reasonably be considered to be, confidential.

"**Data Protection Legislation**" means all applicable data protection and privacy legislation in force in the United Kingdom including the Data Protection Act 2018, UK GDPR (as defined in sections 3(10) (as supplemented by section 205(4)) of the Data Protection Act 2018) and the Privacy and Electronic Communications Regulations 2003 (SI 2003/2426) as amended. The terms "**data controller**", "**data processor**", "**data subject**" and "**personal data**" are as defined in the Data Protection Legislation.

"**Disclosing Party**" means a party (or its Group member) who discloses Confidential Information to the Receiving Party.

"**Fees**" means fees and related charges which Capita charges for the provision of the Services as set out in the SoW.

"**Force Majeure Event**" means any circumstance or cause beyond a party's reasonable control including acts of God, flood or other natural disaster, epidemic, pandemic, terrorist attack, civil commotion or riots, war or armed conflict, fire, explosion, contamination (including chemical or biological), loss of access to electricity, power or telecommunications, shortages of materials or equipment, supply chain failures, any labour or trade dispute, strikes, industrial action or lockouts and any change in law or due to action taken by a government or public authority (including quarantine measures).

"**Foreground IPR**" means any IPR that arises, is created or developed by Capita for Client as part of or in connection with the Services, including any such IPR subsisting in any product, process, deliverables, documents, works, designs and/or services.

"**Group**" means, for a company, that company, its subsidiary undertakings or any parent undertakings of that company and any subsidiary undertaking of a parent undertaking of that company (as defined in section 1162 of the Companies Act 2006). Each being a party's "**Group member**".

"**IPR**" means patents, utility models, rights to inventions, copyright and related rights, moral rights, trade marks (registered or unregistered), domain names, goodwill, right to sue for passing off, design rights (registered or unregistered), rights in computer software, database rights, trade secrets, know-how, right to preserve confidentiality of information, any other industrial and intellectual property rights, including all applications for, renewals or extensions of, such rights and all similar or equivalent rights or protections which are recognised, subsist or will subsist, now or in the future, in any part of the world.

"**Losses**" means any losses, demands, claims, actions, proceedings, damages, payments, costs (including legal and other professional costs), expenses or other liabilities.

"**MTC**" means the terms and conditions as set out in these Master Terms and Conditions.

"**MTC Effective Date**" means the date first written above.

"**Receiving Party**" means a party or Group member, who receives Confidential Information from the Disclosing Party.

"**RPI**" means Retail Price Index as calculated and published by the Office for National Statistics (or its replacement index).

"**Schedule(s)**" means the schedule(s) incorporated into the Agreement under a SoW which set out additional terms and conditions that relate to the Services.

"**Services**" means any products and/or services as set out in the SoW and provided by Capita to Client.

"**SoW**" means the order form that sets out or details the nature, scope, delivery plan, service level agreements and charges relating to the Services to be supplied by Capita.

"**SoW Effective Date**" means the date when the parties both sign the SoW, or some other date as otherwise expressly stated in the SoW.

"**Term**" has the meaning given in Clause 3 (Term).

"**Third Party Processors**" means (a) the Capita operations and delivery centres in Poland, India and/or South Africa; (b) those third party processors explicitly identified in a Schedule and/or SoW; and/or (c) any other third party processor as Capita may notify Client from time to time in writing.

"**TUPE**" means The Transfer of Undertakings (Protection of Employment) Regulations 2006 (SI 2006/246).

"**VAT**" means value added tax and / or any similar or analogous sales tax imposed in any jurisdiction (including, but not limited to, any value added tax charged or imposed pursuant to Council Directive 2006/112/EC or any national legislation implementing such Directive).

"**Working Day**" means any day other than a Saturday, Sunday or public holidays in England.

1.2 In the Agreement: (a) references to Clauses are to the clauses of the MTC and references to paragraphs are to the paragraphs in each Appendix, Schedule and/or SoW; (b) a reference to a statute, regulation, code or such similar instrument includes any subsequent amendment or replacement; (c) words following "**including**" or "**include**" shall be illustrative and without limitation; and (d) the Agreement shall bind and inure to the benefit of each party's successors and permitted assigns.

## 2. SCOPE OF AGREEMENT AND PRECEDENCE

2.1 Each party and their Group members may enter into SoWs which are governed by this MTC and the relevant Schedule(s). Where a party's Group member enters into a SoW, any references to "**Capita**" or "**Client**" in this MTC and the relevant Schedule(s) or a term referring to "**Capita**" or "**Client**" in this MTC and the relevant Schedule(s) shall be substituted for such member and "**parties**" or "**party**" construed accordingly.

2.2 Each SoW signed by the parties shall incorporate and be governed by this MTC and the relevant Schedule(s); and shall, in each instance, form a separate and binding contract between the parties ("**Agreement**"). Accordingly, one or more separate Agreements may be created, each governed by the same MTC and Schedule.

2.3 In the event of any conflict arising between the SoW, Schedules and this MTC, the descending order of precedence will be (save and to the extent expressly permitted by this MTC): (a) this MTC; then (b) Schedules; and then (c) the SoW.

2.4 Unless otherwise expressly agreed, if any inconsistency arises between any diagrams and text, the text shall take precedence.

## 3. TERM

This MTC shall commence on the MTC Effective Date and, unless terminated at an earlier date by operation of law or as otherwise provided for in the Agreement, shall continue with full force and effect during the term of any SoW. The term of each SoW ("Term") shall be as set out in the SoW or, where not set out in the SoW, as stated in the Schedule.

## 4. FEES

4.1 The Fees and expenses shall be paid by Client in accordance with this Clause 4 (Fees), the SoW and/or the relevant Schedule(s). Unless the SoW otherwise expressly provides, where the Fees under that SoW are payable on:

(A) a "time and materials" (e.g. hourly, daily, or FTE-based rate) basis, then such Fees shall become payable monthly in arrears;

(B) a "fixed fee" (e.g. one-off or monthly fee) basis, then each fixed Fee shall become payable in advance of the period to which such fixed Fee relates; and/or

(C) a "recurring fee" (e.g. on a consumption based recurring monthly fee) basis, then each recurring Fee shall accrue and become payable from the first day of the month following the date the relevant Services are made available by Capita until they are terminated pursuant to the SoW.

4.2 Unless otherwise agreed in a SoW, Client shall pay any expenses reasonably incurred by Capita in performing its duties under the Agreement monthly in arrears. ng

4.3 Invoicing:

(A) unless otherwise expressly set out in a Schedule or the SoW (i) Capita shall invoice Client for the Fees and expenses in order to enable payment in accordance with Clause 4.1 (Fees); and (ii) Client shall pay each invoice in full within 30 days from the date of such invoice ("Invoice Payment Date"). Client shall not be entitled to set-off or make any deduction in respect of any sums due to Capita under the Agreement.

(B) if Client wishes to dispute an invoice, it shall notify Capita within 10 days of the date of such invoice, otherwise the invoice will be deemed to be accepted by Client as undisputed and valid.

4.4 Subject to Clause 4.3(B) (Fees), if any sum payable under the Agreement is not paid by Client by the Invoice Payment Date then (without prejudice to Capita's other rights and remedies), Capita reserves the right to:

(A) within 14 days following notification by Capita of non-payment of Fees by the Client by the Invoice Payment Date, suspend the provision of the Services until Client has paid in full all outstanding sums plus any applicable interest, without incurring liability to Client for such suspension; and/or

(B) charge interest on such overdue sums on a daily rate of 4% per annum above the then base rate of Barclays Bank plc, from the Invoice Payment Date until the date of actual payment, whether before or after judgment.

4.5 All Fees and expenses payable by Client shall be in GB Pounds Sterling. The Fees and expenses do not include any amount arising in respect of VAT (or other applicable taxes), which, if applicable, shall be payable by Client and added to such Fees and expenses at the rate in force at the time that they become due. Client agrees:

(A) to use commercially reasonable efforts to do all such acts and things and to sign all such documents as will enable Client to minimize the amount of any withholding tax obligation;

(B) in the event there is no applicable double taxation agreement or treaty, or if an applicable double taxation agreement or treaty reduces but does not eliminate such withholding or similar tax, to pay any withholding tax directly to the appropriate government entity;

(C) to provide Capita with a tax certificate evidencing such payment or any tax exemption on which Client wishes to rely; and

(D) where Client is obliged by law to withhold or deduct any portion of the Fees and/or expenses, that Capita shall be entitled to receive from Client such amounts as will ensure that the net receipt (after deductions or withholdings) to Capita in respect of the Fees and/or expenses is the same as it would have been were the payment not subject to the deductions or withholdings.

4.6 Unless otherwise provided in the SoW: (a) Capita may increase the Fees on an annual basis on the anniversary of the SoW Effective Date by a percentage equal to the average percentage increase in the RPI during the 12 month period preceding the date of notice of the adjustment, provided that the rate of increase shall always be 0% or greater; and (b) the first price increase shall take effect on the first anniversary of the SoW Effective Date. Any increase shall be notified to Client in writing at least 60 days prior to the date any fee adjustment takes effect.

## 5. OBLIGATIONS ON THE PARTIES

5.1 Save as otherwise set out in a Schedule or SoW, Capita shall:

(A) provide the Services pursuant to all Applicable Laws;

(B) provide the Services to Client using reasonable skill and care and in a professional manner;

(C) use reasonable endeavours to meet any performance, delivery or milestone dates as may be specified in a SoW. Client acknowledges that such dates shall be estimates only and time for performance or delivery by Capita shall not be of the essence; and

(D) observe health and safety and security requirements for Client premises or locations, as shall be set out in a SoW,

In each case other than where Capita is acting in accordance with Client's instructions.

5.2 Client shall:

(A) comply with and use the Services in accordance with (i) all operating specifications and instructions provided to it by Capita in respect of the Services; and (ii) all Applicable Laws;

(B) if a Group member is permitted to access any of the Services, ensure that such Group member complies with all provisions of the Agreement applicable to Client as if they were its own;

(C) co-operate with and respond to Capita (its subcontractors and/or consultants) in a timely and efficient manner in all matters relating to the Agreement;

(D) provide Capita (its subcontractors and/or consultants), without charge, access to Client's premises, data, equipment, facilities, Client Materials and any health and safety and security requirements, as Capita may reasonably require;

(E) ensure that Client's equipment (including IT and networks connections) ("**Client Infrastructure**") is in good working order, available, maintained and suitable for the purposes intended under the SoW; and conforms to all relevant standards or requirements. Client will be responsible for all delays, issues or Losses arising from Client Infrastructure;

(F) obtain and maintain all necessary and applicable licences and consents; and comply with all Applicable Laws, to enable Capita to provide the Services; and

(G) keep, maintain and insure (where applicable) Capita's equipment pursuant to Capita's instructions under the SoW.

5.3 All warranties, conditions and other terms implied by statute or common law are excluded to the extent permitted by law. Further, Client accepts that it (or its Group member) shall assume sole responsibility and entire risk:

(A) as to the suitability, selection and use of the Services to meet its (or its Group member's) requirements or business needs; and

(B) in respect of the results obtained and/or conclusions drawn from the use and application of the Services to its business.

5.4 If Capita's performance under the Agreement is hindered, prevented or delayed by any default of Client in complying with its obligations under the Agreement then, without prejudice to its other rights or remedies:

(A) Capita shall be granted an extension of time to perform its obligations equal to the period of delay caused by such act or omission;

(B) any failure by Capita to deliver its obligations in respect of the affected part of the Services shall not constitute a breach of the Agreement;

(C) if Capita has incurred any unmitigable loss or expense as a direct result of a delay due to such Client default, Capita shall, in addition to the extension allowed pursuant to Clause 5.4(A), be entitled to compensation to place Capita in the same position it would have been in, had such Client default not occurred. Capita shall provide Client with any information Client may require in order to assess the validity of any claim to compensation by Capita; and

(D) Client shall pay Capita its reasonable charges for the implementation and operation of any agreed workaround solution or remedy, based on the costs reasonably and directly incurred by Capita.

5.5 Unless otherwise provided in the SoW, the parties shall each appoint a contract manager for each Agreement with authority to legally bind it. A party may replace its contract manager with reasonable prior written notice to the other.

## 6. PERMISSIONS AND RESTRICTIONS

6.1 Client shall use the Services pursuant to the terms of the Agreement. Unless otherwise set out in a Schedule or SoW, neither Client nor its Group members shall be permitted to:

(A) copy or modify any part of the Services;

(B) use, disclose or provide access to the Services on a 'white-labelled' basis or otherwise; or assist any third-party to develop or sell a solution to compete with the Services;

(C) use any IT facilities, tools or communications networks provided by Capita other than to receive and properly use the Services;

(D) merge, decompile, disassemble, or otherwise translate or derive any trade secrets and/or source code in any software components which are embodied in the Services (including changing file names of or reverse engineering any software) except as expressly permitted by law or regulation to achieve interoperability with other technology; and

(E) transfer or sublicence any materials, components or aspects of and/or other rights in the Services.

6.2 Client acknowledges and agrees that:

(A) the Services may contain proprietary and/or third-party software components and/or materials that are subject to additional or different licence and notice terms; and

(B) in such case, Client shall (and shall, where applicable, procure that its Group members) comply with all such relevant and applicable licence and notice terms identified on the applicable SoW and/or Schedule or as may otherwise be notified by Capita to Client from time to time.

## 7. INTELLECTUAL PROPERTY

7.1 The parties acknowledge and agree that:

(A) all Background IPR is and shall remain the exclusive property of the party owning it or that of its licensor. Capita acknowledges and agrees that Client (or its licensor) owns the IPR in Client Materials; and

(B) save where otherwise stated in a SoW or Schedule, where one party owns any Background IPR which the other party needs to legitimately access and/or use for the purposes of the Services, then such party grants to the other party a non-exclusive licence to use its Background IPR solely for the purposes of the Services and for the duration of the Agreement.

7.2 The parties acknowledge and agree that, unless otherwise expressly provided for in a SoW or Schedule:

(A) any and all Foreground IPR shall vest in and be owned by Capita (or, where applicable, a Group member or any third-party licensor from whom the right to use it has derived);

(B) Capita grants Client, a worldwide, non-exclusive, royalty free licence for the period of the Agreement to use (but not adapt, modify, enhance or create any derivatives of) the Foreground IPR for its internal business purposes only and to the extent required by Client to benefit from the Services. Client is not permitted to sub-licence, assign or otherwise transfer rights granted to it under such licence to any third-party (except to a Group member where permitted in a SoW, and only where such member is intended to directly benefit from the Services);

(C) where Client acquires any title, by operation of law, under the Agreement, Client unconditionally and irrevocably assigns to Capita all IPR that vest in:

(1) the Foreground IPR; and

(2) any new adaptations, modifications and/or enhancements made to any Background IPR belonging to Capita,

by way of present assignment of future IPR, with full title guarantee, without encumbrance or restriction and without charge to Capita. Client shall undertake all activities required by Capita to formalise and perfect such assignment; and

7.3 Client will not remove or conceal any proprietary rights notice in the Services and will include such notices on any copy it is permitted to make by Capita.

7.4 Each party warrants to the other party that the receipt and use of the party's Background IPR (including Client Materials) by the other party (and/or its Group members where specified in a SoW)) in accordance with the Agreement shall not infringe the IPR or other rights of any third party.

7.5 If a claim is made, or in Capita's reasonable opinion is likely to be made, by a third party for IPR infringement against Client or Capita in respect of the Services, Capita may at its sole option and expense:

(A) procure the right for Client to continue to use the aspect of the Services which is subject to such claim; or

(B) replace or modify, or procure the replacement or modification of such infringing part of the Services, provided that:

(1) the performance and functionality of the replaced or modified item is at least equivalent to that of the original;

(2) the replaced or modified item does not have an adverse effect on the provision of Services;

(3) there is no additional cost to Client; and

(4) the terms of the Agreement apply to the replaced or modified Services; or

(C) if the options set out in Clauses 7.5(A) (Intellectual Property) and 7.5(B) (Intellectual Property) cannot be accomplished on commercially reasonable terms, then Capita may terminate Client's rights to use the affected part of the Services. Save as set out in a Schedule, if Capita exercises the option set out in this Clause 7.5(C) (Intellectual Property), then Capita will, as applicable, refund any unused prepaid Fees for the affected part of the Services.

7.6 Subject to Clauses 7.7 (Intellectual Property) and 7.8 (Intellectual Property), each party shall indemnify and hold the other party (and Group members set out in a SoW) harmless against all direct Losses arising out of or in connection with any infringement (actual or alleged) of a third party's IPR which results from the other party's use of that party's IPR in connection with the Services, in each case in accordance with the Agreement.

7.7 The IPR indemnity obligation on:

(A) Capita under Clause 7.6 (Intellectual Property) shall not apply to any Losses which result from Client's (or its Group member's or contractor's):

(1) combination of all or part of the Services with other products or technology not supplied by, or instructed to do so by Capita;

(2) failure to use the Services (or aspects thereof) in accordance with the relevant specification, requirements and/or operating parameters;

(3) modification of all or part of the Services other than by Capita or its subcontractors;

(4) instructions, requirements or specifications if and to the extent that Capita's compliance with Client's requirements or specifications resulted in the infringement;

(5) use of any obsolete, superseded or unsupported versions of the Services once advised by Capita in writing to cease use or to use a replacement version;

(6) breach of any licence terms and conditions in relation to the use and/or enjoyment of the Services as notified to Client by Capita; or

(B) Client under Clause 7.6 (Intellectual Property) shall not apply to any Losses to the extent that such Losses arise as a result of modifications made to Client IPR by Capita or breach by Capita other than in accordance with Client's instructions, of requirements or specifications of any licence terms and conditions in relation to the use and/or enjoyment of Client IPR as notified to Capita by Client.

7.8 The indemnification obligation in Clause 7.6 (Intellectual Property) is conditional upon the indemnified party:

(A) providing the indemnifying party with prompt notice of the details of any IPR claim;

(B) not making any admission or taking steps to settle any claim without the indemnifying party's prior written approval;

(C) if the indemnifying party so requests it, transferring control and defence of the claim to the indemnifying party; and

(D) providing such reasonable assistance and co-operation (at the indemnifying party's cost) as required by the indemnifying party.

7.9 Unless otherwise set out in a SoW or Schedule, Client acknowledges and accepts that Capita (or its Group members and subcontractors), may collect and use information related to Client's use of the Services (or a part of the Services) for Client and technical support, to monitor compliance with the Agreement and to improve existing and/or recommend additional or alternative products or services to Client. To the extent that any personal data is collected and processed by Capita in accordance with this Clause 7.9 (Use Data), such personal data will be processed in accordance with Capita's privacy policy.

7.10 Publicity and Branding:

(A) Other than as set out in Clause 7.10(B) (Intellectual Property), as required for the provision of the Services, internal purposes or by law or regulation, neither party shall make any press announcements, publicise the Agreement or use the other party's name, brand, trade mark or derivatives of them in any promotion, marketing or otherwise without the prior written consent of the other party (not to be unreasonably withheld or delayed).

(B) Capita is permitted to include Client's name on Capita's Client list and make general references to the relationship between Capita and Client and the Services for marketing and/or publicity purposes.

**8. EXPORT CONTROL AND SANCTIONS**

Client will not use or provide access to the Services to any Group member or third party that may breach any applicable export control or economic sanctions laws and regulations for any jurisdiction. Client warrants, represents and undertakes (as a continuing obligation) that neither it nor any Group member is affiliated with a specially designated or sanctioned entity under any such laws and that, in any transaction relating to Capita, it will not involve sanctioned parties (or use accounts at sanctioned banks).

**9. TERMINATION**

9.1 Save as otherwise set out in a Schedule or SoW, either party may terminate the Agreement with immediate effect by giving written notice to the other party if:

(A) the other party either commits an irremediable material breach of the Agreement or, if capable of remedy, the other party fails to remedy that breach within a period of 30 days from the date of being notified in writing to do so;

(B) the other party begins any negotiations to reschedule its debt or enters into any arrangements with its creditors;

(C) the other party suspends, or threatens to suspend, payment of its debts or is unable, admits to being unable or is deemed unable to pay its debts as they fall due within the meaning of section 123 of the Insolvency Act 1986 as if the words "it is proved to the satisfaction of the court" did not appear in sections 123(1)(e) or 123(2) of the IA 1986;

(D) the other party applies to court for, or obtains, a moratorium under Part A1 of the Insolvency Act 1986;

(E) a petition is filed, an effective resolution is passed, or court order made for the winding up of the other party (other than for the purposes of solvent amalgamation or reconstruction);

(F) the other party suspends or ceases, or threatens to suspend or cease, carrying on all or a substantial part of its business; or

(G) a receiver, administrative receiver or administrator is appointed.

9.2 The rights and remedies provided under the Agreement are in addition to any rights or remedies provided by law.

9.3 Save as otherwise set out in a Schedule or SoW, Capita may terminate the Agreement with immediate effect by giving written notice to Client if Client fails to pay any amount due under the Agreement on the due date for payment and remains in default not less than 30 days after being notified in writing to make such payment.

9.4 Nothing shall prevent a party from seeking immediate injunction or similar remedy from a court of competent jurisdiction to prevent or restrain breaches of the Agreement.

9.5 On termination or expiry of the relevant Agreement:

(A) Client shall immediately pay to Capita all outstanding unpaid invoices (plus any accrued interest), in respect of the Services provided. Where Capita has not submitted an invoice, Capita may submit a valid invoice to Client and such invoice shall be payable immediately by Client on receipt; and

(B) upon written request, the other party will promptly return, delete or destroy that party's materials (including Client Materials), data, content, documentation and Confidential Information.

9.6 Notwithstanding the generality of Clause 9.5 (Termination), each party may retain a copy of such materials only to the extent required to do so to comply with Applicable Laws and/or to support the enforcement or defence of a party's rights under the Agreement.

9.7 Termination of all or any part of the Agreement will not affect a party's rights, remedies, obligations or liabilities that have accrued up to the date of expiry or termination. The following clauses will survive termination: Clauses 1 (Definition and Interpretation), 4.1 (Fees), 4.2 (Fees), 4.5 (Fees), 5.3 (Obligations of the Parties), 6 (Permissions and Restrictions)), 7 (Intellectual Property), 9.5 (Termination), 9.7 (Termination), 10 (Confidentiality), 11 (Protection of Personal Data), 12 (Limitation of Liability), 14 (Non-Solicitation) and 16 (General), along with any others that by their nature should survive.

**10. CONFIDENTIALITY**

10.1 The Receiving Party will hold the Disclosing Party's Confidential Information in confidence and will not disclose or permit the disclosure of any part of the Confidential Information to any third party except (a) to any Group members, consultants and advisors (including accountants and lawyers) bound by, or otherwise protected by legal privilege or confidentiality and non-disclosure commitments substantially similar to those contained in the Agreement ("**Representatives**"); and/or (b) to the extent required to comply with Applicable Law, provided that the Receiving Party (i) provides prompt notice (if legally permissible) to the Disclosing Party so that the Disclosing Party can seek a protective order or other appropriate remedy; and (ii) limits any such disclosure to the extent of the legal requirement and the disclosed information will remain Confidential Information despite such disclosure.

10.2 The Receiving Party shall be liable for the actions or omissions of its Representatives in relation to the Confidential Information as if they were the actions or omissions of the Receiving Party.

10.3 These obligations of confidentiality do not apply to information which:

(A) is or becomes generally available to the public (without breach by the Receiving Party) or a Receiving Party's Group;

(B) becomes known to the Receiving Party or Group members on a non-confidential basis via a third party;

(C) was lawfully in the prior possession of the Receiving Party or its Group;

(D) was independently developed by the Receiving Party or its Group without use or reference to Confidential Information; or

(E) the Disclosing Party agrees is not confidential.

10.4 Upon termination of the Agreement, the Receiving Party and its Representatives will cease all use of the Disclosing Party's Confidential

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Information and return, delete or destroy it pursuant to 9.5 (Consequences of Termination).

10.5 The Receiving Party's obligations of confidentiality shall apply to any Confidential Information of the Disclosing Party while any copy of it remains in the Receiving Party's possession or control, and thereafter for a period of two years.

10.6 Nothing in this Clause 10 (Confidentiality) shall prevent either party from using, in the course of its normal business, any techniques, ideas or know-how gained during the performance of the Agreement provided that such use will not result in a disclosure of the other party's Confidential Information or an infringement of its IPR.

10.7 The parties acknowledge and agree that in the event the Disclosing Party's Confidential Information is specified in a SoW to include a third party's information which is confidential or proprietary in nature and such information is to be treated as Confidential Information for the purposes of this Agreement, the provisions set out in the SoW shall take precedence over this Clause 10 (Confidentiality) in respect of such third party's Confidential Information only.

## 11. PROTECTION OF PERSONAL DATA

11.1 The parties shall comply with all applicable requirements of the Data Protection Legislation. This Clause 11 (Protection of Personal Data) is in addition to, and does not relieve, remove or replace, a party's obligations or rights under the Data Protection Legislation.

11.2 The parties shall comply with the terms set out in the Appendix (Protection of Personal Data) and where applicable, any additional terms in the SoW.

## 12. LIMITATION OF LIABILITY

12.1 The limits on liability under Clauses 12.2 (Limitation on Liability) and 12.3 (Limitation on Liability) shall not apply to:

(A) death or personal injury caused by negligence;

(B) fraud or fraudulent misrepresentation;

(C) Client's liability to pay the Fees and other sums due to Capita including expenses;

(D) any obligations of a party pursuant to Clause 10 (Confidentiality) other than as expressly set out in a Schedule or SoW;

(E) the indemnity set out in Clause 7.6 (Intellectual Property), other than as expressly set out in (i) Clause 7.7 (Intellectual Property); or (ii) a Schedule or SoW;

(F) the extent otherwise expressly set out in the Schedule or SoW; and/or

(G) any other matter for which it would be unlawful to exclude or attempt to exclude its liability.

12.2 Subject to Clause 12.1 (Limitation of Liability), neither party shall be liable to the other for any:

(A) indirect, special or consequential Losses arising in connection with the Agreement;

(B) loss of profits (except with respect to the Fees or other Capita charge specified in the SoW), loss of sales, anticipated savings or goodwill, loss of business opportunity or contracts in each case whether direct or indirect,

even if such Losses could have been foreseen.

12.3 Subject to Clauses 12.1 (Limitation of Liability) and 12.2 (Limitation of Liability), the total aggregate liability of each party for all other Losses, whether arising from tort (including negligence), indemnity, breach of contract or otherwise in respect of each Agreement, shall not exceed an amount equal to the mean of the annual Fees paid or payable by Client during the Term (or then current term).

12.4 Without prejudice to its other rights or remedies, any delay or non-performance by Capita of its obligations under the Agreement will be excused to the extent it is caused by acts or omissions of Client, its Group member, consultants or subcontractors.

12.5 The parties shall each be subject to a general duty to mitigate their Losses.

## 13. FINANCIAL CRIME

Each party shall, and shall procure that each Group member shall, comply with all Applicable Laws relating to financial crime including the Bribery Act 2010, Companies Act 2006, Fraud Act 2006, Proceeds of Crime Act 2002, Criminal Finances Act 2017, Theft Act 1968 and the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017. Breach of this Clause 13 (Financial Crime) shall be deemed to be a material breach under Clause 9.1(A) (Termination).

## 14. NON-SOLICITATION

Client shall not solicit or entice away, employ or attempt to employ an employee or consultant of Capita providing the Services under a SoW at any time during and up to 12 months following the expiry or termination of that SoW.

## 15. ASSIGNMENT

Neither party shall deal with, novate, assign, transfer, mortgage, charge or delegate any of its rights and obligations (each a "**Transfer**") under the Agreement without the other party's prior written consent (not to be unreasonably withheld), save that Capita may without Client's prior consent Transfer any of its rights and obligations under the Agreement to a Group member. For the avoidance of doubt and in accordance with Clause 2.2 (SCOPE OF AGREEMENT and Precedence), in the event a Transfer of an Agreement takes place, the MTC and each relevant Schedule shall continue in full force and effect during the term of any other SoW in place between Client (or any member of its Group) and Capita (or any member of its Group) that does not form part of the Agreement that is the subject of the Transfer.

## 16. GENERAL

16.1 No amendment, variation or modification to the:

(A) MTC or Schedule shall be valid unless: (i) in the written form of a variation agreement as Capita shall issue to Client; and (ii) until duly executed by each party's authorised representative; and

(B) SoW shall be valid unless: (i) the parties follow the change control process and documentation as provided in the Schedule ("**CCN**"); and (ii) until such CCN is duly executed by each party's authorised representative.

16.2 A waiver of any right or remedy under the Agreement or at law shall only be effective if given to the other party in writing and shall not be deemed a waiver of any subsequent right or remedy.

16.3 Notices under the Agreement shall be in writing and be delivered by hand, pre-paid first-class post, next Working Day delivery service or email to the address under the relevant SoW. Neither party (or Group member) shall use email for serving on the other party any notices alleging or specifying a breach of the Agreement or to serve any proceedings or documents involved with any legal action. Notices shall be deemed to be served if: (a) by hand, when delivered; (b) by pre-paid first-class post or next Working Day delivery service, at 9am on the next Working Day after posting; or (c) if email, at the time of transmission.

16.4 No party shall be liable to the other party for any delay or failure to perform under the Agreement due to the occurrence of a Force Majeure Event, provided that the affected party shall: (a) promptly notify the other party in writing; (b) use all reasonable endeavours to mitigate during such occurrence; and (c) resume performance of its obligations as soon as reasonably possible. Where the affected party is prevented or delayed by a Force Majeure Event for at least 90 days, then the non-affected party may terminate the Agreement upon serving 30 days' written notice to the affected party.

16.5 If TUPE applies in relation to the Services, the parties' TUPE obligations shall be as set out in the relevant Schedule and/or SoW.

16.6 Nothing in the Agreement is intended to create a partnership or any legal relationship that would impose liability on one party for the act or failure to act of the other party.

16.7 The Agreement contains the entire understanding between the parties and supersedes all prior agreements, understandings, negotiations, proposals and other representations, verbal or written regarding its subject matter. Nothing in this Clause 16.7 (General) shall operate to exclude any liability for fraudulent misrepresentation, fraudulent misstatement or fraud.

16.8 The Agreement does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999. The rights of the parties to rescind or vary the Agreement are not subject to the consent of any other person.

16.9 The Agreement and any contractual and non-contractual disputes arising out of it shall be governed and construed by the laws of England. The courts of England shall have exclusive jurisdiction to settle any such dispute or claim, except that each party shall be entitled to seek injunctive or other relief in any jurisdiction where a breach of the Agreement is threatened to occur or has occurred.

## APPENDIX

## DATA PROTECTION

### 1. PROTECTION OF PERSONAL DATA

The parties acknowledge and agree that if Capita processes any personal data for Client (or a Group member) under the Agreement:

(A) Client is the data controller and Capita is the data processor for the purposes of the Data Protection Legislation;

(B) the data processing provisions set out in the relevant Schedule and/or SoW shall apply as between the parties; and

(C) where applicable, the SoW shall set out the scope, purpose and duration of processing by Capita, and the types of personal data and categories of data subject.

### 2. CLIENT-PROVIDED DATA

Client will ensure that it:

(A) collects and discloses all Client Personal Data to Capita in accordance with Data Protection Legislation when using the Services, including when accessing any Capita systems or portals as may be provided to Client under the Agreement; and

(B) has all necessary and appropriate consents and notices in place to enable lawful transfer of the personal data to Capita for the duration and purposes of the Agreement so that Capita may lawfully use, process and transfer the personal data in accordance with the Agreement on Client's behalf.

### 3. PROCESSING OBLIGATIONS

Capita shall, in relation to any Client Personal Data processed in connection with the performance by Capita of its obligations under the Agreement:

(A) process such personal data only on the written instructions of Client unless Capita is otherwise required by Applicable Law and/or the Data Protection Legislation ("Data Laws") to process such personal data. Where Capita is relying on Data Laws as the basis for processing personal data, Capita shall notify Client of this in a timely manner before performing such processing unless such Data Laws prohibit Capita from so notifying Client;

(B) ensure that it has in place appropriate technical and organisational measures, to protect against unauthorised or unlawful processing of personal data and against accidental loss or destruction of, or damage to, personal data appropriate to the harm that might otherwise result, having regard to the state of technological development and the cost of implementing and maintaining any measures (including, as appropriate, pseudonymisation and/or encryption of such personal data, ensuring confidentiality, integrity, availability and resilience of its systems and services);

(C) not transfer any personal data outside of the European Economic Area unless the following conditions are fulfilled:

(1) Client or Capita has provided appropriate safeguards in relation to the transfer;

(2) the data subject has enforceable rights and effective legal remedies;

(3) Capita provides an adequate level of protection to any transferred personal data in accordance with the Data Protection Legislation; and

(4) with respect to the processing of the personal data, Capita complies with the reasonable instructions as notified to it in advance by Client;

(D) reasonably assist Client (at Client's cost), in responding to any data subject requests and complying with its obligations under the Data Protection Legislation with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators;

(E) notify Client without undue delay on becoming aware of a personal data breach or if, in the opinion of Capita, Client's instruction may give rise to an infringement or infringes the Data Protection Legislation;

(F) at the written direction of Client, delete or return personal data and copies thereof to Client on termination of the Agreement unless required by law to store the personal data; and

(G) maintain complete and accurate records and information to demonstrate its compliance with Clause 11 (Protection of Personal Data) of the MTC and this Appendix (Data Protection) and allow for audits by Client or its designated auditor.

## 4. THIRD PARTY PROCESSORS

4.1 Client consents to:

(A) the appointment of and transfer of personal data to the Third Party Processors, provided that such transfer shall comply with paragraph 3(C) (Processing Obligations) of this Appendix (Data Protection); and

(B) the appointment by Capita of any subcontractors whether identified under the SoW or otherwise as third-party processors of personal data under the Agreement.

4.2 Capita confirms that it will enter into a written agreement with any appointed third-party processors appointed which reflect the requirements of the Data Protection Legislation.

4.3 As between Client and Capita, Capita shall remain responsible for all acts or omissions of any third-party processor appointed by Capita as its subcontractor pursuant to this Appendix (Data Protection).

## 5. VARIATIONS

5.1 Where required by law, Capita may, at any time on not less than 30 days' notice to Client, revise this Appendix (Data Protection) by replacing it with any applicable data controller to data processor standard clauses or similar terms forming part of an applicable certification scheme.

5.2 Capita may, at any time on no less than 30 days' notice to Client, make such changes required to this Appendix to comply with any changes to Data Protection Legislation.

## PROFESSIONAL SERVICES SCHEDULE

### 1. DEFINITIONS

1.1 Capitalised terms used and not defined in this Professional Services Schedule below have the meaning given to them in the master terms and conditions referenced above ("**MTC**"):

"**Acceptance Criteria**" means the acceptance criteria for the Deliverables as described in the SoW.

"**Acceptance Period**" means, unless otherwise set out in the SoW, in relation to:

(A) documentary Deliverable, a period of five days; and/or

(B) other Deliverables, a period of 10 days,

immediately following the submission of the Deliverable by Capita to Client for acceptance.

"**Capita Materials**" means any standard software applications including upgrades, updates, application programming interfaces and related documentation and any other documentation and/or other materials provided by Capita.

"**CCN**" has the meaning given in paragraph 6.5 (Change Control).

"**Deliverable**" means any deliverable, documentation, software, know-how or other output to be provided to Client in connection with a Professional Service as set out in the SoW, excluding any Client Materials contained in the Deliverables and any Capita Materials.

"**Delivery Plan**" means the timetable set out in the SoW for the provision of the Services and delivery of any Deliverables.

"**Key Personnel**" means any individuals identified as key personnel in a SoW or any replacement individuals appointed by Capita

"**Site**" means the sites, premises or location(s) identified in the SoW where Capita will perform the Services.

"**Specification**" means the functional and/or technical requirements specification (as applicable) for a Deliverable as set out in the relevant SoW.

1.2 Professional Services Schedule specific Definitions:

**Addressable Spend** means the In Scope Client spend that Capita can address and influence during the term of this agreement. This can be across multiple financial years.

**Allowable Assumptions** means the set of assumptions, which are mutually agreed by both Capita and the Client. These assumptions are to be accepted as the basis upon which the Services will be delivered, and any related calculations or performance assessments will be made, except where otherwise specified or amended in writing by the parties.

**Baseline Spend** means the Client's third party spend, that Capita will review to identify mis-aligned or overpayments by the Client latest 12-month period or as agreed.

**Checkpoint Report** means the standard reporting document used within the overall governance of the Cost Recovery Programme and as amended from time to time.

**Client** means, who are contracting with Capita

**Client Obligations** means those obligations as detailed.

**Cost Recovery Value** ("CRV") means the sum of savings or monies recovered by Capita because of this programme. In this project, it will be payments made from the In Scope Suppliers engaged by Capita for any mis-aligned or overpayments by the Client for the services or goods provided. These will relate to historical payments that the Client has paid to the Suppliers.

**Cost Recovery Programme** means the Project(s) identified by Capita for the recovery of monies on behalf of the Client from the Suppliers.

**Dispute Resolution Process** means the process as detailed in the main Terms and Conditions.

**Expected Savings** refers to the savings anticipated from the Cost Recovery Programme.

**Financial Year** means Client's Financial Year

**Gainshare Fees** means the fees payable to Capita depending on %

**In Scope Spend** means the Third Party Spend deemed to be in scope of the Cost Recovery Programme

**In Scope Suppliers** means the suppliers that Capita will be conducting an audit of. Any additional suppliers that Capita wish to include in this project, will be agreed by both parties by email and can be included in this programme.

**Procurement Team** means the Client's current in house procurement team.

**Senior Responsible Officer** ("SRO") means the most senior individual within the Client accountable for the Procurement Service provided by Capita

## 2. SCOPE OF SERVICES

2.1 Programme Objectives:

(A) To identify any outstanding monies owed to the Client from existing contracts.

(B) provide the Services at Capita's premises unless another Site is specified on the Order Form in which case the Services will be provided at the Site described in the Order Form;

2.2 Key Activities:

(A) Capita to request contracts and contract documents for the Suppliers

(B) Client to provide the contracts and contract documents requested.

(C) Capita to hold a meeting with key stakeholders to explain the project

(D) Capita to undertake a deep dive analysis of supplier contracts, Management information and CCNs.

(E) Capita to produce a report detailing opportunities, approach, and level of savings to be validated with stakeholders.

(F) Capita to present findings to the Suppliers and negotiate recoveries of opportunities identified.

(G) Capita will provide a Checkpoint Report each Friday to the Senior Responsible Officer detailing the status of the Procurement Services and of each Procurement Project including current activities, upcoming activities, Expected Savings and any risks and issues. This will be in a format agreed by both parties at the commencement of the Cost Recovery Programme. On completion of the Project, evidence will be provided to the Client to conclude actual savings.

(H) Capita to report to Client on actual monies recovered that will form the Cost Recovery Value. Client to confirm that monies have been received.

## 3. FEES

3.1 The pricing for the Cost Recovery Programme shall be based solely on a gainshare model, with no upfront charges payable by the Client. The applicable pricing structure will depend on (i) the total value of in-scope supplier expenditure and (ii) the duration of the contractual engagement. Based on these criteria, the pricing shall fall under one of the two options set out below.

(A) **<u>Standard Pricing:</u>** shall apply where (a) the in-scope supplier expenditure exceeds £1 million, and (b) the contractual engagement between the Client and Capita has a minimum duration of twenty-four (24) months. Under the Standard Pricing model, Capita shall be remunerated as a proportion of the total monies recovered. The following gainshare percentages shall apply:

| Monies Recovered by Capita | Applicable Gainshare Percentage |
|---|---|
| £0 - £250k | 25% |
| £250,001 - £500,000 | 23% |
| Over £500,001 | 21% |

*Table 1: Standard pricing*

**Example 1:** If the in-scope supplier spend is £1.5m and the contractual engagement between the Client and Capita exceeds 24 months, and assuming Capita recover £200k of monies owed by the Client, the gainshare percentage of 25% will apply. In this scenario, the Client will pay Capita a fee of £50k (£200k recovered x 25% gainshare).

(B) **<u>Exception Pricing:</u>** shall apply where (a) the in-scope supplier expenditure is less than £1 million, and (b) the contractual engagement between the Client and Capita has a duration of fewer than twenty-four (24) months. Under the Exception Pricing model, Capita shall be remunerated as a proportion of the total monies recovered. In light of the increased delivery risk to Capita and the reduced likelihood of recovery, higher gainshare percentages shall apply as follows:

| Monies Recovered by Capita | Applicable Gainshare Percentage |
|---|---|
| £0 - £250k | 35% |
| £250,001 - £500,000 | 33% |
| Over £500,001 | 31% |

*Table 2: Exception pricing*

**Example 2:** If the in-scope supplier spend is £500k and the contractual engagement between the Client and Capita is 18 months, and assuming Capita recover £200k of monies owed by the Client, the gainshare percentage of 35% will apply. In this scenario, the Client will pay Capita a fee of £70k (£200k recovered x 35% gainshare).

Note: There will be no data extraction costs related to our services.

3.2 **Pricing for Extra Services**

For the delivery of any extra services, the following standard day rates will apply. The following day rates are exclusive of VAT, and exclusive of any travel expenses.

| Grade | Day Rate |
|---|---|
| Associate Consultant | £530 |
| Consultant | £650 |
| Senior Consultant | £795 |
| Principal Consultant | £920 |
| Senior Principal Consultant | £1,020 |
| Managing Consultant | £1,150 |
| Market Partner | £1,300 |
| Director | £1,500 |

*Table 3: Day rates for extra services*

3.3 Client shall pay Capita for the Services at the rates or for the Fees specified.

3.4 If any invoiced amount is not received by Capita by the due date, then without limiting Capita's other rights or remedies including its rights pursuant to Clause 4.4 (Interest for Late Payment) of the MTC, Capita may condition future purchases of Services on shorter payment terms.

## 4. CLIENT OBLIGATIONS

4.1 Client will take all reasonable steps to ensure the health and safety of Capita's personnel carrying out the Services while they are at Client's Site.

4.2 Client acknowledges that the provision of the Services by Capita shall be dependent upon Client, at all times during the entire Services engagement and in a timely manner:

(A) providing Capita's personnel access to Client's Site(s);

(B) providing Capita with access to or use of:

(1) any information, specifications and/or instructions with sufficient detail, accuracy and completeness; and/or

(2) any equipment, systems, software and/or other technical services,

as Capita may reasonably require in order to deliver the Services;

(C) ensuring that Capita has access to and full co-operation of:

(1) a project manager for Client; and

(2) the technical and managerial personnel of Client and any applicable third parties,

with the necessary skill, experience, knowledge and authority as Capita may reasonably require;

(D) ensuring that where Client requires Capita to access, use and/or modify any equipment, systems, software, other technical services, information and/or materials as part of or in connection with the Services, that Client either owns or has all necessary rights, written consents and/ or permissions in place prior to requiring Capita to access, use and/or make any such modifications; and

(E) performing any additional obligations or dependencies as specified in the Order Form.

4.3 Client Obligations specific to **Cost Recovery Programme**:

(A) All Client decisions associated with the Procurement Project shall be made on a timely basis always acting reasonably

(B) The Client to facilitate meetings with suppliers in a timely manner and act as a point of escalation when suppliers are not engaging with Capita or providing information requested in a timely manner.

(C) The Client to provide access to supplier data, contractual documents, and management information within 5 days of request when required by Capita.

(D) The Client shall be responsible for all Client required signoffs and approvals (i.e. Finance confirmation of Cost Recovery Value)

(E) The Client finance team shall provide financial reports on the income as reasonably required by Capita on a timely basis, and as otherwise reasonably required by Capita to deliver the Service.

(F) All deliverables shall be in accordance with Good Industry Practice and Client Acceptance shall be subject to Capita formal submission for each Deliverable for Client Acceptance within five working days of said formal submission.

## 5. ALLOWABLE ASSUMPTIONS

5.1 If Capita undertakes an audit and identifies a cost recovery opportunity from an in-scope supplier, and the Client acts or prevents the recovery, any owed Gainshare to Capita will be based on the known cost recovery amount.

5.2 Without prejudice to the Client Obligations, the Parties acknowledge that it is their expectation that each party will use its reasonable endeavours to notify the other of significant changes to projects as they become aware of the same. Such notifications will be made through the governance process and / or the Checkpoint Report so that these are captured, and awareness is raised.

5.3 Gainshare Fees are payable by the Client to Capita against the Cost Recovery Value. Gainshare is calculated as a % of the Cost Recovery Value and shall be payable when the Cost Recovery Value is realised by the Client. By way of example if the Gainshare is 25%, if the Cost Recovery Value is £100K, once this is received by the Client, the total Gainshare Fees of £25K will be payable by the Client to Capita.

5.4 The Client agrees that the Cost Recovery Programme is to be completed by Capita. Subject to Capita agreement the Client will therefore not commission any other third-party to commence or have any involvement with this project, nor will the Client commence work on these projects independently themselves with the effect of excluding Capita and/or from having the savings recovered.

5.5 The Client will provide such support as Capita reasonably requires carrying out the assessment including by providing all relevant data related to the Third Party Spend.

5.6 Where the Client terminates for convenience, from the date of termination (in accordance with the stipulated notice period) then Capita will be paid any costs incurred by the Client, and any Capita associated obligations and liabilities thereunder are deemed removed in their entirety.

5.7 Where Capita terminates for convenience, from the date of termination, Capita will hand the Procurement Project over to the Client with a full briefing for the Client to then deliver the remainder of the Procurement Project.

5.8 It is assumed that the Procurement Services will be delivered mainly remotely with some ad-hoc site visits as needed, and therefore no expenses are chargeable. If the Client requests any change to this assumption it shall be formally agreed in writing by both parties and reasonable expenses (such as travel, accommodation, and subsistence directly attributable to required on-site working) shall be chargeable at cost.

5.9 The cost of the Procurement Services over the Initial Term in terms of Fees payable by the Client to Capita shall equate to the Gainshare payments due from the Client in accordance with this Agreement; subject to any adjustments agreed by the parties in accordance with the provisions of this Agreement. No additional fees or expenses shall be payable unless agreed in advance by the Parties in writing

5.10 Upon execution of this programme the assumptions made are not subject to change. If for any reason this is not the case the Client must inform the Capita immediately and the parties will discuss recourse and agree to a variation if necessary.

5.11 This Agreement shall be for an initial period of 12 months from the Commencement Date. Capita will profile the time of the key personnel to align to the Service deliverables. The initial term of 12 months may be extended up to an additional six-month period provided this is agreed by both Capita and the Client prior to the end of the Initial Term. The extension will be in accordance with the terms of the Agreement. If the parties agree to extend beyond the Initial Term any applicable Gainshare Fees shall become due and payable by the Client at the end of the Initial Term.

5.12 Any information assets (company owned or custodial care) no longer required to complete the prescribed tasks must be returned to a designated Capita representative for storage or destruction. Unless approved by an authorised Capita representative, no sensitive or proprietary Capita information shall be removed, copied, or otherwise replicated from a Capita site or domain.

## 6. CHANGE CONTROL

6.1 Either party may request changes to the Services, Deliverables, Specification, Delivery Plan and/or the Fees by submitting a request to the other party in writing (including by email), marked "Change Control Request" in the subject heading and/or conforming with any other format requirements advised by Capita.

6.2 Where Client submits a Change Control Request to Capita, Capita shall initially review and assess the scope of such Change Control Request and may seek further information, details and/or clarification from Client where reasonably required.

6.3 Client shall co-operate with and provide such information and assistance (including making appropriate personnel available for meetings) as soon as reasonably practicable, to enable Capita to be able to respond to Client's Change Control Request in a timely manner.

6.4 Client acknowledges that Capita reserves the right to reject any Change Control Request it receives, acting reasonably. It shall notify Client's Project Manager by email of its decision and any reasons it may have.

6.5 Where Capita confirms that it is prepared to proceed in principle with such change, Capita shall prepare and submit to Client a formal change control note. Such CCN shall set out:

(A) the scope and impact of the change, including changes to the scope of the Specification and the Delivery Plan; and, where applicable; and

(B) any other resulting changes required to the provisions under the Agreement, including the Fees, as the case may be.

6.6 No requested change shall have effect unless and until each party has signed the relevant CCN.

## 7. DISPUTE RESOLUTION PROCESS

| Step | Route | The typical reason for the escalation |
|---|---|---|
| 1 | Engagement Director (Capita Market Partner) and Client Senior Responsible Officer | Issue cannot be resolved at the nominated governance meeting |
| 2 | Capita Operations and Market Director and Client Senior Responsible Officer | Issue cannot be resolved between the Capita Engagement Director and Client Representative |
| 3 | Capita Managing Director and Client Chief Executive Officer | Issue cannot be resolved between the Capita Operations and Market Director and Client Chief Executive |

## 8. INTELLECTUAL PROPERTY RIGHTS

Client acknowledges and agrees that:

(A) any IPR in or relating to the Deliverables (except in respect of the Client Materials) developed by or on behalf of Capita as part of any Order Form will vest in Capita;

(B) where the Deliverable includes configuration or modifications to any standard software or other services of Capita (or its licensors), permission to use the Deliverable is granted on the same basis as that which applies to the relevant Software or other Services; and

(C) the provisions of Clause 7 (Intellectual Property Rights) of the MTC shall apply to the Deliverables under this Professional Services Schedule.

## 9. SURVIVAL OF TERMS

Paragraphs 0 (Definitions), 7 (Intellectual Property Rights) and 9 (Survival of Terms) of this Professional Services Schedule shall survive termination of the Agreement or the applicable Professional Service, along with any other provisions that by their nature should survive.