

Standard Terms & Conditions of Citrus-Lime Limited

Version : 4.00

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1 DEFINITIONS

In this document the following words shall have the following meanings:

- 1.1 "Customer" or "You" as defined in the Proposal;
- 1.2 "Consumer Prices Index" means the consumer prices index published by the Office for National Statistics;
- 1.3 "Deliverables" means all products and materials developed by the Supplier under an agreement in any media, including, without limitation, computer programs, data, diagrams, reports and specifications (including drafts);
- 1.4 "Deposit" means the non-refundable deposit (if any) payable by the Customer to the Supplier as set out in the Proposal prior to the commencement of the Services;
- 1.5 "Director" carries the meaning as set out in s. 250 of the Companies Act 2006 as amended from time to time;
- 1.6 "Fixed Term Services" means the Services defined in the Proposal under section "Fixed Term Services" of the Agreement Summary.
- 1.7 "Fixed Term Services Start Date" means the date on which the Supplier completes the Software Set Up and makes the Hardware described in the Proposal available for collection by, or delivery to, the Customer;
- 1.8 "Initial Fixed Term" means the initial fixed period for delivery of the Fixed Term Services as set out in the Proposal under section "Fixed Term Services" of the Agreement Summary.
- 1.9 "Intellectual Property Rights" means all patents, registered and unregistered designs, copyright (including, but not limited to, any copyright arising in databases created and/or maintained by the Supplier pursuant to the carrying out of the Services), trademarks, know-how and all other forms of intellectual property wherever in the world enforceable;
- 1.10 "Optional Extras" means the Products or Services defined in the Proposal under section "Optional Extra Products/Services" of the Agreement Summary;
- 1.11 "Proposal" means the offer document issued to the Customer by the Supplier summarising the Services proposed to be provided by the Supplier for the Customer.
- 1.12 "Agreement" means the Proposal and these Terms and Conditions;
- 1.13 "Services" means the services to be provided by the Supplier for the Customer as set out in the Proposal and listed under section "Services" of the Agreement Summary;
- 1.14 "Supplier" or "Us" means Citrus-Lime Limited (CRN: 03792454) whose registered office is at Lantern House, The Ellers, Ulverston, Cumbria, LA12 0AA;
- 1.15 "Termination Date" in reference to 'Non-Solicitation' (12) means effective date Supplier employment ceased.
- 1.16 "Warranty Period" means in respect of any part of the Services completed by the Supplier, the period of 90 days commencing on the date of completion of those Services;
- 1.17 "Working Day" means Monday to Friday excluding bank and public holidays in England and Wales.

2 GENERAL

- 2.1 Save where expressly agreed to the contrary in writing by a Director of the Supplier, the Proposal and these Terms and Conditions shall apply to the Agreement to the exclusion of any and all other terms and conditions whether express or implied and whether issued prior to, or after, the Fixed Term Services Start Date and shall also prevail over any inconsistent terms or conditions implied by law, trade custom, practice or course of dealing to the fullest extent permissible.
- 2.2 It is a condition precedent of the Supplier carrying out the Services that the provisions of clause 2.1 are irrevocably agreed by the Customer.
- 2.3 In the event of any inconsistency between the Proposal and the Term and Conditions, the Proposal shall take precedence over the relevant part of these Terms and Conditions but only to the minimal extent required.
- 2.4 The Proposal represents the Supplier's offer to provide the Services and is open for acceptance for a period of twenty-eight days commencing on the issue date of the Proposal or such longer period the Supplier determines. Any acceptance of the Proposal shall be deemed to be an unconditional acceptance of the offer by the Customer.
- 2.5 Acceptance of the Proposal shall be evidenced by one or more of the following actions by the Customer:
- 2.5.1 countersigning the Proposal;
 - 2.5.2 paying the Initial Set up Fees; or
 - 2.5.3 approving a Direct Debit mandate in the Supplier's favour for any of the recurring monthly fees described in Proposal.
- 2.6 The Proposal may be withdrawn by the Supplier at any time prior to acceptance by the Customer.
- 2.7 The Supplier shall use all reasonable endeavours to complete the Services within the estimated timeframes provided but for the avoidance of doubt time shall not be of the essence in the performance of the Initial Set-Up Services.
- 2.8 In the event that the Supplier is unable to perform the Services due to any act or omission of the Customer, including a failure to provide information, instructions or access, the Supplier may refuse to perform the Services and the Customer shall refund all expenses incurred or irrevocably undertaken by the Supplier in relation to the Agreement up to that date.

3 FEES AND PAYMENT

- 3.1 The fees for the performance of the Services and the related payment terms are as set out in the Proposal and shall be subject to VAT as applicable. The Supplier shall invoice the Customer for Bespoke Add-on Services, including reasonable out-of-pocket expenses incurred in providing those Services, on a monthly basis in arrears. The Supplier shall not be obliged to raise monthly invoices for Fixed Term Services but the fees shall nevertheless be due for payment.
- 3.2 Any extra work required outside of the scope of the Agreement will be charged at the Supplier's then current standard rate as notified to the Customer from time to time.
- 3.3 Invoiced amounts shall be due and payable within 30 days of the date of the Supplier's invoice without deduction or set-off. Amounts payable without invoice as more particularly set out in clause 3.1 shall be due for payment no later than the last Working Day of each month.
- 3.4 Time for payment shall be of the essence and without prejudice to any other rights open to it, the Supplier shall be entitled to suspend delivery of the Services (which in the case of Fixed Term Services may involve switching off the website) until such time as the Supplier has been paid in full.
- 3.5 The Supplier shall be entitled to charge interest on overdue invoices from the date when payment becomes due from day to day until the date of payment at a rate of 8% per annum above the base rate of the Bank of England or otherwise as set out in the Late Payment of Commercial Debts (Interest) Act 1998 or any regulations made under that Act as amended from time to time (whichever is the greater). If at any time the base rate of the Bank of England is less than zero a fixed rate of 8% p.a. shall apply.

- 3.6 In the event that the Customer's procedures require that an invoice be submitted against a purchase order to allow payment, the Customer shall be responsible for promptly issuing such purchase order before the Services are rendered and no payment terms shall be extended as a result of the Customer's failure to promptly supply such a purchase order.
- 3.7 Notwithstanding clause 3.4, if a payment is overdue and the Services to which the payment relates have not been queried or otherwise disputed pursuant to the Dispute Resolution Policy at paragraph 18 prior to the day on which payment is due, the Supplier may write to inform the Customer that their account is in arrears. The Supplier will be entitled to charge a £40.00 fee for production of this letter.
- 3.8 If any query or dispute arises in connection with the provision of any equipment or Services or the payment due from the Customer in relation to the provision of equipment or Services, including any fee or charge increase pursuant to paragraph 3.9, the Customer must inform the Supplier within 30 days of the event which gives rise to the query or dispute or such other period of time as may be reasonable in the circumstances. The Supplier will deal with any such query or dispute in accordance with its Dispute Resolution Policy detailed at paragraph 18. The Customer agrees not to withhold payment for the equipment or Services to which the dispute relates and accepts that any delay in payment may lead to the Supplier suspending provision of the Services as set out in paragraph 3.4 above.
- 3.9 The Supplier reserves the right to review and, if reasonably necessary, increase all fees and/or charges payable under these Terms and Conditions in the event of:
- 3.10.1 any changes to the Services or the Initial Fixed Term; or
 - 3.10.2 delays resulting from the Supplier withholding Services due to the Customer's failure to make payments when due; or
 - 3.10.3 the Customer's failure to carry out its responsibilities or obligations set out in this Contract or to provide assistance or facilities as required under this Contract; or
 - 3.10.4 the Customer requesting that the Supplier delay work for any reason.

4 CUSTOMER'S OBLIGATIONS

- 4.1 To enable the Supplier to perform its obligations under the Agreement the Customer shall:
- 4.1.1 co-operate with the Supplier;
 - 4.1.2 promptly provide the Supplier with any information reasonably required by the Supplier;
 - 4.1.3 procure that information provided to the Supplier by the Customer or third parties acting on behalf of the Customer will be accurate;
 - 4.1.4 obtain all necessary permissions and consents which may be required before the commencement of the Services (and disclose the same to the Supplier if reasonably requested to do so); and
 - 4.1.5 promptly comply with such other requirements as may be set out in the Agreement or otherwise agreed between the parties.
- 4.2 If the Supplier's performance of its obligations under the Agreement is prevented or delayed by any act or omission of the Customer (including but not limited to a failure to comply with clause 4.1) or the Customer's agents, sub-contractors or employees, then notwithstanding clause 2.8, the Supplier may elect to continue to provide the Services, in which case:
- 4.2.1 the Customer shall be liable to pay to the Supplier on demand all reasonable costs, charges or losses sustained or incurred by it, subject to the Supplier confirming such costs, charges and losses to the Customer in writing;
 - 4.2.2 the Supplier shall have no liability in respect of any delay to the delivery of the Services; and
 - 4.2.3 if applicable, the timetable for the delivery of the Services will be modified accordingly.

4.3 For the avoidance of doubt, the Customer's failure to comply with any obligations under Clause 4.1 or pay an invoice by its due date may at the option of the Supplier be deemed to be a cancellation of the Services and subject to the payment of the Cancellation Charges set out in Clause 8.

5 SUPPLIER WARRANTY

5.1 During the Warranty Period, the Supplier warrants that the Services performed under the Agreement shall be performed using reasonable skill and care and be of a quality conforming to generally accepted industry standards and practices.

5.2 Without prejudice to clause 5.1, and except as expressly stated in the Agreement, all warranties whether express or implied, by operation of law or otherwise, are hereby excluded in relation to the Services to be provided by the Supplier.

5.3 In the event of breach of the warranty in clause 5.1, the Customer shall notify the Supplier within 30 days or such other time period as is reasonable in the circumstances and the Supplier will deal with the matter in accordance with the Dispute Resolution Policy at paragraph 18.

6 CUSTOMER INDEMNITY TO SUPPLIER

The Customer shall indemnify the Supplier in full against all claims, costs and expenses which the Supplier may incur and which arise, directly or indirectly, from the Customer's breach of any of its obligations under the Agreement.

7 LIMITATION OF LIABILITY

7.1 The Supplier shall not be liable to the Customer by reason of any representation, or any implied warranty, condition or other term, or any duty at common law, or under the express terms of the Agreement, for any loss or damage, including any indirect or consequential loss or damage (whether for loss or profit or otherwise), costs, expenses or other claims for consequential compensation whatsoever (and whether caused by the negligence of the Supplier, its employees, or agents or otherwise) which arise out of or in connection with the supply of the Services, from any stoppage, breakdown or failure of any such materials supplied by the Supplier in the provision of the Services howsoever occasioned, except as expressly provided in the Agreement.

7.2 The Supplier shall have no liability for any damage to the Customer's property unless occasioned by the Supplier's wilful default or negligence.

7.3 The Supplier shall have no liability to the Customer in respect of damaged or defective materials used by the Supplier in the provision of the Services where damage has been sustained after delivery of such materials to the Customer or its agents.

7.4 The Supplier does not exclude or restrict liability for death or personal injury resulting from its own negligence or wilful default, any breach of the terms implied by Section 12 of the Sale of Goods Act 1979 or Section 2 of the Supply of Goods and Services Act 1982 or any other liability which cannot be excluded or limited under English Law.

7.5 Subject to clauses 7.1 and 7.4 the Supplier's liability for any breach of the terms of the Agreement or otherwise will be limited to either the chargeable value of the Services provided to the Customer by the Supplier under this Agreement in the preceding twelve-month period or the amount of cover under the Supplier's liability insurance for any one or more related incidents within a twelve-month period, whichever is the lower. The amount of cover under the Supplier's liability insurance is available to the Customer upon request and is subject to change from time to time. It is the Customer's responsibility to insure any risks over and above the level of cover under the Supplier's liability insurance policy.

7.6 The Supplier will not be liable for any breach of its obligations under the Agreement where it is hindered or prevented from carrying out its obligations by any cause outside its reasonable control or by the Customer's failure to perform its obligations under this Agreement.

8 TERM AND TERMINATION

- 8.1 The Agreement shall commence upon acceptance of the Proposal and shall continue until it is terminated in accordance with the terms of this clause 8 or as otherwise permitted by this Agreement.
- 8.2 Following expiry of the Initial Fixed Term, the Agreement shall be terminable by either party giving the other 30 days' written notice. In the event that the Agreement is terminated following expiry of the Initial Fixed Term, the Cancellation Charges set out in clause 8.5 shall not arise but the Customer shall pay to the Supplier any accrued but unpaid fees for the Fixed Term Services or Optional Extras within 30 days of production of a final invoice from the Supplier.

Customer Cancellation for convenience

- 8.3. In the event that the Customer wishes to cancel receipt of any of the Services provided by the Supplier, the Customer must give the Supplier notice of their intention to do so. The Customer must give the Supplier notice in writing to the Sales Contact set out in the Proposal. Should the Customer receive notification that delivery of the notice by email has failed, the Customer must give notice to the Supplier by way of a letter in the post to its registered office.

On termination of this Agreement (howsoever arising) if the Optional Extras include bid management for cost per click, the Supplier shall forthwith remove the Customer's access to the Supplier's enhanced feed and shall migrate the Customer solely onto the Google shopping standard feed.

- 8.4 If the Customer serves notice on the Supplier that it wishes to cancel receipt of any of the Optional Extras, the Supplier shall cease to provide the Optional Extras at the end of the cancellation notice period specified in the Proposal. The Customer shall pay to the Supplier any accrued but unpaid fees for the relevant Optional Extras within 30 days of production of a final invoice for those Services from the Supplier.

- 8.5 If the Customer serves notice on the Supplier that it wishes to cancel receipt of the Fixed Term Services during the Initial Fixed Term or is deemed to have done so for any of the reasons set out in this clause 8, the Supplier shall be entitled to cancel provision of all of the Services (including any Initial Set Up Services, the Fixed Term Services and the Optional Extras) immediately. Following termination of the provision of the Services, the Supplier shall be entitled to issue the Customer with an invoice for all or any of the following cancellation charges (together the "Cancellation Charges");

- 8.5.1 the Initial Set-up Fees, if they remain outstanding on the date of cancellation; and
- 8.5.2 the total up-front fee payable for the Fixed Term Services less any Monthly Instalments already paid by the Customer during the Initial Fixed Term; and
- 8.5.3 an amount equal to one monthly payment for each of the Optional Extras; and
- 8.5.3 the full amount of any third party costs to which the Supplier has irrevocably committed in relation to the Agreement (whenever falling due) not otherwise included in any of the above.

In the event that the Cancellation Charges arise before the Fixed Term Services Start Date, the Cancellation Charges payable by the Customer shall be limited to the Initial Set Up Fees set out in the Proposal prior to the application of any discount for acceptance of the Fixed Term Services or such lesser amount as the Supplier in their absolute discretion decide is a fair reflection of work completed prior to receipt of notice of cancellation.

The Customer agrees that the Cancellation Charges are a genuine pre-estimate of the Supplier's losses arising from cancellation of receipt of the Services. It is particularly noted that any discount applied to the Initial Set Up Fees for acceptance of the Fixed Term Services permitted the Customer to spread what would otherwise have been a significant upfront cost over the Initial Fixed Term and the Supplier is entitled to be compensated if the Fixed Term Services are not provided for the Initial Fixed Term.

Any invoice for Cancellation Charges shall be payable on presentation.

Implied Customer Cancellation

8.6 If the Customer does any of the following, the Supplier shall be entitled (but shall not be required) to treat the action or omission as a notice by the Customer to cancel provision of any or all of the Services:

- 8.6.1 the Customer does not pay when due any sums owing to the Supplier under this Agreement;
- 8.6.2 the Customer cancels a direct debit instruction given in favour of the Supplier and does not reinstate the same prior to the date on which the next Monthly Instalment of the Fixed Term Services fees fall due for collection;
- 8.6.3 the Customer does not respond to a request for information or content within 30 days of a request for information, content or document being made pursuant to clause 4.1 of these Terms and Conditions; or
- 8.6.4 the Customer notifies the Supplier that it has closed the website(s) receiving the Services and no longer has an interest in receiving the Services.

In the event that the Customer is deemed to have served a notice of cancellation, the Supplier will notify the Customer in writing, specifying the date on or after which provision of the Service(s) will end, such date to be at least 30 days after the event triggering the cancellation. The provisions of clause 8.5 shall apply as to calculation of the relevant Cancellation Charges.

8.7 If the ownership of the website(s) receiving the Services transfers to another business, the Customer will remain liable for the fees in respect of the Fixed Term Services and Optional Extras for the remainder of the term of the Agreement unless the Supplier consents to the novation of this Agreement to the new owner.

Other grounds for Cancellation

8.8 In addition to the Supplier's rights as set out in clause 8.6, the Supplier may terminate the Agreement immediately by notice in writing to the Customer if:

- 8.8.1 the Customer commits a material breach of the Agreement which, being capable of being remedied, fails to remedy it within 30 calendar days of being given written notice from the other party to do so;
- 8.8.2 the Customer commits a material breach of the Agreement which is incapable of remedy;
- 8.8.3 the Customer passes a resolution for winding up (other than for the purpose of solvent amalgamation or reconstruction), or a court of competent jurisdiction makes an order to that effect;
- 8.8.4 the Customer ceases to carry on its business or substantially the whole of its business; or
- 8.8.5 the Customer is declared insolvent, or convenes a meeting of or makes or proposes to make any arrangement or composition with its creditors; or a liquidator, receiver, administrative receiver, manager, trustee or similar officer is appointed over any of its assets.

If the Supplier cancels the Agreement pursuant to this clause 8.8, the provisions of clause 8.5 shall apply as to calculation of the relevant Cancellation Charges.

8.9 In addition to the Customer's rights as set out in clauses 8.2 to 8.4 to cancel receipt of the Services for convenience, the Customer may terminate the Agreement immediately by notice in writing to the Supplier if:

- 8.9.1 the Supplier commits a material breach of the Agreement which, being capable of being remedied, is not remedied within 30 calendar days of the Supplier being given written notice from the other party to do so;
- 8.9.2 the Supplier commits a material breach of the Agreement which is incapable of remedy;
- 8.9.3 the Supplier passes a resolution for winding up (other than for the purpose of solvent amalgamation or reconstruction), or a court of competent jurisdiction makes an order to that effect;
- 8.9.4 the Supplier ceases to carry on its business or substantially the whole of its business; or

- 8.9.5 the Supplier is declared insolvent, or convenes a meeting of or makes or proposes to make any arrangement or composition with its creditors; or a liquidator, receiver, administrative receiver, manager, trustee or similar officer is appointed over any of its assets.

If the Customer cancels the Agreement pursuant to this clause 8.9, the provisions of clause 8.5 shall not apply as to calculation of the relevant Cancellation Charges but the Customer shall pay to the Supplier any accrued but unpaid fees for the Fixed Term Services or Optional Extras within 30 days of production of a final invoice from the Supplier.

- 8.10 Either party shall be entitled to exercise any one or more of the rights and remedies given to it under the terms of the Agreement and the determination of the Agreement shall not affect or prejudice such rights and remedies. Each party shall be and shall remain liable to perform all outstanding liabilities under this Agreement notwithstanding that the other may have exercised one or more of the rights and remedies against it.
- 8.11 Any right or remedy to which either party is or may become entitled under the Agreement in consequence of the other's conduct may be enforced from time to time separately or concurrently with any right or remedy given by the Agreement or now or afterwards provided for and arising by operation of law so that such rights and remedies are not exclusive of the other or others but are cumulative.

9 INTELLECTUAL PROPERTY RIGHTS AND KNOW-HOW

- 9.1 All Intellectual Property Rights produced from or arising as a result of the performance of this Agreement shall, so far as not already vested, become the absolute property of the Supplier, and the Customer shall do all that is reasonably necessary to ensure that such rights vest in the Supplier by the execution of appropriate instruments or the making of agreements with third parties.
- 9.2 The Supplier hereby licenses all such rights to the Customer free of charge and on a non-exclusive, worldwide basis to such extent as is necessary to enable the Customer to make reasonable use of the Deliverables and the Services for its legitimate commercial interests during the term of the Agreement. If the Supplier terminates this Agreement under clause 8.2, 8.6 or 8.8 this licence will automatically terminate.
- 9.3 Notwithstanding clause 9.2, nothing in the Agreement shall allow the Customer to modify, assign, transfer or use for any purposes other than those specified in clause 9.2 any intellectual property rights licensed to the Customer.
- 9.4 With the object of protecting the Supplier's know-how, the Customer shall have no entitlement to the data, methodology or other information used by the Supplier in the operation of the Supplier's enhanced feed for bid management cost per click.
- 9.5 The Supplier shall be entitled to charge the Customer for exporting the Customer's data held on any of its servers or in any of its applications to the Customer at the Customer's request, whether on termination of this Agreement (however arising) or otherwise. Save where otherwise agreed by the parties, any such request for data shall be provided on an Excel spreadsheet and the rate chargeable by the Supplier shall be the Supplier's normal hourly rate plus any costs or disbursements accrued by the Supplier in complying with the Customer's request for data.

10 DATA PROTECTION

- 10.1 In regards to these Conditions the following definitions apply:
- i. Data Protection Legislation: the Data Protection Legislation for the time being in force in England and Wales including (for so long as and to the extent that the law of the European Union has legal effect in England and Wales) the General Data Protection Regulation ((EU) 2016/679) and any other directly applicable European Union law relating to privacy;
 - ii. Data Controller: the Customer;
 - iii. Data Processor: the Supplier;
 - iv. Applicable Laws: any law for the time being applicable in England and Wales including (for so long as and to the extent that they apply to us) the law of the European Union;
 - v. Personal Data: has the meaning as given to such term in the Data Protection Act 2018; and
 - vi. England & Wales Data Protection Legislation: any data protection legislation from time to time in force in England & Wales including the Data Protection Act 1998 or 2018 or any successor legislation.

- 10.2 Both parties will comply with all applicable requirements of the Data Protection Legislation. This clause 10 is in addition to, and does not relieve, remove or replace, either of their obligations under the Data Protection Legislation.
- 10.3 Both parties acknowledge that for the purposes of the Data Protection Legislation that the Customer is the data controller and the Supplier is the data processor (where Data Controller and Data Processor have the meanings as defined in the Data Protection Legislation). The Supplier may be required to process Personal Data provided or collected in respect of the Customer and the Customer's customers and suppliers, employees, enquirers and contractors. The nature of the processing and the personal data categories in respect of which the Supplier may process the Personal Data to provide the Services will vary depending on the nature of the Services to be provided by the Supplier and the Customer's specifications in respect of data input fields. Details of the personal data categories most commonly applicable to each type of Service are available from the Supplier on request.
- 10.4 Without prejudice to the generality of clause 10.2, the Customer will ensure that they have all necessary appropriate consents and notices in place to enable lawful transfer of the Personal Data to the Supplier for the duration and purposes of this agreement.
- 10.5 Without prejudice to the generality of clause 10.2 the Supplier shall, in relation to any Personal Data processed on connection with the performance by the Supplier of their obligations to the Customer:
- a. process that Personal Data only on the written instructions by the Customer unless the Supplier is required by Applicable Laws to otherwise process that Personal Data. Where the Supplier is relying on laws of a member of the European Union law as the basis for processing Personal Data, the Supplier shall promptly notify the Customer of this before performing the processing required by the Applicable Laws unless those Applicable Laws prohibit the Supplier from so notifying the Customer;
 - b. ensure that the Supplier have in place appropriate technical and organisational measures reviewed and approved by the Customer, 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 result from the unauthorised or unlawful processing or accidental loss, destruction or damage and the nature of the data to be protected, having regard to the state of technological development and the cost of implementing any measures (those measures may include, where appropriate, pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of its systems and timely manner after an incident, and regularly assessing and evaluating the effectiveness of the technical and organisational measures adopted by the Supplier;
 - c. ensure that all personnel who have access to and/or process Personal Data are obliged to keep the Personal Data confidential;
 - d. not transfer any Personal Data outside of the European Economic Area unless the Customer's prior written consent has been obtained and the following conditions are fulfilled:
 - i. both parties have provided appropriate safeguards in relation to the transfer;
 - ii. the data subject has enforceable rights and effective legal remedies;
 - iii. the Supplier complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred; and
 - iv. the Supplier complies with reasonable instructions notified to it in advance by the Customer with respect to the processing of the Personal Data;
 - e. assist the Customer, at their cost, in responding to any request from a Data Subject and in ensuring compliance with the Customer's obligations under the Data Protection Legislation with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators;
 - f. notify the Customer without undue delay and in any event within 24 hours on becoming aware of a Personal Data breach;
 - g. at the written direction by the Customer, delete or return Personal Data and copies thereof to the Customer on termination of the agreement unless required by Applicable Law to store the Personal Data; and
 - h. maintain complete and accurate records and information to demonstrate the Supplier's compliance with this clause 10.5.
- 10.6 The Customer consents to the Supplier appointing a third-party processor of Personal Data. The Supplier confirms that they have entered or (as the case may be) will enter with the third-party processor into a written agreement incorporating terms which are substantially similar to those set out in this clause 10. The Customer will be made aware of any changes with regards to third-party processors, and can at any time object to these changes in order to keep control of its Personal Data provided that if the Customer cannot demonstrate to the Supplier's reasonable satisfaction that the objection is due to an

actual or likely breach of Applicable Laws, the Customer shall indemnify the Supplier for any losses, costs and expenses suffered in accommodating the objection. As between the Customer and the Supplier, the Supplier shall remain fully liable for all acts or omissions of any third-party processor appointed by the Supplier pursuant to this clause 10.6.

10.7 Either party may, at any time on not less than 15 Business Days' notice, revise this clause 10 by replacing it with a contract governing the processing of the Customer's data by the Supplier substantially in the form set out in Appendix 1.

11 CONFIDENTIALITY

Except insofar as such matters are properly in, or come into, the public domain other than by reason of unauthorised disclosure by a party and/or except insofar as a party is required by operation of law to make disclosure, the parties agree to keep secret and confidential all matters contained in or arising from the performance of the Services and will not disclose any information provided by the other party which that other party has indicated is confidential or which is of a commercially sensitive nature or which otherwise should reasonably be considered as having been imparted in confidence save where that party is ordered to do so by a Court of competent jurisdiction.

12 NON-SOLICITATION

During the period commencing on the Effective Date and ending one year following the Termination Date, the Customer shall not, without the Supplier's prior written consent, directly or indirectly; (i) solicit or encourage any person to leave the employment or other service of the Supplier or its Affiliates; or (ii) hire, on behalf of the Customer or any other person or entity, any person who has left employment of the Supplier, within the one year period following the termination of that person's employment with the Supplier or its Affiliates.

During the period commencing on the date hereof through and ending one year following the Termination Date, the Customer will not, whether for its own account or for the account of any other Person, intentionally interfere with the relationship of the Supplier or its Affiliates with, or endeavour to entice away from the Supplier or its Affiliates, any person who during the term of the Agreement is, or during the preceding one-year period, was a tenant, co-investor, co-developer, director, joint venturer or other employee of the Supplier or its Affiliates.

In the event of Customer's solicitation or hiring as outlined above, without prior written consent from the Supplier, the Customer will be liable to remunerate the Supplier to the value of one year's annual salary of the employee as contracted at the point of termination.

13 FORCE MAJEURE

Neither party shall be liable for any delay or failure to perform any of its obligations if the delay or failure results from events or circumstances outside its reasonable control, including but not limited to acts of God, strikes, lock outs, accidents, war, fire, the act or omission of government, highway authorities or any telecommunications carrier, operator or administration or other competent authority, or the delay or failure in manufacture, production, or supply by third parties of equipment or services, and the party shall be entitled to a reasonable extension of its obligations after notifying the other party of the nature and extent of such events.

14 INDEPENDENT CONTRACTORS

The Supplier and the Customer are contractors independent of each other, and neither has the authority to bind the other to any third party or act in any way as the representative of the other, unless otherwise expressly agreed to in writing by both parties. The Supplier may, in addition to its own employees, engage sub-contractors to provide all or part of the Services being provided to the Customer and such engagement shall not relieve the Supplier of its obligations under this Contract.

15 ASSIGNMENT

The Customer shall not be entitled to assign its rights or obligations or delegate its duties under this Agreement without the prior written consent of the Supplier.

16 SEVERABILITY

If any provision of this Agreement is held invalid, illegal or unenforceable for any reason by any Court of competent jurisdiction such provision shall be severed and the remainder of the provisions herein shall continue in full force and effect as if this Agreement had been agreed with the invalid illegal or unenforceable provision eliminated.

17 WAIVER

The failure by either party to enforce at any time or for any period any one or more of the Terms and Conditions herein shall not be a waiver of them or of the right at any time subsequently to enforce all Terms and Conditions of this Agreement.

18 NOTICES

Any notice to be given by either party to the other may be served by email, personal service or by post to the address of the other party given in the Agreement or such other address as such party may from time to time have communicated to the other in writing, and if sent by email shall unless the contrary is proved be deemed to be received on the day it was sent, if given by letter shall be deemed to have been served at the time at which the letter was delivered personally or if sent by post shall be deemed to have been delivered in the ordinary course of post.

19 DISPUTE RESOLUTION

19.1 Any dispute between the parties arising out of or in connection with the Agreement (other than pursuant to clause 9 and/or in relation to the payment of any fees but including a dispute which has arisen pursuant to clause 3.6) shall in the first instance and within 30 days of the dispute arising be referred to the account contact from each party for resolution. The parties agree to work together in good faith to reach an agreed settlement of any such dispute.

19.2 If within 14 days of the meeting of the account contacts pursuant to clause 18.1 the dispute has not been resolved, the parties agree to submit the dispute to a member of the senior management of each of the Supplier and the Customer, each of which shall have authority to settle such dispute on behalf of the Supplier and the Customer respectively.

The parties shall meet within 7 days of the reference to them of any dispute and shall work together in good faith to resolve the dispute. The dispute resolution meeting will occur at the Supplier's offices, or another reasonable meeting place. For Agreements with an aggregate value of less than £2,500 and/or where a face-to-face meeting is not practicable, the said dispute resolution meeting may take place via video conferencing or equivalent.

19.3 During the period between the reference of the dispute and during the dispute resolution meeting, the senior managers appointed by the Supplier and the Customer may each make proposals for settlement and take steps to remedy or mitigate the dispute as they see fit. If a party does not wish to accept a proposal for settlement, it must confirm its rejection to the proposing party prior to or during the dispute resolution meeting.

19.4 If proposals for settlement are not accepted prior to the end of the dispute resolution meeting, the Supplier shall make a final proposal to the Customer (a "Final Proposal") within 7 days of the dispute resolution meeting. The Customer shall accept or reject the Final Proposal within 14 days of receipt. If the Customer fails to respond within the required time period, the Customer shall be deemed to have rejected the Final Proposal.

If the Customer rejects or is deemed to have rejected a Final Proposal, the Customer shall then have 14 days within which to propose an alternative settlement (a "Counter Proposal"). The Counter Proposal shall be duly considered by the directors of the Supplier. The Supplier shall accept or reject the Counter Proposal within 14 days of receipt. If the Supplier fails to respond within the required time period, the Supplier shall be deemed to have rejected the Counter Proposal. This is the end of the Supplier's dispute resolution process.

19.5 If no proposal (including a Final Proposal or a Counter Proposal) has been accepted prior to the end of the dispute resolution process, and the dispute may then be resolved through civil proceedings.

18.3 Any dispute or claim arising out of or in connection with this Agreement, its content or its formation including non-contractual disputes or claims shall be governed by the law of England and Wales and the parties submit to the exclusive jurisdiction of the courts of England and Wales to settle any such dispute or claim.

20 ENTIRE AGREEMENT

This Agreement contains the entire agreement between the parties relating to the subject matter and supersedes any previous agreements, arrangements, undertakings or representations, oral or written. Unless expressly provided elsewhere in this Agreement, this Agreement may be varied only by a document signed by both parties.

21 THIRD PARTY RIGHTS

Nothing in this Agreement is intended to, nor shall it confer any rights on a third party whether under the Contracts (Rights of Third Parties) Act 1999 or otherwise.

22 GOVERNING LAW AND JURISDICTION

This Agreement shall be governed by and construed in accordance with English Law.