



G-Cloud 10 Framework Agreement

Deloitte LLP Standard Terms and Conditions

May 2018

1. Definitions and Interpretation

- 1.1. The whole of the contract between the G-Cloud Buyer and Deloitte LLP (the "Supplier") is set out in the G-Cloud Call-Off Contract, G-Cloud Order Form, and these Terms of Business, (together the "Agreement").
- 1.2. If the Supplier has already started work then the Buyer agrees that this Agreement applies retrospectively from the start of our work.
- 1.3. The definitions set out in these Terms of Business shall be interpreted in accordance with the defined terms in the G-Cloud Call-Off Contract and have the same meaning throughout these Terms of Business. If there is a conflict between these Terms of Business and the Call-Off Contract, the Call-Off Contract governs.
- 1.4. If any provision of the Agreement is determined to be illegal, void or unenforceable in whole or in part, such provision or the affected part shall be deemed not to form part of this Agreement but all other provisions together with the remainder of the affected provision shall remain in full force and effect.
- 1.5. For the purpose of this Agreement, "Supplier Parties" means all entities (including the UK limited liability partnership of Deloitte LLP (the Supplier) that are members of the Deloitte Touche Tohmatsu Limited ("DTTL") worldwide network and each of their subsidiaries, predecessors, successors and assignees, and all partners, principals, members, owners, directors, employees and agents of all such entities. The Supplier (which for these purposes includes reference to its subsidiaries) uses the word "partner" in respect of its members and certain of its senior employees in its dealings with you to describe, respectively, a member and senior employee of Supplier in their capacity as such. Supplier gives a number of its employees the title of "director", which denotes that they are senior employees and not that they hold the office of director for the purposes of the Companies Act 2006. A list of members of Supplier is available at the Companies House website.
- 1.6. In order to receive the Services, the Buyer and the Supplier shall execute a Call-Off Contract which sets forth the specific Services to be provided. The terms and conditions of this Agreement shall apply to the provision of the relevant Services. No additional terms shall be binding on the Supplier unless specifically accepted by the Supplier in the Call-Off Contract.

Contracting Parties and Assignment

- 1.7. The Agreement is between the Buyer and the Supplier. The Buyer agrees that the Buyer's relationship is solely with the Supplier as the entity contracting with the Buyer to provide the Services. The Supplier neither owes nor accepts any duty to any person other than the Buyer. Notwithstanding the fact that certain Services under the Agreement may be carried out by personnel provided to the Supplier from other Supplier Parties through service or other agreements, the Buyer agrees that the Buyer will not bring any claim or proceedings of any nature (whether in Agreement, tort, including, but not limited to, a claim for negligence, breach of statutory duty or otherwise) in any way in respect of or in connection with this Agreement against any of the Supplier Parties (except the Supplier) or against any subcontractors that the Supplier may use to provide the Services. The foregoing exclusion does not apply to any liability, claim or proceeding founded on an allegation of fraud by any Supplier Party or any subcontractor or other liability that cannot be excluded under English law.
- 1.8. This Agreement does not make either of the parties an agent or legal representative of the other, nor does it create a partnership or joint venture. The Supplier in providing the Services is acting as an independent contractor.
- 1.9. Neither the Supplier or the Buyer may assign or otherwise transfer the benefit of this Agreement without the prior express written consent of the other. Further, neither party, will directly or indirectly agree to assign or transfer any claim against the other arising out of this Agreement to any other person.
- 1.10. Except as expressly agreed in the Order Form, Schedule 5 (Guarantee) of the Call-Off Contract shall not form part of this Agreement.

2. Scope of Services

- 2.1. The Supplier shall, during the Term, provide the Services to the Buyer on and subject to the terms of this Agreement.
- 2.2. The Supplier shall at all times perform the Services with reasonable skill, care and diligence and fully in accordance with any agreed specification as set out in the Order Form.
- 2.3. The Buyer engages the Supplier and the Supplier agrees to provide as set out in the Order Form:
 - (i) Design & Scoping Services (as defined in

clause 3.1); and /or (ii) Implementation Services (as defined in clause 4.1); and/or (iii) Managed Services (as defined in clause 6.1).

2.4. The Services will include the provision of certain software and/or system(s) (the "**Technical Deliverables**") and/or documentation (the "**Document Deliverables**") and each as further described in the Order Form (together the "**Deliverables**").

2.5. Any changes to the descriptions of the Design & Scoping Services, Implementation Services, the Deliverables or the Managed Services set out in the Order Form shall be effected via the change order procedure described in Schedule 2 (the "**Change Control Procedure**").

3. Design & Scoping Services

3.1. Where specified in the Order Form we will provide any of the following activities (as further specified in the Order Form): (i) scoping visits to inspect the Buyer's systems; (ii) meetings with the Buyer to identify requirements; (iii) reporting to the Buyer in respect of options for meeting the Buyer's requirements; and (iv) designing an appropriate system for the Buyer (the "**Design & Scoping Services**").

3.2. Any Document Deliverables produced pursuant to any Design & Scoping Services will be subject to acceptance in accordance with clause 5.7.

4. Implementation Services

4.1. We will provide certain development and/or implementation services ("**Implementation Services**") for the supply of certain Deliverables and/or third party software and related documentation, which are specified in the Order Form. The Implementation Services shall be performed using one or a combination of both of the processes identified at clause 4.2 below (as further described in the Order Form).

Waterfall Development Processes

4.2. All Implementation Services to be performed under this Agreement using the waterfall method (as selected in the Order Form) shall be subject to the following:

4.2.1. the Supplier will use reasonable efforts to perform the Implementation Services and provide to the Buyer the Deliverable(s) in order to achieve any milestones that are identified in the Order Form as being "key" milestones ("**Key Milestones**");

- 4.2.2. if the Buyer fails to provide any required information, materials, access and/or assistance to the Supplier in a complete and timely manner, the Supplier will, during the period of any resulting delays, be entitled to a proportionate extension of any milestone dates and to recover any reasonable additional costs incurred by the Supplier as a direct result of the delay or Buyer's failure, and the Supplier will not be liable for the delay; and
- 4.2.3. the Buyer will conduct all acceptance tests to the Deliverables specified in the Order Form as being subject to acceptance testing in accordance with clause 5 and at the times and as set out in the Order Form; and
- 4.2.4. any Document Deliverables produced will be subject to acceptance in accordance with clause 5.7.

Agile Development Processes

- 4.3. All Implementation Services to be performed under this Agreement using an Agile development method (as specified in the Order Form) shall be subject to the following:
 - 4.3.1. we will perform the Implementation Services in order to develop the Deliverables in an iterative manner in accordance with an agreed Agile methodology and approach, as described in more detail in the Order Form;
 - 4.3.2. we will use reasonable efforts to supply the Deliverables to meet any Key Milestones referred to in the release plan agreed with you after the discovery phase in accordance with the process described in the Order Form;
 - 4.3.3. if you fail to cooperate with us as required by the Agile methodology or provide any required information, materials, access and/or assistance to us in a full and timely manner, we will, during the period of any resulting delays, be entitled to a proportionate extension to the project plan and to recover any reasonable additional costs incurred by us as a direct result of the delay, and we will not be liable for the delay;
 - 4.3.4. where it is specified in the Order Form that a certain set of Technical Deliverables to be delivered following a series of "sprints" is subject to

acceptance testing, you will conduct the acceptance tests of the relevant Technical Deliverables in accordance with clause 5 and as set out in the Order Form;

- 4.3.5. except as set out in clause 4.3.4 above, your acceptance of the Technical Deliverables following the completion of a "sprint" shall be a full and final acceptance and shall not be subject to the acceptance of the Technical Deliverables in any subsequent "sprint" process; and
- 4.3.6. any Document Deliverables produced will be subject to acceptance in accordance with clause 5.7.

Models

- 4.4. In the course of providing the Services, the Supplier may make reference to spreadsheets and computer models that the Buyer may provide to the Supplier or ask the Supplier to rely upon ("**The Buyer Models**") or that the Supplier may have developed or used in connection with the Services ("**Our Models**"). All models have limits and may not produce valid results for all possible combinations of input data, errors and potential errors may thus go unnoticed. Unless otherwise expressly agreed in the Order Form:
 - 4.4.1. the Supplier will not be responsible for reviewing, testing or detecting any errors in any of The Buyer Models; and
 - 4.4.2. the Supplier will not provide the Buyer with a copy of Our Models for the Buyer use.
- 4.5. In exceptional cases it may be expedient for the Supplier to provide the Buyer for the Buyer's convenience with a copy of one or more of Our Models by way of explanation or illustration of our Services or related advice. Where the Supplier agrees to do so, any such Model will have been developed solely for our internal use and incidental to our providing the Services and advice during the engagement rather than being a Deliverable in itself. Consequently, without in anyway qualifying the Services and Deliverables pursuant to this Agreement, in providing the Buyer with any of Our Models, the Supplier makes no representation, warranty or undertaking (express or implied) in relation to and take no responsibility for the accuracy, suitability, adequacy, completeness or reasonableness of any of our Models for the Buyer's own use. Prior to manipulating or placing any reliance on any models (Our Models or The Buyer Models) the Buyer are advised to carry out appropriate checks upon them.

Governance

- 4.6. During the course of provision of the Implementation Services, the parties' respective representative as identified the Order Form shall meet at least once per week, or such other frequency as may be set out in the Order Form, to discuss the progress of the Implementation Services and any issues arising.

5. Testing & Acceptance

- 5.1. The Buyer shall carry out acceptance testing on the Deliverables in accordance with the processes described in the Order Form in order to test the compliance of the relevant Deliverable(s) with the acceptance criteria for each Deliverable (the "**Acceptance Criteria**").
- 5.2. The parties will agree the Acceptance Criteria for each acceptance test prior to the relevant date specified in the Order Form.
- 5.3. The Buyer shall provide to the Supplier an acceptance certificate substantially in the form set out in Exhibit A or other written indication of acceptance ("**Acceptance Certificate**") as soon as any Technical Deliverable has successfully completed an acceptance test by achieving the Acceptance Criteria. Such Acceptance Certificate or other written indication of acceptance shall be provided by the Buyer to the Supplier within 5 business days of the successful conclusion of any acceptance test. If the Supplier has not received notice from the Buyer of the unsuccessful conclusion of the relevant acceptance test within 5 business days of the end of the relevant test or if the Buyer makes live operational use of the relevant Technical Deliverable(s), such Technical Deliverable(s) will be deemed accepted by the Buyer (and the relevant Implementation Services completed).
- 5.4. Subject to clause 5.6, if any acceptance test demonstrates that any Technical Deliverable(s) materially fails to satisfy the relevant Acceptance Criteria, the Buyer may require the Supplier to correct the Technical Deliverable(s) and to make them available to the Buyer within a reasonable time for the Buyer to re-perform the acceptance tests on the corrected Technical Deliverable(s). For the avoidance of doubt, the re-performed tests shall be to meet the same Acceptance Criteria as the original tests. The Supplier shall carry out such correction activities at no additional charge to the Buyer.
- 5.5. If a re-performed acceptance test carried out in accordance with clause 5.4 does not satisfy the

Acceptance Criteria, the Buyers exclusive remedy and our sole liability shall be, at the Buyers option and acting reasonably, to:

- 5.5.1. require the Supplier, within such reasonable period as is agreed between the Supplier and at no additional charge to the Buyer, to correct the Technical Deliverable(s) and to make them available for the Buyer to perform a further repetition of the acceptance tests on the corrected Technical Deliverable(s); or
 - 5.5.2. reject any of the Technical Deliverables that materially fail to achieve the Acceptance Criteria, to accept the remaining Deliverables and to pay the Charges that relate to the work performed.
- 5.6. If any failure of a Technical Deliverable to achieve an Acceptance Criteria is as a result of an act and/or omission attributed to the Buyer and/or a third party, the Supplier shall at our reasonable discretion use reasonable endeavours to provide assistance to the Buyer subject always to the Buyer reimbursing the Supplier at our time and materials fee rates.
- 5.7. In respect of any Document Deliverables, the Buyer shall provide to us an Acceptance Certificate as soon as the relevant Document Deliverable has been successfully completed and delivered in accordance with the Order Form. Such Acceptance Certificate shall be provided by the Buyer to the Supplier within 5 business days of the successful completion and delivery of the Document Deliverable. If the Supplier has not received notice from the Buyer within 5 business days of delivery, the Document Deliverable will be deemed accepted by the Buyer. Such Document Deliverables will not be subject to acceptance testing in accordance with clauses 5.1 to 5.6 above. If the Buyer notifies the Supplier within 5 business days that the Document Deliverable materially fails to meet the specification set out in the Order Form, the Buyer's exclusive remedy and our sole liability shall be, at the Buyer's option and acting reasonably, to:
- 5.7.1. Require the Supplier, within such reasonable period of time as is agreed between the parties and at no additional charge to the Buyer, to correct or revise the Document Deliverable(s) and to deliver them to the Buyer again; or
 - 5.7.2. reject any of the Document Deliverables that materially fail to meet the specification set out in the Order Form,

to accept the remaining Document Deliverables and to pay the Charges that relate to the work performed.

6. Managed Services

- 6.1. Where specified in the Order Form the Supplier will: (i) host the software implemented pursuant to the Implementation Services on its hosting environment or through a third party hosting or cloud services provider as specified in the Order Form (the "**Hosting Services**"); and (ii) provide support and maintenance services for the hosted software (as further described in the Order Form) (the "**Support and Maintenance Services**"). The Hosting Services and Support and Maintenance Services shall together be referred to as the managed services (the "**Managed Services**"). If the provision by the Supplier of Managed Services is specified in the Order Form this clause 6 shall apply to the provision of such Managed Services. Otherwise, this clause 6 shall be of no effect between the parties.

Hosting Services

- 6.2. From the relevant date specified in the Order Form or from such date as is agreed between the parties in writing and for the remainder of the term of this Agreement, the Supplier will provide the Hosting Services and give access to those authorised internal users and end users as further specified in the Order Form ("**Authorised Users**") who are entitled to access and use the Deliverables through the Hosting Services; provided always that such access and use shall be subject to the restrictions on use of the Deliverables set out in clauses 8.12 to 8.14.
- 6.3. Where access is limited to certain named Authorised Users in accordance with the Agreement, the Buyer will provide to the Supplier details of the identity of the relevant Authorised Users prior to the commencement of the provision of Hosting Services and throughout the Hosting Services provision period.
- 6.4. The Supplier may audit the use of the Hosting Services by the Authorised Users following reasonable notice from us. Such audit may be conducted no more than once per quarter], at the Supplier's expense, in a manner so as to not substantially interfere with the Buyers normal conduct of business. If any such audit reveals that individuals who are not Authorised Users are accessing the Hosting Services, and without prejudice to our other rights, the Buyer will at our request promptly disable access by such individuals and shall promptly pay the relevant

Charges for such individual's use of the Hosting Services.

6.5. In relation to the provision of the Hosting Services:

- 6.5.1. the Supplier hereby grants the Buyer on and subject to the terms and conditions of the Agreement a non-exclusive, non-transferable licence to allow Authorised Users to access and use the Deliverables through the Hosting Services solely for the Buyers business purposes;
- 6.5.2. the Buyer will not store, distribute or transmit any virus, or any material through the Hosting Services that is unlawful, harmful, threatening, defamatory, obscene, infringing, harassing, offensive, discriminatory or facilitates illegal activity;
- 6.5.3. the rights provided under this clause 6.5 are granted to the Buyer only and, unless otherwise specified in the Order Form, shall not be considered granted to any of the Buyers subsidiaries or the Buyer's holding company; and
- 6.5.4. the Buyer will use reasonable endeavours to prevent any unauthorised access to, or use of, the Deliverables through the Hosting Services and notify the Supplier promptly of any such unauthorised access or use.

Support and Maintenance Services

- 6.6. From the relevant date specified in the Order Form or from such date as is agreed between the parties in writing and for the remainder of the term of this Agreement the Supplier will provide the Buyer with the Support and Maintenance Services.
- 6.7. Where specified under the Order Form and as further described therein, the Supplier will provide technical support services in respect of the hosted software.
- 6.8. The Buyer's personnel named as support representatives in the Order Form (or as notified to the Supplier in writing from time to time) shall be authorised to contact the Supplier for technical support services.
- 6.9. When the Supplier wishes to carry out any maintenance to the Hosting Services (other than emergency maintenance), the Supplier will ensure that: (a) the timing of the planned maintenance is in accordance with the

requirements of an agreed maintenance schedule (the "**Maintenance Schedule**") or is as otherwise jointly agreed in writing with the Buyers authorised representative at least 10 business days in advance; (b) the planned maintenance (which shall be known as "**Permitted Maintenance**") is forthwith entered onto the agreed Maintenance Schedule; and (c) the Permitted Maintenance is subsequently carried out in accordance with the Maintenance Schedule.

- 6.10. Service downtime arising due to Permitted Maintenance that is carried out by the Supplier will be subtracted from the total number of hours in the relevant calendar month (or such other period as may be described in the Order Form) in which the Service is being provided ("**Service Period**") when calculating "**Availability**" (as this term may be defined in the Order Form).
- 6.11. The Supplier will carry out any emergency maintenance where the Supplier reasonably suspects that the Hosting Services or any part thereof has or may have developed a fault. Any such emergency maintenance shall be carried out in such a manner and at such times so as to avoid (or where this is not possible so as to minimise) disruption to the Hosting Services.

Service Levels

- 6.12. We will use reasonable efforts to provide the Managed Services to meet or exceed any applicable service levels set out in the Order Form (the "**Service Levels**").
- 6.13. We will monitor our performance of the Managed Services by reference to the Service Level(s) and each [month]/quarter] will send you a report detailing the level of service which was achieved in the preceding service period ("**Service Period**").
- 6.14. If there is a material failure to deliver the Managed Services in accordance with the Service Levels ("**Service Failure**") or if we believe that there will be such a Service Failure, we will notify you as soon as reasonably practicable and carry out emergency maintenance in accordance with clause 6.11.

Governance

- 6.15. During the course of provision of the Managed Services, the parties' designated representatives shall meet at least once per quarter, or such other frequency as may be set out in the Order

Form, to discuss the delivery of the Managed Services and any issues arising.

7. The Buyer's Responsibilities

- 7.1. The Buyer is responsible for determining that the specification of the Deliverables and the scope of the Services is appropriate for the Buyer's needs.
- 7.2. The Supplier's performance of the Services, supply of the Deliverables, the timetable, the level of our Charges and any fee estimates each depend on the accuracy and completeness of any assumptions set out in the Order Form, applicable Buyer Obligations as set-out in Schedule 1 and the Buyer performing its obligations under the Agreement.
- 7.3. the Buyer will give the Supplier all the information that is necessary for the performance of the Services. In this context, the Buyer agrees the Supplier shall not be treated as being on notice of (1) information given to the Supplier in the course of previous engagements or (2) information posted on an internal or external web site or other electronic data sharing forum. Accordingly, other than as set out in the Order Form, all information that is relevant to the Services must be given directly to the Supplier's personnel providing the Services even if the same information has been given to the Supplier previously in the course of a different Agreement or engagement. Please note that, other than as set out in the Agreement, the Supplier will not audit or otherwise test or verify the information provided to the Supplier in the course of the Services. The Buyer agrees that the Supplier shall be entitled to rely on all information provided to the Supplier and on the Buyer's decisions and approvals in connection with the Suppliers Services and to assume that all such information provided to the Supplier from whatever sources is true, complete and not misleading. The Supplier will not be responsible for the consequences should any of the information provided to the Supplier in the course of the Services not be complete, accurate or current.
- 7.4. Where needed to assist the Supplier in performing the Services, the Buyer will (i) take decisions and obtain management approvals promptly; (ii) give the Supplier full and prompt access to the Buyer's resources, premises and (subject to clause 15) data and systems and those of the Buyer's affiliates and to the Buyer's other advisers associated with the engagement, together with all necessary administrative support, and will be responsible for the accuracy and completeness and any migration of the Buyer data; (iii) obtain any approvals, licences and security clearances promptly (including any relating to third parties, the Suppliers personnel and any subcontractors). The Buyer also agrees to keep the Supplier promptly informed of any proposals or developments in its business relevant to the Services
- 7.5. The Supplier's role is to provide the Buyer with IT services relating to the operation of the Buyer's business. The Buyer agrees that the Buyer remains solely responsible for managing all aspects of the Buyer's business, for taking all decisions and operating all accounting, internal control or management information systems. This includes applying the Buyer's independent business judgement to evaluate any advice or recommendations that the Supplier provides. The Buyer will be responsible for deciding whether our advice or recommendations make sense in the context of the Buyer's business, and whether the Buyer wishes to rely on, implement or act on them, including the actions necessary to realise any expected benefits.
- 7.6. Where the Buyer is using third parties to provide information, materials or other assistance in support of the Services, or the Buyer are employing other suppliers whose work may affect our ability to deliver the Services, the Buyer will be responsible for the management of such persons and their performance, including the timeliness and quality of their input and work.
- 7.7. The Buyer will ensure that the system on which the Deliverables are hosted (where the Supplier do not provide Hosting Services) has sufficient volume and is of an appropriate specification to enable the Deliverables to operate at acceptable performance levels. The Buyer acknowledges that, unless specifically stated in the Order Form, the Supplier does not provide advice or guidance on the appropriate size and/or characteristics of system on which the Deliverables are hosted.
- 7.8. The Buyer will be responsible for the quality of the data that is to be inputted into the systems on which the Deliverables will operate. The Supplier will not have any obligation to review or ensure the quality of such data or its fitness for purpose for the operation of the Deliverables, unless such services are specifically included within the scope of the Implementation Services described in the Order Form.
- 7.9. The Buyer will be responsible for paying the Charges in accordance with this Agreement.

8. Responsibilities To Each Other

Confidentiality

- 8.1. Each party agrees where it is in possession of information about the other that is by its nature confidential, or is designated as such (whether in writing or orally), including this Agreement ("Confidential Information"), we each undertake to (i) keep it confidential; (ii) use it only in connection with providing and receiving the Services; and (iii) not to disclose it to any other person without the other's prior written consent. These undertakings will not apply to any information that is or becomes generally publicly available for reasons not due to the recipient's default, was possessed without any obligation of confidence prior to the commencement of the Services (or prior to being designated as Confidential Information), or is lawfully acquired from a third party who is under no obligation of confidence, or which is or has been independently developed by the recipient.
- 8.2. Nothing in this Agreement will prevent either party from being entitled to disclose Confidential Information to its legal advisors, to protect its own legitimate interests and to comply with any legal, professional or regulatory requirement.
- 8.3. The Buyer agrees that the Supplier may share Confidential Information with any Supplier Party and any subcontractors the Supplier uses to provide the Services (or more generally to support our office administration) on the understanding that they will treat the information as Confidential Information in accordance with the provisions of this Agreement.
- 8.4. To the extent that, in connection with the Agreement, the Supplier provides the Buyer with information (CV's, contact details etc.), its pricing, contains details of its cost base or insurance arrangements, relates to its proprietary information as well as its approach and/or its methodologies to be commercially sensitive/ confidential) which the Supplier has indicated is exempt from disclosure under the Freedom of Information Act 2000 ("**Exempt Information**") the Buyer agrees to notify the Supplier, as soon as reasonably possible, of any request received by it. Before making any disclosure of the Supplier's Exempt Information the Buyer shall take account of any representations made within a reasonable time by the Supplier about the applicability of the FoIA exemptions to such Exempt Information.

- 8.5. In addition, the Supplier notes that the Government's Transparency Agenda may require the publication of all tender documents and Government contracts. In accordance with guidance issued by the Crown Commercial Service) in this regard and the Code of Practice for FoIA, the Buyer will need to consult with the Supplier about the redaction (as envisaged in the Crown Commercial Service guidance and Code of Practice) of certain parts of the Agreement, including those areas identified above, for this work and the associated Order Form.

Conflicts of Interest

- 8.6. It is the Supplier's practice, in appropriate circumstances, to check for conflicts of interest before taking on engagements. Supplier Parties provide many different professional services to Buyers and the Supplier cannot be certain that the Supplier will identify promptly all situations where there may be a conflict with the Buyers interests. Please notify the Supplier promptly of any potential conflict affecting this engagement of which the Buyer are, or become aware.

Electronic Communications

- 8.7. The parties each agree that where appropriate the parties may communicate with each other electronically over the internet (including by way of e-mail). The Supplier's personnel will also need access to the Suppliers own systems and data. To the extent that our personnel are required under the Order Form to perform Services at the Buyer's premises, the Buyer agrees that the Buyer will (at the Buyer's discretion) allow the Supplier's personnel to use a Suppliers Local Area Network at the Buyer's premises and/or provide the Suppliers personnel with analogue dial-up connections or an Ethernet connection to allow our hardware (typically the Suppliers laptop computers used by members of the engagement team) to connect to our network via the Buyer's internet communications facilities. The Buyer further, acknowledges that in order for our personnel to operate effectively and efficiently from the Buyer's premises they may require access to the Buyer's electronic data and also to the Buyer's internet communications facilities for the purpose of the provision of the Services. The Supplier will only access the Buyer's internal networks, applications, data or other systems through the terminal hardware or software the Buyer makes available to the Supplier for that purpose.
- 8.8. Access to the Buyer's systems by the Suppliers personnel will be subject to such conditions as

the Buyer at the Buyer's sole discretion consider necessary to protect the security and integrity of the Buyer's data and systems. The parties each recognise that the internet is inherently insecure; that data can become corrupted, communications are not always delivered promptly (or at all) and that other methods of communication may be appropriate. In addition, electronic communications and the internet are prone to contamination by viruses. The parties each recognise these hazards and so each of the parties will be responsible for protecting its own systems and interests and neither of the parties will be responsible to the other on any basis (contract, tort or otherwise) for any loss, damage or omission in any way arising from the use of electronic data (including e-mail) or the internet as a form of communication or from our personnel's access to the Buyer's networks, applications, data or other systems. Nothing in this clause shall exclude any liability arising from the negligent addressing of an e-mail.

Personnel

- 8.9. Each party will be responsible for ensuring that its staff involved with the provision and receipt of the Services have the appropriate skills and experience. Whilst the Supplier shall attempt to comply with the Buyer's request for specific individuals, the appointment of all personnel to perform the Services and the nature and duration of their assignment shall be made as the Supplier considers appropriate.
- 8.10. Either party may request at any time the removal of (and the requested party will remove as soon as reasonably practicable) any person assigned by the other party to perform any tasks in relation to the Services where the requesting party (i) reasonably believes such person is not adequately qualified to perform such tasks or is incompetent; and (ii) has previously provided the other party with prior written notice of the problem and a reasonable opportunity to remedy the situation and the problem has not been remedied.
- 8.11. The parties each agrees not to offer employment to or solicit the other's personnel who within 6 months of such action have been involved directly in the Services or otherwise connected to this Agreement (except where an individual responds directly to a general recruitment campaign) nor knowingly use the services of any such personnel (either directly or via a third party) for a period of 6 months from the date that the individual concerned ceases to be permanently involved with the Services.

Use of Deliverables

- 8.12. The Deliverables and any other advice the Supplier provide to the Buyer are for the Buyer's exclusive use and should be used solely for the purpose described in the Order Form. They must not be used for any other purpose, recited or referred to in any document, copied or made available (in whole or in part) to any other person without our prior written express consent. The Buyer acknowledges that were the Buyer to do so (and without limitation) this could expose the Supplier to a risk that a third party who otherwise would not have access to the Deliverable might claim to have relied upon the Deliverable to its detriment and might bring or threaten to bring an action, claim or proceedings against us.
- 8.13. Notwithstanding clause 8.12 above, the Buyer may disclose the Deliverable(s) to its directors, officers and employees, Affiliates and their respective directors, officers and employees and to the Buyer's legal advisers on a need to know basis in connection with the matters concerned with our engagement, provided the Buyer takes reasonable steps to ensure that such parties understand and accept that (a) the Deliverables are confidential and except required by law, court order or regulatory authority, must not be disclosed to any other party without the Supplier's prior written consent, (b) in respect of Personal Data, they are required to comply with the EU General Data Protection Regulation 2016/679, (c) the Deliverables are provided for their information (but without creating any duty or liability to them on the Supplier's part) solely for the purpose of advising the Buyer in connection with the matters concerned with our engagement and must not be used by any other purpose, and (d) if they place reliance on the Deliverables they will do so at their own risk and have no recourse to the Supplier or any Supplier Parties. "**Affiliate**" shall mean any entity which is controlling, controlled by, or under common control with Buyer.

- 8.14. Except as expressly provided by the Agreement, no person other than the Buyer may rely on the Deliverables and/or information derived from them and the Supplier accepts no responsibility to any other person to whom the Deliverables are shown or into whose hands they may come.

Post Date Events

- 8.15. The Supplier has no responsibility to update any Deliverable for events occurring after acceptance of that Deliverable unless provided otherwise in

the Order Form, nor to monitor its continuing relevance or suitability for the Buyers purposes.

9. Ownership and Intellectual Property

- 9.1. All title rights in any improvement, enhancement, developments and/or derivative works on Background IPRs during the term of this Agreement, shall remain vested in the party that had title in the IPR prior to the improvement, enhancement, developments and/or derivative works.
- 9.2. The parties agree that neither of the parties will use the other's name, trademarks, service marks, logos, trade names and/or branding without prior written consent.
- 9.3. Neither party shall acquire any right, title or interest in any third party IPR.

Licences granted by us

- 9.4. The licenses granted by the Supplier pursuant to Clause 11.2 of the Call-Off Contract are contingent upon the Buyer's full payment of all sums due to the Supplier for the Services and acceptance of the Deliverables.
- 9.5. The licences granted by the Supplier pursuant to clause 11.2 of the Call-Off Contract shall not permit the Buyer to adapt, reverse engineer, decompile, disassemble, or modify, unless as permitted by law or with our express written consent.
- 9.6. The parties agree that the Order Form will explicitly state whether the Project Specific IPR is suitable for publication as open source. In circumstances where this has not been stated in the Order Form then the Project Specific IPR will be deemed not be suitable for publication as open source.

Licenses granted by the Buyer

- 9.7. The Buyer hereby grants the Supplier a non-exclusive, transferable, perpetual, worldwide, royalty free licence to use Buyer Background IPR for the purposes of providing the Services.
- 9.8. The licence granted in clause 9.7 includes the right to grant sub-licences to any other Supplier Parties and Supplier sub-contractors involved in providing the Services.

Third party licences

- 9.9. The Buyer will be responsible for the licensing arrangements for any proprietary third party

software packages and/or open source software ("**Third Party Software**") and related documentation (including any modifications, enhancements or derivatives and any third party data) used in the provision of the Services, either through the Buyer obtaining the licence directly from the relevant third party or through a grant of a licence or a sub-licence to the Buyer by the Supplier. Where the Supplier grants a licence to the Buyer, the Supplier shall (subject to the terms of the licence), grant a licence to the Buyer based on the relevant licence terms that the third party has granted to the Supplier as detailed in the Order Form and/or this Agreement. Any such licence and/or sub-licence granted by the Supplier shall be provided solely as set out in the third party/open source licence terms and, to the extent permitted by law, without any further express or implied warranties of any kind. Unless specified to the contrary in the Order Form and/or this Agreement, the provision of any Third Party Software shall be outside the scope of the Services and shall be regarded as the Buyer's provided items for the purposes of this Agreement.

- 9.10. The Buyer shall be responsible for obtaining all necessary licences in connection with any Third Party Software, documentation or data provided by the Buyer to the Supplier for the purposes of performing the Services. Unless expressly agreed otherwise in the Order Form and/or this Agreement, the Supplier provide no warranty, indemnity or support of or in relation to such Third Party Software. All such rights and obligations are a matter strictly between the Buyer and the relevant third party licensor(s).

Open source software

- 9.11. Where specified in the Order Form and/or this Agreement, the Supplier shall provide the Buyer with certain open source software as listed in the Order Form and/or this Agreement ("**Open Source Software**"). The Buyer acknowledges that the Open Source Software is subject to various rights and restrictions in favour of or imposed by the licensors thereof and that the Buyers use of the Open Source Software is subject to all such rights and restrictions. The Supplier provides no warranty, indemnity or support of or in relation to such Open Source Software, provided, however, that the Supplier shall pass through to the Buyer any warranty that the Supplier receives in respect of the Open Source Software
- 9.12. Unless expressly agreed in the Order Form, the Buyer shall be responsible for obtaining all

necessary licences in connection with any third party software, documentation or data provided by you to us for the purposes of performing the Services.

10. IPR Claims

10.1. The Supplier shall subject to (Clause 11.5 of the Call-Off Contract and clause 12) be liable to the Buyer for the Buyer's reasonable costs and damages awarded by a court of competent jurisdiction under any final judgement or agreed by the Supplier in writing in final settlement arising out of a claim that any Deliverables infringe any copyright, database right, trade secrets or trade mark of a third party (a "Supplier IPR Claim") provided that, in relation to that Supplier IPR Claim, the Buyer complies with the Buyers obligations under clause 10.3.

10.2. The Supplier will not be liable pursuant to clause 10.1 where a Supplier IPR Claim arises as a result of:

- 10.2.1. a breach of this Agreement by the Buyer;
- 10.2.2. a breach of third party/open source licence terms by the Buyer;
- 10.2.3. any modification of the Deliverables by persons other than by the Supplier;
- 10.2.4. designs, specifications, instructions or other information provided by or at the Buyers direction;
- 10.2.5. use of the Deliverables in combination with any items not supplied by the Supplier where there would be no infringement without such combination;
- 10.2.6. use of the Deliverables in a manner not permitted or contemplated by the Order Form; and
- 10.2.7. the Buyers refusal to use any modified or replacement Deliverable supplied or offered to be supplied pursuant to clause 10.4.

10.3. The liability in clause 10.1 is contingent upon: (i) the Buyer promptly notifying the Supplier in writing of any Supplier IPR Claim and not making any prejudicial statement; (ii) the Supplier being allowed to control the defence and settlement of such Claim; and (iii) the Buyer co-operating with all our reasonable requests in defending or settling the Supplier IPR Claim. The foregoing states the Buyer's sole and exclusive rights and remedies, and the Supplier's (including the Supplier's employees', agents' and sub-contractors') entire obligations and liability, for infringement of any intellectual property rights.

10.4. If at any time an allegation of infringement of any third party rights is made, or in the Supplier's opinion is likely to be made in respect of any Deliverable, the Supplier may at its expense and option either: (i) obtain for the Buyer the right to continue using such Deliverable or (ii) modify or replace the Deliverable to avoid infringement.

10.5. The Buyer will be liable (subject to clause 12) to the Supplier for its reasonable costs and damages arising out of any use of the Deliverables in breach of clause 10 or any claim that any Buyer provided items infringe any copyright, database right, trade secrets or trade mark of a third party (a "**Buyer IPR Claim**") provided that, in relation to any such Buyer IPR Claim, the Supplier shall (i) promptly notify the Buyer in writing of such Buyer IPR Claim and not make any prejudicial statement; (ii) allow the Buyer to control the defence and settlement of such Buyer IPR Claim; and (iii) co-operate with all the Buyer's reasonable requests in defending or settling the Buyer IPR Claim.

11. Warranties

11.1. The Supplier warrants that the Supplier will perform the Services with reasonable care and skill. Our obligation and sole and exclusive remedy for any breach of this warranty is that the Supplier will re-perform any non-conforming Services as soon as reasonably practical, provided that the Buyer gives the Supplier written notice of any breach within 30 days after the non-conforming Services are performed. The Supplier will have no other liability for any breach of the warranty in this clause 10.1 if the Supplier re-performs the non-conforming Services in compliance with such warranty.

11.2. The Supplier warrants that any Technical Deliverables will, for the period of 30 days from acceptance of the relevant Technical Deliverables pursuant to clause 5.1-5.6 or such other period as may be set out in the Order Form (the "Warranty Period") perform in the case of the Technical Deliverables developed pursuant to the waterfall methodology (as set out in clause 4.2) materially in accordance with the specifications described in the relevant documentation agreed between the Supplier during the requirement gathering phase prior to the development of the software when operated properly and in the manner specified in the relevant specification.

11.3. In the case of Technical Deliverables developed pursuant to an agile methodology (as set out in clause 4.3) materially in accordance with the

specifications described in the relevant descriptive documentation agreed between us following the completion of the relevant "sprint" when operated properly and in the manner specified in the relevant specification.

- 11.4. In the event of any non-compliance with the warranty set out in clause 11.2 which is notified to the Supplier during the Warranty Period the Supplier shall use our reasonable efforts to remedy the warranty non-compliance within a reasonable period.
- 11.5. If the Supplier undertakes the diagnosis of any issue raised during the Warranty Period and it is discovered after the diagnosis by the Supplier that such issue was not caused by the Supplier's act and/or omission and/or where the issue is not related to the Deliverables, the Supplier shall be entitled charge the Buyer for such diagnosis activities at our time and materials fee rates.
- 11.6. The foregoing warranties do not make any warranty that the operation of any software (including Third Party Software) provided by the Supplier and any media upon which the software and software documentation are stored and produced will be uninterrupted or error free
- 11.7. The Supplier does not warrant any Document Deliverables following acceptance of such Document Deliverables pursuant to clause 5.7.
- 11.8. The express representations, warranties and obligations of the Supplier in this Agreement are made expressly in place of and to the exclusion (to the fullest extent permitted by law) of all other representations, warranties, terms and conditions, express or implied, statutory or otherwise, relating to anything supplied or to be supplied and services provided or services to be provided by or on behalf of the Supplier under or in connection with this Agreement including without limitation any implied terms as to performance, fitness for a particular purpose, satisfactory quality or otherwise relating to the Services and Deliverables or any part, and are subject to the limitations on liability referred to in this Agreement.

12. Liability Provisions

- 12.1. Nothing in the Agreement shall exclude, restrict (or prevent a claim being brought in respect of) any liability arising from death or personal injury resulting from negligence, fraud or other liabilities which cannot lawfully be limited or excluded.

- 12.2. The Buyer agrees that the Supplier will not be liable to the Buyer for any loss, damage, cost, charge, expense or other liability of whatever nature and howsoever caused arising under or in connection with the Agreement and including interest (together "**Losses**") unless and then only to the extent that such Losses are finally determined to have resulted from the Supplier's breach of Agreement or negligence, subject always to the following provisions:
 - 12.2.1. The Supplier will not be liable for any Losses arising out of the Buyer's use of the Deliverables or Services for a purpose other than set out in the Order Form.
 - 12.2.2. The Supplier will not be liable for Losses to the extent such Losses arise from the acts or omissions of any person other than the Supplier or any other Supplier Party or any subcontractor the Supplier may use to provide the Services.
 - 12.2.3. The Supplier will not be liable for Losses arising as a result of the provision of false, misleading, inaccurate or incomplete information or documentation by, or the withholding or concealment or misrepresentation of information or documentation by, any person other than the Supplier Parties unless and then only to the extent that detection of such defect in the information or documentation or such withholding, concealment or misrepresentation should reasonably have been expected because it was evident without further enquiry from the information or documentation provided to the Supplier and was expressly required to be considered by the Supplier pursuant to the provision of the Services.
 - 12.2.4. Any liability which the Supplier may have to the Buyer under or in connection with this Agreement for Losses suffered by the Buyer shall (so far as is permitted by law) be limited to such an amount as is finally determined to be just and equitable, having regard to the extent of responsibility for the Losses of the Supplier, the Buyer, (including the Buyers directors, officers, employees or agents), and any person other than the Supplier who is jointly or severally liable to the Buyer for all or part of the same Losses, provided always that the Suppliers liability to the Buyer shall not under any circumstances exceed in aggregate the amount set out in clause 12.2.5 below.

Any limitation or exclusion or restriction on the liability of any such other person under any jurisdiction, whether arising under statute or Agreement or resulting from death, bankruptcy or insolvency, or any settlement of such liability agreed with the Buyer, shall be ignored for the purposes of determining whether that other person is liable to the Buyer and the extent of responsibility of that other person to the Buyer.

12.2.5. Subject to clause 12.1, the Supplier's total liability of whatever nature, whether in Agreement, tort (including, without limitation, negligence), under statute or otherwise for any and all Losses arising from or in any way in connection with this Agreement shall not exceed shall not exceed the sum set-out in clause 24.1 of the Call-Off Contract or as agreed in the Order Form. In circumstances where no amount is set-out in the Order Form, the Supplier's liability in the Order Form shall not exceed 125% of the fees paid by the Buyer.

12.3. For the avoidance of doubt where there are multiple Order Forms, the liability cap shall be related to the fees paid under the Order Form under which the breach occurred.

12.4. In no event shall the Supplier be liable, whether in contract, tort (including, without limitation, negligence), under statute or otherwise for: (i) loss or damage incurred as a result of third party claims; (ii) loss of profit, goodwill, business opportunity or anticipated savings, loss of revenues or wasted management or staff time; or (iii) incidental, special, punitive, exemplary, indirect or consequential loss or damage; (together "**Excluded Losses**") which the Buyer may suffer, howsoever caused and whether or not the Buyer or the Supplier knew, or ought to have known, that the Excluded Losses would be likely to be suffered by the Buyer.

13. Charges and Payment

13.1. The Supplier will render invoices in respect of the Services for the Charges in accordance with the arrangements set out in the Order Form.

13.2. Unless otherwise specified in the Order Form, the Supplier will invoice our Charges: (i) monthly in arrears in respect of the Implementation Services, and the Supplier will issue a final invoice to the Buyer on completion of the Implementation Services; (ii) quarterly in

advance in respect of any Managed Services. These invoices are due for settlement within 14 days of receipt ("**Due Date**"). The Buyer agrees that the Supplier is entitled to charge the Buyer interest on overdue invoices in accordance with the Call-Off Contract. The Supplier shall have the right to suspend the provision of Services in accordance with the Call-Off Contract. If the Buyer disputes any portion of an invoice, the Buyer shall notify the Supplier within 7 days of receipt of the disputed invoice and pay the undisputed portion of that invoice by the Due Date.

13.3. Charges quoted in the Order Form relate to the provision of Services at the location or locations stated in the Order Form. Any changes in location may result in a change to the applicable charges.

13.4. The Supplier will be entitled to receive all Charges incurred up to the date of termination of this Agreement for any reason.

14. Termination

14.1. Each party may terminate this Agreement with effect by written notice to the other on or at any time after the occurrence of any of the following events: (i) a material breach by the other party of an obligation under the Agreement and, if the breach is capable of remedy, the other party failing to remedy the breach within 30 days of receipt of notice of such breach; (ii) the other party passing a resolution for its winding-up or a court of competent jurisdiction making an order for the other party's winding-up or dissolution; (iii) the making of an administration order in relation to the other party, or the appointment of a receiver over, or an encumbrance taking possession of or selling, an asset of the other party; (iv) the other party making an arrangement or composition with its creditors generally or making an application to a court of competent jurisdiction for protection from its creditors generally; or (v) any event analogous to those set out in paragraphs (ii) to (iv) inclusive.

14.2. The Supplier may terminate the Agreement by notice with immediate effect if any action taken by the Buyer or a third party creates a professional conflict of interest as determined by the professional and/or regulatory bodies regulating our activities. The Supplier will inform the Buyer as soon as reasonably practical of any situation that occurs which may create a professional conflict which could result in termination in accordance with this clause.

- 14.3. Subject to clause 14.8, either party shall be entitled to terminate this Agreement at any time for convenience during the course of delivery of the Managed Services by giving 30 days' written notice to the other.
- 14.4. Either party may, by written notice to the other, terminate this Agreement, or require the partial termination of any part of the Services on the occurrence in relation to that part, if an event or circumstance beyond that party's reasonable control (a "**Force Majeure Event**") endures for a continuous period of more than 120 days.
- 14.9. The costs of termination incurred by the parties shall lie where they fall if either party terminates or partially terminates this Agreement in circumstances where there is a continuing Force Majeure Event.
- 14.10. All payments made under clauses 14.8 are in addition to any payments made in relation to any direct losses suffered as a result of the termination provided there is no double recovery.
- 14.11. For the purposes of clauses 14, the following definitions shall apply: "**Breakage Costs**" shall mean any costs incurred by the Supplier directly as a result of the termination of this Agreement, which (i) would not have been incurred had the Agreement continued until its natural expiry; (ii) relate directly to the termination of the Services; (iii) are unavoidable, proven, reasonable, and not capable of recovery; and (iv) are incurred under arrangements or agreements that are consistent with terms that have been entered into in the ordinary course of business and on reasonable commercial terms; "**Unrecovered Costs**" shall mean the costs incurred by the Supplier in the performance of this Agreement, to the extent that those costs would have been recovered through the Charges had the Agreement not terminated before the expiry. Where the Buyer pays in advance or have prepaid for any Services prior to the Services being performed, the Unrecovered Costs shall be those costs that the Supplier have spent and/or incurred in anticipation of performing those Services.

Consequences of Expiry or Termination

- 14.5. Any provisions of the Agreement which either expressly, or by their nature, extend beyond the expiry or termination of this Agreement shall survive such expiration or termination.
- 14.6. Following the service of a termination notice for any reason, the parties shall continue to be under an obligation to comply with the provisions of this Agreement.
- 14.7. In the event of termination or expiry: (i) the Supplier shall, where this Agreement is terminated by the Buyer pursuant to clause 14.1, repay to the Buyer any Charges that the Buyer may have paid to the Supplier in advance (less any cost already incurred by the Supplier in anticipation of providing the Services) in respect of Services not provided by the Supplier as at the date of expiry or termination; and (ii) both parties shall on the earlier of the receipt of the written instructions of the data owner, or 12 months after the date of expiry or termination, return all copies of the each other's data that either party has in its possession provided that such party shall be permitted to retain a copy for its records.

Payments made on Termination

- 14.8. Where the Supplier terminate this Agreement:
- 14.8.1. for convenience pursuant to clause 14.3, the Supplier will reimburse to the Buyer any unused portion of the charges for the Managed Services that have been paid by the Buyer in advance; or
- 14.8.2. as a result of a default and/or material breach by the Buyer or where the Buyer terminates this Agreement for convenience pursuant to clause 14.3, the Buyer shall pay to the Supplier: (i) any undisputed charges that have been

Exit Management

- 14.12. In the event of a termination, the parties shall in good faith, within 10 business days after serving the notice of termination, agree an exit plan for transition of the Services to the Buyer or a replacement supplier (the "**Exit Plan**"). The Supplier shall be permitted to charge on a time and materials basis at its then-current standard rates for any transition assistance to be provided under any such Exit Plan.
- 14.13. Each party shall comply with the applicable exit management requirements set out in the Exit Plan.

15. Security Requirements

- 15.1. The Supplier will, in the provision of the Services, maintain security standards that: (i) are in

accordance with good industry practice, applicable law and the provisions of the Agreement; and (ii) comply with the principles of ISO/IEC27001 and ISO/IEC27002.

- 15.2. Where it is stated in the Order Form that a Security Management Plan (SMP) is required, the following shall apply: (i) the Supplier shall develop, implement, operate, maintain a SMP, which will, be approved by the Buyer; (ii) both parties shall comply with their respective obligations set out in the SMP; (iii) the SMP shall, aim to only protect all aspects and processes associated with the delivery of the Services; (iv) the SMP will set out the security measures to be implemented and maintained by the Supplier in relation to all aspects of the Services and all processes associated with the delivery of the Services and shall at all times comply with and specify security measures and procedures which are sufficient to ensure that the Services comply with the agreed requirements as stated in the Order Form.

16. TUPE

- 16.1. The parties agree that it is the intention that the Transfer of Undertakings (Protection of Employment) Regulations 2006 as amended or replaced (the "**TUPE Regulations**") will not apply to transfer any employees from the Buyer or any of the Buyers affiliates or subcontractors to any of the Supplier Parties, as a result of the arrangements contemplated under this Agreement or otherwise, and the Buyer shall use reasonable endeavours to organise the Buyers activities so that no individual is assigned to this Agreement, or the Services, for the purposes of the TUPE Regulations.
- 16.2. If notwithstanding clause 16.1, any person who is or has been employed or engaged by the Buyer or any of the Buyers affiliates or subcontractors, transfers or claims to have transferred (or any trade union or employee representative so claims on their behalf) to any of the Supplier Parties or any of the Suppliers subcontractors, under the TUPE Regulations or otherwise as a result of the arrangements contemplated under this Agreement, the Buyer shall indemnify and keep indemnified the Supplier, all other Supplier Parties and any of the Suppliers subcontractors, from and against any and all losses, claims, liabilities, costs, expenses (including legal fees), demands, fines, penalties, interest and damages whatsoever arising (whether directly or indirectly) out of or in connection with the employment or termination of employment of such person.

- 16.3. The parties agree that it is the intention that the Transfer of Undertakings (Protection of Employment) Regulations 2006 as amended or replaced (the "**TUPE Regulations**") will not apply to transfer any employees from any of the Supplier Parties to the Buyer or any of the Buyers affiliates or subcontractors as a result of the arrangements contemplated under this Agreement or otherwise, and the Supplier shall use reasonable endeavours to organise our activities so that no individual is assigned to this Agreement, or the Services, for the purposes of the TUPE Regulations.
- 16.4. If notwithstanding clause 16.3, any person who is or has been employed or engaged by any of the Supplier Parties, transfers or claims to have transferred (or any trade union or employee representative so claims on their behalf) to the Buyer or any of the Buyer affiliates or subcontractors, under the TUPE Regulations or otherwise as a result of the arrangements contemplated under this Agreement, the Supplier shall indemnify and keep indemnified the Buyer, the Buyers affiliates and any of the Buyers subcontractors, from and against any and all losses, claims, liabilities, costs, expenses (including legal fees), demands, fines, penalties, interest and damages whatsoever arising (whether directly or indirectly) out of or in connection with the employment or termination of employment of such person.

17. General

Negotiation / Mediation

- 17.1. The Supplier each agree that the Supplier will attempt in good faith to resolve any dispute or claim arising out of or in connection with the Agreement promptly through negotiations between the Buyers senior executives and our management. If the matter is not resolved the parties shall follow the procedures set out in clause 18 of the Call-Off Contract.

Legal and Other Obligations

- 17.2. Nothing in this Agreement precludes the Supplier from taking such steps as are necessary in order to comply with any legal or regulatory requirement or any professional or ethical rules of any relevant professional body of which the Supplier or any of our personnel are, at the time, a member.

Notices

- 17.3. All notices hereunder shall be: (i) in writing; (ii) delivered to the representatives of the parties at the addresses specified in the Order Form (unless changed by either party upon notice to the other party), and (iii) effective upon receipt.

Sub-Contractors

- 17.4. The Supplier may sub-contract the provision of the Services or any part to any person including any Supplier Party, but such sub-contracting will not relieve the Supplier from its obligations under the Agreement.

Disclosure Notice For Commissions and Referral Fees

- 17.5. In connection with the Services, the Supplier may, at the request of the Buyer or otherwise, refer certain third party products or services to the Buyer, and the Supplier or a Supplier Party may receive a fee from such third party in connection with such referral.

Governing Law and Jurisdiction

- 17.6. The Agreement and our relationship is governed by and interpreted in accordance with English law. A claim may only be brought against the Supplier (in contract, tort or otherwise) if it can be brought in English law without reference to the law of any other country.
- 17.7. The Courts of England and Wales shall have exclusive jurisdiction to settle any dispute (including claims for set off and counterclaim) that may arise in connection with any aspect of the legal relationship established by the Agreement or otherwise arising in connection with the Agreement. The parties each submit irrevocably to the jurisdiction of the Courts of England and Wales.

Schedule 1

Buyer Obligations

The Buyer shall performing those obligations which are set out in other parts of this Agreement and the Call-off Contract and shall:

- a) provide the Supplier with:
 - i. all necessary co-operation in relation to the Agreement;
 - ii. access to appropriate members of the Buyer staff, as may be reasonably requested by the Supplier in order for the Supplier to discharge its obligations under this Agreement;
 - iii. sufficient and suitably qualified staff to fulfil the Buyer's roles and duties under this Agreement;
 - iv. such documentation, data and/or other information that the Supplier reasonably requests as is necessary to perform its obligations under the terms of this Agreement;
 - v. suitable access your premises and facilities, including relevant ICT systems, as is reasonably required for the Supplier to comply with its obligations under this Agreement; and
 - vi. all necessary access to such information or premises as may be reasonably required by the Supplier, including but not limited to Buyer Data, security access information and configuration services;
 - b) in order for the Supplier to be able to provide the Services, shall;
 - i. ensure that all End Users comply with the Access Policy and all applicable laws and regulations with respect to its activities under the Agreement, and shall obtain such necessary licenses from third parties as may be required in order to use the Services;
 - ii. carry out all other Buyer responsibilities set out in the Agreement in a timely and efficient manner. In the event of any delays in the Buyer's provision of such assistance as agreed by the parties, the Supplier may adjust any agreed timetable or delivery schedule as reasonably necessary;
 - iii. ensure that the End Users use the Services in accordance with the Agreement and the Buyer shall be responsible for any End User's breach of the Agreement;
 - iv. ensure that its network and systems comply with the relevant specifications provided by the Supplier from time to time;
 - v. ensure that where necessary the Supplier's employees do not contravene the provisions of the Computer Misuse Act 1990 and the Police and Justice Act 2006, the Supplier will require the "**Letter of Authorisation**" and the "**Letter of Consent**" to be completed and returned, prior to commencing the Service.
 - vi. ensure that it has the right specification of Hardware and that the networks have sufficient bandwidth to run the Services to be delivered by the Supplier;
 - vii. use all reasonable endeavours to prevent any unauthorised access to, or use of, the Services and, in the event of any such unauthorised access or use, promptly notify the Supplier;
 - viii. be solely responsible for (i) procuring and maintaining its network connections and telecommunications links from its systems to the Supplier's or the Supplier's sub-contractor's data centres; and (ii) all problems, conditions, delays, delivery failures and all other loss or damage arising from or relating to the Buyer's network connections or telecommunications links or caused by the internet;
 - ix. ensure that where necessary, the Buyer's third party suppliers cooperate with and provide necessary assistance to the Supplier during the programme; and
 - x. ensure that Content processed or created by the Buyer during the use of the Services does not infringe any third party rights nor in any other manner violates governing legislation or regulation.
- The Buyer shall not:
- a) except as may be allowed by any applicable law which is incapable of exclusion by agreement between the parties and except to the extent expressly permitted under the Agreement, attempt to copy, modify, duplicate, create derivative works from, frame, mirror, republish, download, display, transmit, or distribute all or any portion of the Software in any form or media or by any means; or

- b) access or use the Services in a way intended to avoid incurring fees or exceeding usage limits or quotas; or
- c) attempt to reverse compile, decrypt, disassemble, reverse engineer or otherwise reduce to human-perceivable form all or any part of the Software; or
- d) access all or any part of the Services in order to build a product or service which competes with the Services or the Software; or
- e) use the Services to provide services to third parties; or
- f) license, sell, rent, lease, transfer, assign, distribute, display, disclose, or otherwise commercially exploit, or otherwise make the Services available to any third party except the Authorised Users; or
- g) access, store, distribute or transmit any Viruses, or any Content during the course of its use of the Services that is unlawful, harmful, threatening, defamatory, discriminatory, obscene, infringing, harassing or racially or ethnically offensive and the Supplier reserves the right, without liability to the Buyer, to disable the Buyer's access to any material that breaches the provisions of this paragraph; or
- h) remove, alter, or destroy from Content provided by the Supplier to the Buyer any logo, copyright or proprietary notices, legends, symbols, labels, watermarks, signatures or any other like marks affixed to or embedded in such Content.

Schedule 2

Change Control Procedure

1. Introduction

- 1.1 This Schedule 2 sets out the Change Procedure to be used by the Buyer and the Supplier to effect changes to the relevant Order Form.

2. Principles

- 2.1 The Buyer and the Supplier shall conduct discussions relating to proposed changes to the relevant Order Form in good faith. Neither party shall unreasonably withhold nor delay consent to the other party's proposed changes.
- 2.2 Until such time as a Change Order has been signed by both parties, the Supplier shall continue to provide and make available to Buyer the Services in accordance with this Agreement and the relevant Order Form.
- 2.3 Any discussions, negotiations or other communications which may take place between the parties in connection with any proposed change to an Order Form, including but not limited to the submission of any written communications, prior to the signing by both parties of the relevant Change Order, shall be without prejudice to the rights of either party.

3. Procedure

- 3.1 Should either party wish to amend an Order Form, that party's first point of contact shall submit a draft Change Order detailing the proposed change to the other party's first point of contact using the pro forma at the end of this Schedule 2.
- 3.2 Within ten (10) Working Days of the submission of a draft Change Order (or such other period as may be agreed between the parties) the receiving party's first point of contact shall respond to the draft Change Order in writing. If appropriate, the parties shall enter into discussions to discuss the draft Change Order.
- 3.3 Discussion between the parties following the submission of a draft Change Order shall result in either:
- 3.3.1 agreement between the parties on the changes to be made to the relevant Order Form (including agreement on the date upon which the changes are to take effect

(the "effective date")), such agreement to be expressed in the form of proposed revisions to the text of the relevant parts of the relevant Order Form; or

- 3.3.2 no further action being taken on that draft Change Order.

- 3.4 A draft Change Order, the content of which has been agreed between the parties in accordance with this Schedule 2, shall be uniquely identified by a sequential number allocated by the Buyer.
- 3.5 Two (2) copies of each Change Order shall be signed by the Supplier and submitted to the Buyer not less than ten (10) business days prior to the effective date agreed in accordance with paragraph 3.1 of this Schedule 2.
- 3.6 Subject to the agreement reached in accordance with paragraph 3.3.1 of this Schedule 2 remaining valid, the Buyer shall sign both copies of the approved Change Order within five (5) business days of receipt by the Buyer. Following signature by the Buyer, one (1) copy of the signed Change Order shall be returned to the Supplier by the Buyer.
- 3.7 A Change Order signed by both parties shall constitute an amendment to the relevant Order Form.
- 3.8 The Change Order pro forma is as shown in Appendix 1 below.

Appendix 1

Change Order Number ____

[Date]

[Complete legal name of Client entity]

[Client address]

For the attention of [Client contact name]

Dear Sirs

This Change Order, including any appendices, schedules, and/or attachments, documents changes to the Agreement between Supplier and the Buyer dated _____, 200__, including any prior Change Order(s) or amendments thereto. This Change Order constitutes the entire understanding and agreement between Buyer and Supplier with respect to such changes, supersedes all prior oral and written communications with respect to such changes (including, but not limited to written change requests), and may be amended, modified or changed only in writing when signed by both parties. The section(s) of the Agreement set forth below is/are hereby amended, effective as of the date first written above, by adding at the conclusion of the respective section(s) the following text:

1. Project Scope and Objectives

[describe any changes to this section here or, if there are none, delete this form field along with the section label immediately above]

2. Supplier Services and Responsibilities

[describe any changes to this section here or, if there are none, delete this form field along with the section label immediately above]

3. Deliverables

[describe any changes to this section here or, if there are none, delete this form field along with the section label immediately above]

4. Acceptance

[describe any changes to this section here or, if there are none, delete this form field along with the section label immediately above]

5. Buyer Responsibilities

[describe any changes to this section here or, if there are none, delete this form field along with the section label immediately above]

6. Assumptions

[describe any changes to this section here or, if there are none, delete this form field along with the section label immediately above]

7. Approach

[describe any changes to this section here, including the impact any other changes herein will have on schedule, or, if there are none, delete this form field along with the section label immediately above]

8. Staffing

[describe any changes to this section here or, if there are none, delete this form field along with the section label immediately above]

9. Fees and Expenses

[describe the impact that any changes above will have on fees and expenses or, if there is none, delete this form field along with the section label immediately above]

10. Consequential Changes To Agreement

[describe any non-operational legal issues to be highlighted here]

Except as expressly modified herein, all other terms and conditions of the Order Form and the Agreement remain unchanged. Please indicate your agreement to these arrangements by signing and returning to Deloitte the enclosed copy of this Change Order.

Yours faithfully,

Deloitte LLP

Acknowledged and Accepted:

[Name of Buyer]

By: _____

Title: _____

Date: _____

EXHIBIT A

To: DELOITTE LLP

From: Buyer

[Date]

Dear Sirs,

Acceptance Certificate

ACCEPTANCE CERTIFICATE

DELIVERABLE(S): [insert description]

We refer to the Contract relating to the provision of Managed Services ("Contract") between [#] ("Buyer") and Deloitte LLP ("Deloitte") dated [#].

[TECHNICAL DELIVERABLES COMPLETE: We confirm that the above Deliverable(s) have been tested in accordance with the relevant test documents. We confirm that the relevant Acceptance Criteria have been achieved.]

[DOCUMENT DELIVERABLES COMPLETE: We confirm that the above Deliverable(s) have been received and inspected. We confirm that the Deliverable(s) meet the relevant specification in the Contract.]

Accordingly, Deloitte is entitled to proceed on the basis of this Acceptance Certificate in respect of the above mentioned Deliverable(s) in accordance with the Contract.

Yours faithfully

[Name]

[Position]

acting on behalf of the Buyer



Deloitte LLP is a limited liability partnership registered in England and Wales with registered number OC303675 and its registered office at 2 New Street Square, London, EC4A 3BZ, United Kingdom.

Deloitte LLP is the United Kingdom affiliate of Deloitte NWE LLP, a member firm of Deloitte Touche Tohmatsu Limited, a UK private company limited by guarantee ("DTTL"). DTTL and each of its member firms are legally separate and independent entities. DTTL and Deloitte NWE LLP do not provide services to clients. Please see www.deloitte.com/about to learn more about our global network of member firms.

© 2018 Deloitte LLP. All rights reserved.