

MASTER SERVICES AGREEMENT – CREATIVE ITC

Master Services Agreement

- | | |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>1.1 References in this Agreement to clauses or Statements of Work are to clauses of, or Statements of Work to, this Agreement. References in a Statement of Work to Appendices or Schedules shall be to the Appendices or Schedules of such Statement of Work.</p> <p>1.2 In this Agreement, unless the context otherwise requires:</p> <ul style="list-style-type: none">1.2.1 words in the singular include the plural and vice versa and words in one gender include any other gender;1.2.2 words defined in each Statement of Work have the meaning set out in that definition;1.2.3 a reference to:<ul style="list-style-type: none">(a) any Party includes its successors in title and permitted assigns;(b) a "person" includes any individual, firm, corporation wherever incorporated, trust, joint venture (whether or not having a separate legal existence), partnership, limited liability company, association (whether incorporated or not), or any other entity, or any governmental body or subdivision, agency, or authority;(c) "including", "include", "in particular" or any similar expression shall be construed as illustrative and the words following any of those terms shall not limit the sense of the words preceding those terms; and(d) "in writing" includes communications via electronic mail. <p>1.3 The headings in this Agreement are for convenience and are not to be used in interpreting the Agreement.</p> <p>1.4 Reference to any statute or statutory provision includes reference to the statute or statutory provision as from time to time amended, extended or re-enacted.</p> <p>1.5 If there is any ambiguity or inconsistency between the terms of any Statement of Work, this Master Services Agreement and the Service Level Agreement, the following order of precedence shall prevail:</p> <ul style="list-style-type: none">1.5.1 the applicable Statement of Work, other than so far as it relates to a process or technical requirement, in which case the Service Level Agreement will prevail;1.5.2 the Service Level Agreement;1.5.3 this Master Services Agreement. <p>1.6 Definitions are set out at clause 28.</p> | <p>2.1</p> <p>2.2</p> <p>2.3</p> <p>2.4</p> <p>2.5</p> <p>2.6</p> <p>Appointment and duration</p> <p>The Customer appoints the Service Provider to provide the Services as set out in each Statement of Work, during the Agreement Term, under the terms and conditions of this Agreement.</p> <p>This Agreement shall commence on the Commencement Date and shall continue for a period of three (3) years, after which it shall continue on a rolling annual basis until and unless terminated by either Party giving the other a minimum of three (3) months' written notice.</p> <p>Each Statement of Work shall commence on the Services Commencement Date and, subject to the provisions of this Agreement, shall continue for the SOW Term.</p> <p>Unless agreed otherwise by the Parties, each Statement of Work shall be agreed in the following manner:</p> <ul style="list-style-type: none">2.4.1 the Customer shall ask the Service Provider to prepare a draft Statement of Work for the services required by the Customer;2.4.2 within a reasonable period from the Customer's request, the Service Provider shall notify the Customer of any additional information it reasonably requires in order to prepare a Statement of Work;2.4.3 within 30 Business Days of receipt of the required information from the Customer, or if no additional information is required, within 30 Business Days of receiving the Customer's request, the Service Provider shall provide the Customer with the draft Statement of Work as requested;2.4.4 the Service Provider and the Customer shall discuss and agree that draft Statement of Work; and2.4.5 both Parties shall sign the draft Statement of Work when it is agreed. <p>This clause 2.4 does not affect the validity of any Statement of Work which is agreed between the Parties but which is not agreed strictly in accordance with clauses 2.4.1-2.4.4.</p> <p>Once a Statement of Work has been agreed and signed in accordance with clause 2.4.5 no amendment shall be made to it except in accordance with clause 20.4.</p> <p>In the event that this Agreement is terminated or expires, all outstanding Statements of Work then in force at the date of such termination or expiry shall continue in full force and effect for the remainder of the term of such Statement of Work (and shall continue to be governed by the terms</p> |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

- of this Agreement), unless terminated in accordance with the terms of this Agreement or such Statement of Work.
- 2.7 The termination of any Statement of Work shall not affect the continuation of any other Statement of Work or this Agreement.
- 3. Obligations of the Customer**
- 3.1 The Customer warrants and undertakes that:
- 3.1.1 it has ensured that all information submitted by it to the Service Provider is complete and accurate;
 - 3.1.2 it has verified that any assumptions stated in the SOW are accurate and any estimates are appropriate;
 - 3.1.3 it shall perform any Customer prerequisites or other obligations set out in the SOW;
 - 3.1.4 it has taken, and shall continue to take, all reasonable steps in accordance with Good Industry Practice and in connection with its receipt of Services from the Service Provider, to prevent the introduction, creation or propagation of any disruptive element (including any virus, worm and/or trojan) onto, and prevent any unauthorised access to, any equipment owned, provided or managed by the Service Provider or provided by the Service Provider for the Customer's use as part of a service;
 - 3.1.5 it shall not use or attempt to use the Services for any activity which breaches any Applicable Law or industry standard and shall not distribute, store, or publish any content or material that is restricted, illegal or otherwise unlawful under any Applicable Law, or which is likely to be offensive or obscene to a reasonable person;
 - 3.1.6 it shall keep any equipment or other property owned or leased by the Service Provider which is located at the Customer's premises from time to time in safe custody at its own risk until returned to the Service Provider and shall not relocate, dispose of or use such property other than in accordance with the Service Provider's instructions or agreement and shall not remove or obscure any tag or identifying mark on such property;
 - 3.1.7 it shall not, without the Service Provider's prior written approval, allow any person other than a Service Provider Representative to modify, repair, maintain or make any addition to any equipment owned, provided or managed by the Service Provider;
 - 3.1.8 it shall comply with, and where required will formally accept by clicking, (or where necessary signing and returning to the Service Provider or the vendor of a Third Party Product), within any timeframes specified by the Service Provider, any standard software licence agreement and/or end-user licence agreement which may apply to the Customer's use of a Third Party Product;
 - 3.1.9 it shall not sell, resell, distribute or lease the Services and/or any equipment provided by the Service Provider without the Service Provider's prior written approval. With the exception of equipment the Customer purchases in accordance with clause 17.6, nothing within this Agreement shall confer on the Customer any right, title or interest in respect of such equipment.
 - 3.1.10 it shall cooperate with the Service Provider in order for the Service Provider to fulfil its obligations under the Agreement and each SOW, such cooperation to include (without limitation):
 - 3.1.10.1 providing the Service Provider, its Personnel, agents and subcontractors, with access to the Customer's premises, office accommodation and other facilities as reasonably required by the Service Provider to carry out its obligations under the Agreement and/or SOW;
 - 3.1.10.2 providing the Service Provider with such information and materials as the Service Provider may reasonably require;
 - 3.1.10.3 adequately preparing its premises for the supply of the Services;
 - 3.1.10.4 obtaining and maintaining all necessary licences, permissions and consents which may be required for receipt of the Services before any start or delivery date agreed with the Service Provider.
 - 3.1.11 it shall comply with all applicable health and safety regulations and take all reasonable precautions to ensure that any of its premises which the Service Provider Personnel may attend are operated in a safe manner and shall maintain adequate public liability insurance with a reputable insurer.
 - 3.1.12 it shall comply with the Service Provider's Acceptable Use Policy and the Service Provider reserves the right, without liability to the Customer, to disable the Customer's access to the Services if the Customer breaches the Acceptable Use Policy and/or to charge additional charges (as reasonably determined by the Service Provider).
- 4. Obligations of the Service Provider**
- 4.1 The Service Provider shall use its best endeavours to:
- 4.1.1 provide the Services and Deliverables in accordance with the applicable Statement of Work; and
 - 4.1.2 provide the Services to meet any applicable Service Levels set out in the Service Level Agreement;
- 4.2 The Service Provider shall not be responsible for any failure to meet any Service Levels, nor for the failure to deliver any Services, where such failure is caused by:
- 4.2.1 planned maintenance carried out by either Party, provided that such planned maintenance by the Service Provider is notified to the Customer reasonably in advance, or is otherwise specified within the applicable SOW;
 - 4.2.2 the Customer failing to comply with any obligation set out in the Agreement or SOW, the Customer restricting access to or making changes to its infrastructure, or a failure of equipment or utilities supplied or controlled by the Customer;
 - 4.2.3 a failure by the Customer to fully assist the Service Provider in fault correction (for example by preventing or

- delaying access to premises or where a designated contact is unreachable using the agreed contact details);
- 4.2.4 the Customer failing to meet any of the Dependencies or Assumptions set out in a Statement of Work, or such Dependencies or Assumptions becoming otherwise untrue or invalid;
- 4.2.5 any other circumstances which are beyond the Service Provider's reasonable control, including the acts or omissions of a third party, or an Event of Force Majeure.
- 4.3 If the Service Provider fails to provide the Services in accordance with the requirements of this Agreement and/or the applicable Statement of Work, (and without prejudice to any other rights and remedies of the Customer in this Agreement) the Service Provider shall within 10 Business Days of notice of such failure by the Customer:
- 4.3.1 perform a root-cause analysis to identify the cause of such failure;
 - 4.3.2 provide a plan and/or date (as applicable) that is within a period as would be expected in accordance with Good Industry Practice for correcting such failure;
 - 4.3.3 provide the Customer with reasonable evidence that such failure shall not recur; and
 - 4.3.4 provide the Customer with a written report detailing the cause of, and procedure for correcting, such failure and use its best endeavours to remedy such failure within a reasonable period.
- Warranty and Undertaking**
- 4.4 The Service Provider warrants and undertakes that:
- 4.4.1 the Services will be performed in accordance with Good Industry Practice by Personnel of appropriate skill and experience acting at all times in good faith and with due diligence and in accordance with the Service Provider's obligations under this Agreement; and
 - 4.4.2 it has the full capacity and authority and all necessary consents to enter into and perform this Agreement and that this Agreement is executed by a duly authorised representative of the Service Provider.
- 4.5 The Customer acknowledges and agrees that the Services are complex IT solutions and cannot be guaranteed to operate uninterrupted or error-free. No warranty shall be implied that the Services will operate uninterrupted or error-free or be fit to operate in conjunction with any hardware items or software products other than as may be agreed for specific hardware items and software products under an applicable SOW. Except as set out in this Agreement, all warranties, representations, conditions, terms and undertakings, express or implied, whether by statute, common law, custom, trade usage, course of dealings or otherwise in respect of the Services are excluded to the fullest extent permitted by law.
- 4.6 The Customer acknowledges and agrees that to the extent a SOW specifies the provision of cloud software, the Service Provider shall (i) contract for such cloud software and (unless the Service Provider is providing the support services itself) support services on the Customer's behalf and the Customer shall be bound by all the terms and conditions of the third-party provider that relate to such cloud software and support services; and (ii) the Service Provider will facilitate Customer's use of such software and support services but the third-party provider of the cloud software and support services is the actual and underlying provider of such software and support services and owns and operates the equipment and technology used to deliver that software and support services and the Service Provider is not liable for, and cannot provide any guarantee or warranty related to such third-party provider or the cloud software and support services (or any other third party products or services). In addition, the Customer acknowledges and agrees to sign such separate agreements of the third-party provider of cloud software and support services as may be required, including any end-user licence agreements. The Customer shall indemnify and hold harmless the Service Provider from and against all third-party claims arising from or in connection with (i) any failure by the Customer to accept, perform or comply with any software agreement, end-user licence agreement or other third-party provider terms and conditions; and/or (i) the Customer's use of the cloud software and/or support services.
- 5. Default by the Customer**
- 5.1 If the Customer fails to meet any of the Dependencies set out in a Statement of Work, the Service Provider shall notify the Customer of its failure to meet such Dependency, and which Services and/or Milestones are affected by such failure.
- 5.2 If the Service Provider would have met the relevant Milestones or Service Levels, or would have provided the Services or Deliverables in accordance with the Statement of Work and/or this Agreement, but has failed to do so as a result of the Customer failing to meet a Dependency, the Service Provider shall have the relief set out in clause 5.3.
- 5.3 Provided that the Service Provider has given the Customer notice in accordance with clause 5.1, then:
- 5.3.1 the relevant Milestone Dates will be extended by a period of time equal to the time between the notice in 5.1 being received by the Customer and the relevant Dependency subsequently being met;
 - 5.3.2 for the period of time equal to the time that the Customer failed to meet the relevant Dependency and such Dependency subsequently being met, the Service Provider will not be in default of this Agreement and/or the relevant Statement of Work, nor will it be liable for any failure to meet Milestones or Service Levels, or failure to provide the Services and/or Deliverables.
- 6. Confidentiality**
- 6.1 Either Party may disclose Confidential Information to the other under this Agreement. The Party receiving an item of Confidential Information (the "Recipient") shall treat as strictly confidential all Confidential Information and may use the Confidential Information only for the performance of its obligations and the exercise of its rights under this Agreement.
- 6.2 The Recipient may disclose such part of the Confidential Information as is required by a court of competent

jurisdiction, any regulatory, judicial, governmental or similar body, any taxation authority or competent jurisdiction in the exercise of its powers or the rules of any listing authority or stock exchange on which its shares are listed or traded, provided that the Recipient shall, as far as it is able to do so, provide the party disclosing an item of Confidential Information (the "Disclosing Party") with immediate written notice of any request for disclosure so that the Disclosing Party may seek a protective order or other appropriate remedy.

7.

A Recipient's obligation to maintain the confidentiality of Confidential Information and the restrictions on such Recipient's use of the Confidential Information, as provided in this clause 6, shall survive the termination of this Agreement.

- 6.3 Subject to the provisions of this Agreement, the Recipient may disclose the Confidential Information to those of its and its affiliates' employees, agents, permitted subcontractors, consultants, service providers, auditors and professional advisers that have a need to know the Confidential Information for the purposes of this Agreement. The Recipient shall take all reasonable measures available to it, and in any event not less than those used to protect its own Confidential Information, including ensuring that suitable obligations of confidentiality are put in place with the Recipient's employees, professional advisors, contractors (or in the case of the Service Provider, any permitted subcontractors), agents or auditors who are permitted access to the Confidential Information.

- 6.4 Upon expiration or termination of this Agreement (whichever is the sooner), the Recipient shall, if requested by the Disclosing Party, within fifteen (15) days:

6.4.1 return all Confidential Information then in its or its Personnel's possession or control, including whole or partial copies thereof in any media, all notes, memoranda and other materials containing Confidential Information, to the Disclosing Party; and

6.4.2 deliver written certification to the Disclosing Party that all the Confidential Information which it or its Personnel have had in their possession or control and which has not been returned has been securely destroyed.

- 6.5 Notwithstanding clause 6.4, the Recipient is released from its obligation to return or destroy all Confidential Information to the extent that it is obliged to store or retain the respective information due to legal or accounting requirements. The Recipient is permitted to store a reasonable number of copies of the respective information for archival purposes in accordance with Applicable Law. In addition, the Recipient will not be required to delete Confidential Information: (a) residing on its backup tapes or its servers if permanent deletion would be infeasible; or (b) if under a reasonable document retention program.

- 6.6 Promptly on the Customer's request, the Service Provider shall (and shall procure each of its Personnel) do all things and execute all further documents necessary to give full effect to this clause 6.

- 6.7 All rights, title and interest in the Confidential Information⁸ shall remain the property of the Disclosing Party. Subject to clause 7 (IPR Ownership and Licence), the Recipient acknowledges that it shall not acquire any right, title to, interest in or licence in respect of any part of the Confidential Information.

- 7.1 The Parties acknowledge that:
- 7.1.1 the Service Provider is the owner or licensed user of the Service Provider IPR, and that except as specified within this clause 7, nothing in this Agreement shall confer on the Customer any right, title or interest in the Service Provider IPR; and
- 7.1.2 the Customer is the owner or licensed user of the Customer IPR, and that except as expressly specified in this clause 7, nothing in this Agreement or otherwise shall confer on the Service Provider or its Personnel any right, title or interest in the Customer IPR.
- 7.2 Subject to the Customer obtaining all necessary consents from third party licensors, the Customer hereby grants to the Service Provider a non-exclusive, non-transferable, revocable, royalty-free licence for the applicable SOW Term to use such of the Customer IPR as relates to the Services strictly for the purposes of and to the extent necessary to perform its obligations under this Agreement.
- 7.3 The Service Provider shall own all IPR in the Project IPR, unless agreed otherwise in a Statement of Work.
- 7.4 The Service Provider agrees to, and shall grant to the Customer, a non-exclusive, non-transferable, revocable, royalty-free licence to use the Project IPR during the applicable SOW Term for the sole purpose of receiving the Services pursuant to the relevant Statement of Work.
- 7.5 Subject to the Service Provider having fulfilled its obligations hereunder, the Customer hereby confirms that the Service Provider's compliance with any instructions given in relation to the Service Provider's use of any Customer IPR shall not cause the Service Provider to infringe the rights of any third party.
- 7.6 The Customer shall indemnify the Service Provider against all actions, costs (including the cost of defending any legal proceedings), claims, proceedings, accounts and damages arising from (i) its breach of clause 6 (Confidentiality); and (ii) any infringement or alleged infringement of any Intellectual Property Rights of a third party by reason of the Service Provider performing its obligations under the Agreement in accordance with the Customer's instructions, whether express or implied, including, without limitation, the loading of third party software, the use of designs, drawings or specifications given to the Service Provider by the Customer in respect of the Services or the misuse by the Customer of any third party's Intellectual Property Rights.

8. Customer Data and Data Protection

- 8.1 The Service Provider shall, where agreed with the Customer in a SOW, provide disaster recovery and/or backup and restore services as part or all the Services, which may form part of a Customer's wider business continuity and recovery strategy. However, the Service

- Provider does not provide general business continuity planning and execution services.
- 8.2 Business continuity planning, and the execution and testing of such plans, is the responsibility of the Customer, and the Customer acknowledges that the Service Provider's backup and restore services are not a complete substitute for such arrangements.
- 8.3 If backup, disaster recovery and/or restore services are included in the applicable SOW, the Service Provider will perform such backup, disaster recovery and/or restore services as are set out in such SOW, the Service Level Agreement and in accordance with Good Industry Practice. However, the Customer acknowledges that the Service Provider is not responsible for developing, evaluating or testing the Customer's wider business continuity or disaster recovery arrangements, and can only provide such backup, disaster recovery and/or restore services as form part of the contracted Managed Services or aaS Service, and the selection and testing of appropriate backup and recovery solutions and strategies is therefore the Customer's responsibility.
- 8.4 The Service Provider shall not be responsible for verifying the accuracy, completeness or integrity of the Customer Data, and can only back up the Customer Data as of its then-current state. The Service Provider will not be liable if any Customer Data backed up or restored by the Service Provider is inaccurate or incomplete.
- Protection of Personal Data**
- 8.5 Both Parties shall comply with their obligations under the Data Protection Legislation in relation to all Personal Data that is Processed under or in connection with this Agreement ("Customer Personal Data").
- 8.6 The Parties acknowledge that where the Customer is the Controller and the Service Provider is providing the Services as the Processor, clauses 8.7 - 8.16 shall apply. Where this is the case, the applicable Statement of Work shall set out the scope, nature and purpose of processing by the Service Provider, the duration of the processing and the types of Personal Data and categories of Data Subject.
- 8.7 Without prejudice to the generality of clause 8.5, the Customer will ensure that it has all necessary and appropriate consents and notices in place to enable the lawful transfer of the Personal Data to the Service Provider for the duration and purposes of this Agreement.
- 8.8 Without prejudice to the generality of clause 8.5, the Service Provider shall only undertake Processing of Customer Personal Data on the documented and lawful written instructions of the Customer, unless the Service Provider is required by Applicable Law to otherwise process that Customer Personal Data. The Service Provider shall comply with all lawful instructions given by the Customer from time to time in relation to such Processing, including any request from the Customer requiring the Service Provider to amend, transfer or delete the Customer Personal Data.
- 8.9.1 Unless necessary to provide the Services under a Statement of Work, or unless the Customer expressly requires otherwise, the Service Provider shall not disclose Customer Personal Data to any third parties other than:
- 8.9.1.1 to its Personnel or sub-contractors to whom such disclosure is reasonably necessary in order for the Service Provider to carry out its obligations under this Agreement;
 - 8.9.1.2 to the extent required under a court order, provided that disclosure under clause 8.9.1 is made subject to written terms substantially the same as, and no less stringent than, the terms contained in this clause 8.
- 8.10 The Service Provider shall not transfer any Customer Personal Data to any country or territory outside of the European Economic Area unless the following conditions are fulfilled:
- 8.10.1.1 the Service Provider has either: (i) provided appropriate safeguards in relation to the transfer; or (ii) based the transfer on an adequacy decision (pursuant to section 45 of the UK GDPR); or (iii) carried out the transfer as otherwise permitted under the Data Protection Legislation;
 - 8.10.1.2 the Service Provider complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred; and
 - 8.10.1.3 the Service Provider complies with reasonable instructions notified to it in advance by the Customer with respect to the processing of the Personal Data.
- 8.11 The Service Provider shall implement appropriate technical and organisational security measures governing the Processing of all Customer Personal Data. These measures shall ensure an appropriate level of security so as to avoid unauthorised or unlawful processing or accidental loss, destruction or damage of such Customer Personal Data, and may include, where appropriate, pseudonymising and encrypting Personal Data, ensuring the confidentiality, integrity, availability and resilience of its systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, regularly assessing and evaluating the effectiveness of the technical and organisational measures adopted by it, and taking reasonable steps to ensure the reliability of Personnel having access to such Customer Personal Data.
- 8.12 The Service Provider shall:
- 8.12.1 notify the Customer without undue delay in the event of receipt of any Data Subject access request;
 - 8.12.2 notify the Customer if a Data Subject exercises any of its rights under the Data Protection Legislation and shall provide such data and assistance as the Customer reasonably requests; and
 - 8.12.3 assist the Customer, as far as is reasonable and at the Customer's cost, 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.

- 8.13 The Service Provider shall, without undue delay, inform the Customer in the event of any Personal Data Breach and shall provide the Customer with reasonable assistance in regard to such Personal Data Breach.

- 8.14 With the exception of sub-processors required to provide the Services under a SOW, the Service Provider shall not use or authorise any sub-processor to process the Customer Personal Data except with the Customer's prior written consent. In seeking such consent, the Service Provider shall supply to the Customer full details of such proposed sub-processor.

- 8.15 The Service Provider shall keep a record of any Processing of Customer Personal Data. The Service Provider shall allow the Customer to audit such record(s) and the Service Provider's compliance with the requirements of this clause 8 on reasonable notice, no more than once per annum.

- 8.16 The Service Provider shall, at the written direction of the Customer, delete or return Customer Personal Data to the Customer on termination of the Agreement and/or applicable Statement of Work, unless required by Applicable Law to store such data.

9. Audit

- 9.1 For the Agreement Term and for a minimum of 2 years thereafter (or such longer period required by Applicable Law), the Service Provider must maintain all records and accounts and other documentation relating to this Agreement and the provision of the Services, with the exception of Customer Personal Data, which shall be retained in accordance with clause 8.

- 9.2 Not more than once per calendar year (except where required to fulfil a legally enforceable request by a governmental authority) the Service Provider shall grant to the Customer, its auditors or authorised agents, rights of access on 10 Business Days' notice to the Service Provider's premises, materials, resources and Personnel, for the purpose of (i) verifying the accuracy of the Service Charges; or (ii) verifying that the SOW and/or Agreement is being performed in accordance with its terms, during the Agreement Term.

- 9.3 The Service Provider shall be permitted at any time (on giving at least five (5) Business Days' notice) to monitor and/or inspect (i) any equipment involved in the provision of Services, whether such equipment is provided by the Service Provider or is Customer equipment; and/or (ii) the Customer's IT environment manually or by way of automated scanning, and for both the Customer shall allow the Service Provider access to its systems, premises, Personnel and relevant records in each case as may be reasonably required.

- 9.4 The Parties shall bear their own costs and expenses incurred in respect of compliance with their obligations under clause 9.2 and 9.3.

10. Security and Information Security

- 10.1 The Service Provider shall ensure that it has in place and is operating in accordance with reasonable information

security procedures, which in no event shall be less protective than as would be expected from Good Industry Practice.

The Service Provider shall maintain and enforce safety and security systems and procedures at the Premises to prevent unauthorized access to any and all networks or resources that process or contain the Customer's information.

- 10.3 The Service Provider shall establish and maintain reasonable safeguards against the destruction, loss or alteration of any Customer Data in the possession of the Service Provider.

11. Payment

- 11.1 In consideration of the provision of the Services, the Customer shall pay to the Service Provider the Service Charges in accordance with the payment schedule set out in the applicable Statement of Work.

- 11.2 Where the Service Charges are calculated on a time and materials basis the Service Provider's daily fee rates for each individual person as set out in Statement of Work are calculated on the basis of an eight-hour day worked.

- 1 11.3 Where the Service Charges are calculated on a fixed price basis, the amount of those charges shall be as set out in the applicable Statement of Work.

- 1 11.4 If the Service Charges are based on the achievement of Milestones, those Milestones, the relevant Milestone Dates, and the criteria for achieving them, will be set out in a Statement of Work.

- 1111.5 The Service Provider shall be entitled to charge for expenses reasonably incurred in the provision of the Services (provided these are agreed in advance with the Customer) unless stated otherwise in the relevant Statement of Work.

- 1 11.6 The Customer shall pay to the Service Provider the total undisputed amount of each invoice in Pounds Sterling to an account nominated in writing by the Service Provider within thirty (30) days from the date of the Service Provider's invoice (unless agreed otherwise in the relevant Statement of Work).

- 1 11.7 In relation to any disputed invoices, the Customer shall pay any undisputed amount in accordance with this clause 11 and notify the Service Provider as soon as reasonably practicable in writing of the reasons for withholding the disputed amount.

- 11.8 If any amounts payable under this Agreement are not paid when due then, except when withheld in accordance with clause 11.7, and without prejudice to the Service Provider's other rights under this Agreement, the Customer shall pay interest on the overdue amount from the due date until payment is made in full at four (4) per cent per annum over Barclays Bank PLC's base lending rate from time to time.

- 1 11.9 The Service Charges are stated exclusive of value added tax, any similar sales tax and/or any tax that replaces such sales taxes.

11.11.10 The Customer is not entitled to set off any liability of the Service Provider to the Customer against any liability of the Customer to the Service Provider.

11.11.11 The Service Charges for any Consultancy Services are fixed for a period of one (1) year from the date agreed with the Customer, and unless agreed otherwise in a SOW, day rates will be subject to change if such resource is not used within this period.

11.12 In the event that a currency of payment other than Pounds Sterling is agreed by the Parties within a Statement of Work, the Service Provider reserves the right to adjust the Service Charges at each invoice date (each a "Calculation Date") to reflect changes in the currency exchange rate between the Pound Sterling and the agreed currency, during the Agreement Term. The exchange rate between the currencies will initially be set to the rate as specified within the applicable Statement of Work (the "Initial Exchange Rate") or as otherwise determined by the Service Provider. If the exchange rate on a Calculation Date (as determined by the Service Provider's banking provider) varies by more than two (2%) percent (or such other percentage as agreed within the applicable Statement of Work) from the Initial Exchange Rate (where this results in a financial loss to the Service Provider), then the Service Charges may be adjusted to account for such loss and the adjusted Service Charges will be effective on such Calculation Date until the next Calculation Date.

11.13 The Service Provider shall be entitled to increase the Service Charges (a) on an annual basis in line with any increase in the Consumer Price Index (CPI); or (b) at any time over the SOW Term in the event the Service Provider suffers cost inflation in providing the Services as a direct result of complying with changes to Applicable Law. If either such event occurs, the Service Provider shall be entitled to increase the Service Charges on at least thirty (30) days' written notice to the Customer, to reflect such increase to the Service Provider's costs.

12. Non-solicitation

12.1 The Customer shall not, for the Agreement Term and for a period of one (1) year from the date of expiry or termination of this Agreement (except with the prior written consent of the Service Provider) directly or indirectly solicit or entice away (or attempt to solicit or entice away), any Service Provider Personnel who is employed or engaged in the Services, provided that this clause 12 shall not apply to Personnel who respond of their own volition to a genuine public recruitment campaign.

12.2 In the event that the Customer breaches clause 12.1, the Customer shall pay liquidated damages to the Service Provider at a rate of 100% of such Personnel's annual salary or service charges.

12.3 The Parties agree that the liquidated damages payable by the Customer under clause 12.2 are considered by the Parties to be a genuine pre-estimate of the losses which the Service Provider may incur in relation to the Customer's solicitation of its Personnel. The Parties agree that the liquidated damages set out at clause 12.2 are fair, given the nature and circumstances of this

Agreement, and are neither excessive, extravagant, unconscionable nor oppressive.

13. Changes to the Services

13.1 The Service Provider reserves the right to make changes to the SOW and any Services provided that such changes do not materially decrease the functionality and/or deliverables of the Services, and provided such changes are limited to those which are necessary to comply with any Applicable Law, regulatory or safety requirement, and the Service Provider shall notify the Customer in any such event as soon as reasonably practical.

13.2 Other than as set out in clause 13.1, where either party requests a change to a SOW the Parties shall conduct discussions relating to the proposed change and any resulting change to the Service Charges in good faith and neither party shall unreasonably withhold nor delay consent to the other party's proposed change.

14. Limitation of Liability

14.1 The Service Provider shall not be liable to the Customer under any theory of liability (including contract, negligence, breach of statutory duty, misrepresentation, restitution or otherwise) and whether such liability is direct, indirect, special, consequential or otherwise for any:

14.1.1 damage caused by errors or omissions in any information, instructions or scripts provided to the Service Provider by the Customer;

14.1.2 delay or failure in performance of the Agreement and/or applicable SOW by the Service Provider to the extent that such delay or failure is caused by any act or omission by the Customer or failure by the Customer to perform any obligation under the Agreement and/or SOW;

14.1.3 loss of, damage to or corruption to the Customer Data;

14.1.4 loss of profits;

14.1.5 loss of future business;

14.1.6 loss of goodwill or similar losses;

14.1.7 loss of opportunity;

14.1.8 loss of anticipated savings; or

14.1.9 indirect, consequential or special losses, costs, damages and charges of any sort whatsoever.

14.2 Except as expressly stated otherwise in any Statement of Work, all warranties and conditions, (whether express or implied by statute, common law or otherwise including fitness for purpose) are hereby excluded to the fullest extent permitted by law.

14.3 Subject to clause 14.5, the Service Provider will not be liable to the Customer for a claim under or in connection with the Agreement and/or any SOW unless such claim is notified to the Service Provider within 12 months of the date that the circumstances giving rise to the claim were reasonably discoverable to the Customer.

14.4 Subject to the provisions of clauses 14.1, 14.3 and 14.5 the Service Provider's total aggregate liability in contract, tort (including negligence or breach of statutory duty), misrepresentation (whether innocent

or negligent), restitution or otherwise, arising in connection with the performance or contemplated performance of this Agreement shall be limited to the lower of 125% of the Service Charges paid to the Service Provider in the year preceding any such claim, or £500,000.

- 14.5 Nothing in this Agreement shall limit a Party's liability for:
 - 14.5.1 death or personal injury caused by its negligence;
 - 14.5.2 fraud, including fraudulent misrepresentation; or
 - 14.5.3 any other form of liability which cannot lawfully be limited or excluded.
- 14.6 This clause 14 shall survive the termination or expiry of this Agreement.

15. Subcontracting

- 15.1 Notwithstanding the sub-contracting of any of its obligations, the Service Provider shall be and shall remain responsible and liable for all its obligations pursuant to this Agreement and for any acts and omissions of its sub-contractors.

16. Term and Termination

- 16.1 Unless agreed otherwise within a Statement of Work, either Party may by notice in writing immediately terminate this Agreement and/or any SOW if the other Party:

16.1.1 commits a material breach of this Agreement that is not capable of remedy;

16.1.2 commits a material breach of this Agreement which is capable of remedy but which is not remedied within thirty (30) days of the receipt of a notice from the non-breaching party identifying the breach and requiring its remedy; or

16.1.3 has a receiver or administrative receiver appointed of it or over any part of its undertaking or assets or shall pass a resolution for winding-up (otherwise than for the purpose of a bona fide scheme of solvent amalgamation or reconstruction) or a court of competent jurisdiction makes an order to that effect or if the other Party becomes subject to an administration order or enters into any voluntary arrangement with its creditors or ceases or threatens to cease to carry on business.

- 16.2 Without limiting its other rights or remedies, the Service Provider may terminate the Agreement and/or any SOW with immediate effect by giving written notice to the Customer if (i) the Customer fails to pay any amount due under a SOW or Order on the due date for payment three (3) or more times over any one (1) year period; or (ii) the Service Provider becomes aware that a Customer Change of Control is anticipated, in contemplation or has occurred (where the Service Provider has not given its prior written consent to such Change of Control).

17. Consequences of Termination

- 17.1 Termination or expiry of this Agreement shall be without prejudice to any rights and remedies of the Service Provider and the Customer accrued before such

termination or expiration and nothing in this Agreement shall prejudice the right of either Party to recover any amount outstanding at such termination or expiry.

- 17.2 The Service Provider shall promptly and fully answer all reasonable questions about the Services which may be asked by the Customer for the purposes of adequately understanding the manner in which the Services have been provided or for the purpose of allowing the Customer or any Future Service Provider (or potential Future Service Provider) to conduct due diligence. The Service Provider shall also cooperate with and provide reasonable assistance to the Customer and any Future Service Provider for a reasonable period after termination on a chargeable basis (such charges to be at the Service Provider's standard rates) to achieve an effective transition of the Services.

- 17.3 On the Customer's request, and with the exception of any data that the Service Provider is required to retain by Applicable Law, or any Customer Personal Data which shall be governed by clause 8.16, the Service Provider shall return or destroy all data records, documentation, information, materials, hardware and other property relating to or which is relevant to the provision of the Services ("Customer Property") in its possession or under its control, provided that in the event of termination due to an Event of Force Majeure under clause 19.3, the Service Provider shall only be liable for the return of Customer Property that it is reasonably able to return to the Customer in such circumstances.

- 17.4 On termination of the Agreement and/or a SOW, the Service Provider shall submit invoices for any Services that it has supplied, but for which no invoice has been submitted, and the Customer shall pay these invoices within the payment term specified within the applicable SOW.

- 17.5 On termination of the Agreement and/or a SOW (except in the event of the Customer's termination under clauses 16.1.1 or 16.1.2), in addition to the Customer's obligations under clause 17.4, the Customer shall pay any Committed Costs reasonably incurred by the Service Provider prior to termination, provided that the Service Provider uses its reasonable endeavours to attempt to mitigate any such costs.

Consequences of termination of a Managed Service

- 17.6 If, prior to the end of the Minimum Service Term, either Party terminates a Managed Service or aaS Service (or any other Services) which includes the provision by the Service Provider of equipment to be used solely for the Customer then in addition to the Service Provider's other rights and remedies within this Agreement (and unless agreed otherwise within a SOW):
 - 17.6.1 if such equipment is owned by the Service Provider, the Customer shall purchase the equipment for its Fair Market Value; or

- 17.6.2 if such equipment is leased by the Service Provider, the Customer shall, at the Service Provider's discretion, either pay the Outstanding Lease Costs for such equipment as at the date of termination or purchase the equipment for its Fair Market Value.

- 17.7 The sums due pursuant to clause 17.6 shall (at the Service Provider's discretion) either be payable in a lump sum due within thirty (30) days from the date of the Service Provider's invoice, or be payable in equal monthly instalments over the remaining unexpired term of the Minimum Service Term from the date of termination, in which case the Service Provider shall provide monthly invoices and the Customer shall pay each within thirty (30) days of the date of the Service Provider's invoice.
- 17.8 The Service Provider shall comply with all obligations it owes to the Lessor of the equipment including payment of the sums due from time to time under the lease during the Minimum Service Term and the Customer shall be permitted to make use of the equipment during the Minimum Service Term as set out in the applicable SOW but thereafter (unless the Customer purchases the equipment in accordance with clause 17.6) the Service Provider shall be entitled to retake, sell or otherwise deal with and/or dispose of all or any part of the said equipment.
- Consequences of termination of Consultancy Services**
- 17.9 In the event that the Customer, having agreed a time for delivery of Consultancy Services, cancels or materially amends a booking for Consultancy Services (whether temporarily or indefinitely) then, without prejudice to any other rights and remedies of the Service Provider under this Agreement, the following cancellation charges shall apply:
- 17.9.1 cancellation within up to 24 hours of agreed date for work commencing, 100% of the agreed Service Charges for such Consultancy Services;
- 17.9.2 cancellation within 24 up to 96 hours of agreed date for work commencing, 75% of the agreed Service Charges for such Consultancy Services;
- 17.9.3 cancellation exceeding 96 hours of agreed date for work commencing, 50% of the agreed Service Charges for such Consultancy Services;
- in addition to all charges reasonably incurred by the Service Provider in fulfilling the booking up until the date of receipt of the amendment or cancellation.
- 18. Assignment**
- 18.1 This Agreement shall be binding on and endure for the benefit of the successors in title of the Parties.
- 18.2 The Service Provider may at any time assign, transfer, mortgage, charge, subcontract or deal in any other manner with all or any of its rights under the Agreement and may subcontract or delegate in any manner any or all of its obligations under the Agreement to any third party.
- 18.3 The Customer shall not, without the prior written consent of the Service Provider (not to be unreasonably withheld or delayed), assign, transfer, charge, subcontract, declare a trust over or deal in any other manner with all or any of its rights or obligations under the Agreement.
- 19. Force Majeure**
- 19.1 Neither Party shall be in breach of this Agreement, or otherwise be liable to the other, by reason of any delay in performance or non-performance of any of its obligations under this Agreement to the extent that such delay or non-performance is due to any cause beyond its reasonable control and which could not reasonably have been foreseen, including but not limited to strikes, lock-outs or other industrial disputes (whether involving the workforce of the Service Provider or any other party), failure of a utility service or transport network, act of God, pandemic, epidemic, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, storm or other similar event; or default of suppliers or subcontractors (each an "Event of Force Majeure").
- 19.2 The Party affected by any Event of Force Majeure shall use all reasonable endeavours to mitigate the effect of the Event of Force Majeure and shall immediately give the other Party written notification of the nature and extent of the Event of Force Majeure and the Parties shall enter into bona fide discussions with a view to alleviating its effects or to agreeing upon such alternative arrangements as may be fair and reasonable.
- 19.3 If either Party is affected by an Event of Force Majeure which materially affects the provision of Services and is unable to cure the effect of the Event of Force Majeure within sixty (60) days, the other Party may terminate this Agreement and any SOW immediately on written notice.
- 20. General**
- 20.1 This Agreement sets out the entire agreement and understanding between the Parties in respect of the subject matter of this Agreement.
- 20.2 The Parties acknowledge that they have entered into this Agreement in reliance only upon the representations, warranties and promises specifically contained or incorporated in this Agreement and, save as expressly set out in this Agreement, neither Party shall have any liability in respect of any other representation, warranty or promise made prior to the date of this Agreement unless it was made fraudulently.
- 20.3 To the extent that any provision of this Agreement is found by any court or competent authority to be invalid, unlawful or unenforceable in any jurisdiction, that provision shall be deemed severed and not to be a part of this Agreement, it shall not affect the enforceability of the remainder of this Agreement, nor shall it affect the validity, lawfulness or enforceability of that provision in any other jurisdiction.
- 20.4 No purported variation of this Agreement shall be effective unless it is in writing and signed by or on behalf of an authorized signatory of each of the Parties.
- 20.5 The rights, powers and remedies conferred on any Party by this Agreement and remedies available to any Party are cumulative and are additional to any right, power or remedy which it may have under Applicable Law or otherwise.

- 20.6 Either Party may, in whole or in part, release, compound, compromise, waive, or postpone, in its absolute discretion, any liability owed to it or right granted to it in this Agreement by the other Party without in any way prejudicing or affecting its rights in respect of that or any other liability or right not so released, compounded, compromised, waived or postponed. No release, compound, compromise, waiver, or postponement of any liability owed to a Party or right granted in this Agreement shall be effective unless it is in writing and signed by or on behalf of the Party granting such release, compound, compromise, waiver, or postponement.
- 20.7 No single or partial exercise, or failure or delay in exercising any right, power or remedy by any Party shall constitute a waiver by that Party of, or impair or preclude any further exercise of, that or any right, power or remedy arising under this Agreement or otherwise.
- 20.8 Unless expressly provided in this Agreement, no term of this Agreement is enforceable pursuant to the Contracts (Rights of Third Parties) Act 1999 by any person who is not a Party to it.^{24.1}
- 20.9 Each Party undertakes to promptly do all things and execute all further documents necessary to give full effect to this Agreement.
- 20.10 Nothing contained in this Agreement shall constitute or be deemed to constitute a partnership and the Parties shall not be, or be construed to be, the agent of the other Party for any purpose or to have any authority to bind or incur any liability on behalf of any of the other Party, save as otherwise expressly provided in this Agreement.
- 20.11 This Agreement may be executed in any number of counterparts, each of which shall constitute a duplicate original, but all the counterparts shall together constitute the one agreement.
- 21. Notices**
- 21.1 Any notice to be given by a Party under this Agreement shall be:
- 21.1.1 in writing;
 - 21.1.2 signed by or on behalf of the Party giving it (unless given by email);
 - 21.1.3 addressed to the Customer's Representative or the Service Provider Representative (as the case may be); and
 - 21.1.4 unless given by email, delivered to the other Party personally or be left at or sent by prepaid first-class post, prepaid recorded delivery to the address of the Party as set out on page 1 of this Agreement or as otherwise notified in writing from time to time.
- 21.2 Except as referred to in clause 21.3 and 21.4 a notice shall be deemed to have been served at the time of delivery.
- 21.3 If the deemed time of service is not during normal business hours in the country of receipt, the notice shall be deemed served at the opening of business on the next Business Day of the country of receipt.
- 21.4 Notices given by email shall be deemed served one Business Day after transmission.
- 21.5 A Party shall not attempt to prevent or delay the service on it of a notice connected with this Agreement.
- 22. Governing Law and Jurisdiction**
- 22.1 This Agreement shall be governed by and construed in accordance with English Law.
- 22.2 The Parties irrevocably submits for all purposes in connection with this Agreement to the exclusive jurisdiction of the courts of England and Wales.
- 22.23. Anti-Bribery**
- Both Parties agree to comply with Applicable Laws relating to anti-bribery and anti-corruption, including but not limited to the Bribery Act 2010, the U.S. Foreign Corrupt Practices Act and all laws enacted to implement the OECD Convention on Combating Bribery of Foreign Officials in International Business Transactions.
- 24. Dispute Resolution**
- 24.1 Any dispute or difference between the Parties relating to this Agreement shall be dealt with as follows:
- 24.1.1 the dispute shall first be referred to the Service Provider Representative and the Customer's Representative who shall promptly use all reasonable endeavours to resolve such matter as reasonably practicable;
 - 24.1.2 if the Service Provider Representative and the Customer's Representative are unable or unwilling to resolve the matter between themselves, either of them may request a meeting of the Managing Director (or other appropriately senior director) of the Service Provider and a senior representative of the Customer nominated by the Customer's Representative to be convened at the earliest practicable time; and
 - 24.1.3 if the matter is not resolved by agreement between the Parties within thirty (30) days after such meeting, the Parties may by agreement seek to settle the dispute by non-binding mediation with an accredited alternative dispute resolution practitioner, the cost of which shall be borne by both Parties equally.
- 24.2 Nothing in this clause 24 shall have the effect of excluding either Party's right at any time to take up their remedies under law.
- 25. Insurance**
- 25.1 The Service Provider will at its cost maintain in force throughout the Agreement Term insurance to cover the following:
- 25.1.1 Professional Indemnity Insurance for the minimum amount of £5.0 million;
 - 25.1.2 Public Liability Insurance for the minimum amount of £5.0 million; and
 - 25.1.3 Employers' Liability Insurance for the minimum amount of £10.0 million,
- and shall provide the Customer with copies of evidence that such insurance is in place if so requested.

26. TUPE

- 26.1 It is not anticipated that the employment of any Personnel will transfer from the Customer to the Service Provider pursuant to this Agreement.
- 26.2 Where any individual is transferred from the Customer to the Service Provider by virtue of TUPE, without limiting any other remedy available to the Service Provider, the Customer agrees to indemnify and hold the Service Provider harmless against any liability howsoever arising prior to or after the date of said transfer.

27. Leased Equipment and trade-in equipment

- 27.1 The Customer acknowledges that the legal ownership of equipment provided or used by the Service Provider in the provision of the Managed Services or aaaS Services may rest with (or be transferred to) a Lessor, or that the equipment may be pledged to a Lessor as a security for the payment of all sums that the Service Provider owes to, or may at any time owe to the Lessor, arising from rental and/or financial lease agreements or for whatever reason. The Lessor will not become a party to the Agreement. All rights and obligations under the Agreement will remain between the Service Provider and the Customer.
- 27.2 In the event that a SOW sets out that equipment is to be purchased by the Service Provider from the Customer, the Service Provider shall inspect such equipment within a reasonable period from collection or delivery to ensure it is fit for purpose and conforms in all material respects with the agreed specifications. The Service Provider shall not be obliged to pay or give credit for any equipment being purchased from the Customer until the equipment is accepted by the Service Provider.

28 Definitions

In this Agreement, unless the context otherwise requires, the following words have the following meanings:

"Acceptable Use Policy" means the Service's Provider's policy governing use of the Services, as available on request.

"Agreement" means this Master Services Agreement together with any Statements of Work, the Service Level Agreement, and any schedules, appendices and addenda attached hereto;

"Agreement Term" means the duration of this Agreement as defined in clause 2.2;

"aaaS Services" means the Service Provider's "as a service" services, including disaster recovery as a service, back-up as a service, monitoring as a service, compute as a service, desktop as a service, storage as a service, virtual desktop infrastructure as a service and any other "as a service" offering that the Service Provider may provide under a SOW.

"Applicable Law" means all national, supranational, foreign or local laws (including case law), legislation, European regulations, statutes, statutory instruments, rules, regulations, edicts, by-laws or directions or from government or governmental agencies, including any rules, regulations, guidelines or other requirements of

relevant regulatory authorities which have the force of law together with any industry codes of practice in effect from time to time, including the Data Protection Legislation guidance;

"Assumptions" means any of the assumptions which may be set out in a Statement of Work.

"Business Day" means a day (other than a Saturday or Sunday) on which clearing banks are open for business in the UK;

"Change of Control" means the sale of all or substantially all the assets of a Party; any merger, consolidation or acquisition of a Party with, by or into another corporation, entity or person; or any change in the direct or indirect ownership of more than fifty percent (50%) of the voting capital stock of a Party in one or more related transactions;

"Committed, Costs" means (i) any costs committed to but not yet incurred; (ii) any sunk costs already spent; and/or (iii) any other irrecoverable costs incurred in providing the Services, including, in the event a SOW is terminated before the Services Commencement Date, any costs (including costs of resource, at a day rate as reasonably determined by the Service Provider) spent on the pre-sales process, the proposal stage, workshops or other project setup costs, provided such costs can be evidenced on demand;

"Confidential Information" means any information, communications or data, in any form, (whether oral, written, graphic, electromagnetic), including all plans, proposals, forecasts, technical, methodologies, know-how, information about technological or organizational systems, customers, personnel, business activities, databases, the terms and conditions of this Agreement and any other information which could reasonably be considered as confidential by its very nature, whether or not any such confidential information is specifically marked confidential but excluding any information, which: (i) was already known to the Recipient at the time of its disclosure to the Recipient and is not subject to confidentiality restrictions; (ii) which is in the public domain at the date of its disclosure to the Recipient or which thereafter enters the public domain through no fault of the Recipient (but only after it becomes part of the public domain); (iii) which, following its disclosure by the Disclosing Party to the Recipient, is received by the Recipient without obligation of confidence from a third party who the Recipient had no reason to believe was not lawfully in possession of such information free of any obligation of confidence; or (iv) is independently developed by the Recipient without any reference to Confidential Information of the Disclosing Party, as evidenced by the records of the Recipient;

"Consultancy Services" means any professional services performed by the Service Provider's Personnel for the Customer;

"Customer" means the customer identified as such in the applicable Statement of Work.

"Customer IPR" means the IPR owned or licensed by the Customer independently of this Agreement;

"Customer Data" means any data provided by the Customer to the Service Provider under this Agreement, which may include Personal Data;

"Customer Personal Data" shall have the meaning set out in clause 8.5;

"Customer Representative" means the person designated as the "Customer Contact" on the first page of this Agreement or such other person as may from time to time be appointed by the Customer and notified to the Service Provider;

"Data Protection Legislation" means all applicable data protection or privacy laws in force from time to time in the UK, including the General Data Protection Regulation 2016/679 ("GDPR"), the retained EU law version of the GDPR (the "UK GDPR"), the UK Data Protection Act 2018 and the Privacy and Electronic Communications Regulations 2003 as amended, and "Controller" "Data Subject" "Personal Data" "Personal Data Breach" "Processor" and "Process" shall have the corresponding meaning sets out in the Data Protection Legislation;

"Deliverables" means a work product, professional service, outcome or related material or item that is to be achieved or delivered to the Customer by the Service Provider as part of the Services and as may be agreed within a Statement of Work;

"Dependency" means any of the dependencies which may be set out in a Statement of Work, and "Dependencies" shall be interpreted accordingly;

"Fair Market Value" means, if calculated during the Minimum Service Term: the price at which the Service Provider determines (acting reasonably) that it would have sold the equipment for if it had been sold on the date it was initially deployed, plus associated maintenance and support services, less depreciation on a straight-line basis over a period equal to the Minimum Service Term from the Service Commencement Date (if deployed on or before the Service Commencement Date) or the date of deployment (if deployed after the Service Commencement Date); or if calculated at or after the end of the Minimum Service Term: the Service Provider's assessment (acting reasonably) of the value of the equipment in an open market sale, assuming (whether in practice true or not) that the equipment is in a reasonable condition for its age and usage and that the unexpired term of any third party warranty or support existing in respect of the equipment can be transferred to the purchaser; together in each case with all costs and expenses which the Service Provider would reasonably incur in order to effect a transfer of title of the equipment to the Customer;

"Future Service Provider" means any service provider(s) that the Customer appoints on the expiry or termination of this Agreement (or any part thereof) for any reason to provide any service that replace any of the Services;

"Good Industry Practice" means, in relation to any activity or requirement relevant to this Agreement, the exercise of that degree of skill, care diligence, prudence and foresight and using the practices, processes, procedures and guidelines which would reasonably and ordinarily be expected from an organisation of a similar size engaged in

the same type of such activity or requirement within the United Kingdom;

"IPR" means all intellectual property rights, wherever in the world, howsoever arising and in whatever media, whether or not registered, including copyright, patents, trademarks, service marks, trade names, rights in databases, trade secrets, utility models, semi-conductor rights, know-how, registered design, and all rights in the nature of unfair competition rights or rights to sue for passing off and any applications for protection or registration of these rights and all renewals and extensions thereof throughout the world

"KPIs" means any key performance indicators specified in the Service Level Agreement or SOW;

"Lessor" a third party who provides equipment to the Service Provider for use in the Managed Services,aaS Services or any other services;

"Managed Service" a service comprising the Service Provider's management of information technology assets by the Service Provider on behalf of the Customer, whether or not such services are expressly referred to as managed services in the applicable SOW;

"Minimum Service Term" the minimum period of delivery of the Managed Services,aaS Services (or other services) as set out in the applicable SOW;

"Milestone" means an activity, process, service, deliverable, outcome or any part of the Services described in a Statement of Work as a milestone (if applicable);

"Milestone Date" means the date set out in a Statement of Work against a Milestone for that Milestone to be met (if any);

"Order" means the Customer's order for the supply of hardware and/or software and/or Services (if such order is not set out within a SOW), as set out in the Customer's purchase order form, or the Customer's written acceptance of the Service Provider's quotation, or overleaf, as the case may be;

"Outstanding Lease Costs" means the total liability from time to time of the Service Provider to a Lessor under the terms of a lease by the Service Provider of any equipment used in a Managed Service,aaS Service or other service;

"Party" means either the Service Provider or the Customer and "**Parties**" shall mean both of them;

"Personnel" means officers, directors, employees, workers and agents (including any persons hired as consultants or contract staff) of either Party;

"Project IPR" means all IPR other than the Service Provider IPR, arising as a result of or in connection with the performance of the Services including in any Deliverables, Specifically Written Software, and any proposals, information, data, documents and reports, whether accepted or rejected, which are developed or delivered pursuant to the provision of or relating to the Services;

"Service Charges" means the amount payable to the Service Provider by the Customer in consideration for the performance of the Services, calculated in accordance with

the applicable Statement of Work or (if no Statement of Work was used) the applicable Order;

"Service Levels" means the service levels specified in the Service Level Agreement;

"Service Level Agreement" means the agreement which defines the level of service the Customer expects from the Service Provider, which may be in the form of a service level manual;

"Service Provider" means Creative Network Consulting Limited;

"Service Provider IPR" means the IPR which is owned by, developed by or licensed to the Service Provider independently of this Agreement and which may be used for the provision of the Services, other than the Project IPR and the Customer IPR;

"Service Provider Representative" means the person designated as the "Service Provider Contact" on the first page of this Agreement, or such other person as may from time to time be appointed by the Service Provider;

"Services" means the services to be supplied by the Service Provider pursuant to this Agreement, more particularly described in each applicable Statement of Work;

"Services Commencement Date" means the date as specified in each Statement of Work upon which the Service Provider first starts to perform the Services (or part thereof) under such Statement of Work;

"Specifically Written Software" means any software that is developed by the Service Provider under a Statement of Work;

"Statement of Work" or "SOW" means a statement of work entered into by the Parties under this Agreement;

"SOW Term" means the period as stated in each Statement of Work during which the Service Provider is to provide the Services to the Customer, and any extension to that period agreed in writing;

"Third Party Product" means hardware or software provided by the Service Provider, but which is not manufactured or developed by the Service Provider;

"TUPE" means the Transfer of Undertakings (Protection of Employment) Regulations 2006 as amended from time to time.