



INNOVATING. INTEGRATING. PROTECTING



Maintenance / Service Terms and Conditions



Quadrant Security Group Limited,
Maintenance / Service Agreement Conditions

1. INTERPRETATION

1.1 In these Conditions the following words shall have the following meanings:

Brexit: means the United Kingdom ceasing to be a member state of the European Union, regardless of which countries comprise the United Kingdom at such date;

Brexit Trigger Event: means any of the following events if directly caused by Brexit or any discussions, negotiations or any other steps taken by the United Kingdom government or a body in any other jurisdiction in anticipation of or related to preparation for Brexit:

- (a) a change in the Law or a new requirement to comply with any existing Law or existing Law ceasing to apply to a party; or
- (b) the imposition of, or a change to, a duty, tax or levy imposed on imports or exports of any goods or raw materials or components used by the Supplier in the supply of the Services; or
- (c) the loss of, a change to or the imposition of, a new requirement for any licence or consent required by a party to perform the agreement or to commercially exploit the Services;

Business Day: a day other than a Saturday, Sunday or public holiday in England, when banks in London are open for business;

Charges: the charges payable by the Customer for the supply of the Services by the Supplier, as set out in the Service and Support Schedule;

Commercially Sensitive Information; information relating to either the business affairs, customers, clients, suppliers, plans, operations, processes, product information, know-how, technical information, trade secrets, whether or not such information is specifically identified as being commercially sensitive in nature, regardless of what medium such information is stored or maintained, which belongs to either the Customer or the Supplier, which if unnecessarily disclosed pursuant to this Contract would cause either the Customer or the Supplier significant commercial disadvantage or material financial loss;

Conditions: these terms and conditions set out in Clause 1 (Interpretation) to Clause 16 (inclusive);

Confidential Information: means all confidential information relating to the business affairs, customers, clients, suppliers, plans, operations, processes, product information, know-how, technical information, designs, trade secrets, whether or not such information is specifically identified and marked as being confidential in nature and whether or not such information is contained in any software or otherwise, which belongs to either the Customer or the Supplier;

Contract: the contract between the Customer and the Supplier for the supply of the Services in accordance with the Service and Support Schedule and these Conditions;

Customer Materials: all materials, equipment and tools, drawings, specifications and data supplied by the Customer to the Supplier;

Data Controller: has the meaning set out in article 4 (7) GDPR;

Data Processor: has the meaning set out in article 4 (8) GDPR;

Data Protection Legislation: means the Data Protection Act 1998, the Data Protection Directive (95/46/EC), the Telecommunications (Lawful Business Practice) (Interception of Communications) Regulations 2000 (SI 2000/2699), the Electronic Communications Data Protection Directive (2002/58/EC), the Privacy and Electronic Communications (EC Directive) Regulations 2003 (SI 2003/2426) and the General Data Protection Regulations (2016/679) (**GDPR**) as amended and enforced in the United Kingdom from time to time and including where applicable, the guidance and codes of practice issued by the office of the Information Commissioner;

Data Subject: an individual who is the subject of any Personal Data exchanged between the Supplier and the Customer pursuant to this Contract;

Deliverables: all documents, products and materials developed by the Supplier or its agents, subcontractors and personnel as part of or in relation to the Services in any form, including without limitation computer programs, data, reports and specifications (including drafts) and the key deliverables set out in the Service and Support Schedule;

FOIA: the Freedom of Information Act 2000, together with any guidance or codes of practice issued by the Information Commissioner or relevant government department in relation to such legislation;

Force Majeure Event; has the meaning given in clause 9.4;

Intellectual Property Rights: patents, rights to inventions, copyright, trademarks and service marks, business names and domain names, goodwill and the right to sue for passing off, rights in designs, rights in computer software, database rights, rights to use and protect Confidential Information and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions thereof, and the rights to claim priority over all similar or equivalent rights which subsist or may subsist now or in the future in any part of the world;

Personal Data: has the meaning set out in article 4 (1) GDPR;

Renewal Period: means either (i) the period of time starting on the day after the expiry of the Term or (ii) the period of time starting on the day after the expiry of any previous periods, which runs for the duration more particularly set out in the Service and Support Schedule;

Request For Information; means a request for information or an apparent request under any relevant code of practice on accessing Government information or under the FOIA;

Service and Support Schedule; means the schedule attached to these Conditions which includes (but is not limited to) details of which Services are to be provided by

the Supplier to the Customer, the Charges for such Services and details of any agreed service levels and call-out response times;

Services: the services, including without limitation any Deliverables, to be provided by the Supplier pursuant to the Contract, as set out in the Service and Support Schedule;

Services Start Date: means the earlier of;

- (a) the date when the Supplier begins to supply the Services pursuant to clause 2.1; or
- (b) the date when the Contract has been signed by both the Customer or the Supplier (regardless of whether the Services are being supplied); or
- (c) the day when a Renewal Period begins under clauses 2.2 of these Conditions; or
- (d) any specific date as may be set out in the Service and Support Schedule;

Supplier IPRs: all Intellectual Property Rights subsisting in the Deliverables excluding any Customer Materials incorporated into them; and

Term: means the period of time running from the Services Start Date more particularly set out in the Service and Support Schedule, subject to the terms of clause 2.

1.2 A reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time. A reference to a statute or statutory provision includes any subordinate legislation made from time to time under that statute or statutory provision.

1.3 Any words following the terms; including, include, in particular, for example or any other similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.

1.4 A reference to **writing** or **written** includes fax and email.

2. COMMENCEMENT AND TERM

2.1 The Contract shall commence on the Services Start Date and shall, unless terminated earlier in accordance with these Conditions, run for the Term. Upon expiry of the Term the Contract will automatically renew for the Renewal Period and will continue to renew for additional Renewal Periods thereafter, with each subsequent Renewal Period beginning on the expiry of any preceding Renewal Period, subject always to clause 2.2.

2.2 If either party wish to terminate the Contract;

- 2.2.1 at the end of the Term; or
- 2.2.2 at the end of any Renewal Period,

they must serve not less than 90 days' written notice on the other party expiring no later than the end of the Term (or relevant Renewal Period) stating their intention to terminate the Contract (**Termination Notice**). Subject to these Conditions, the Contract will then terminate at the end of the Term or upon the end of the first Renewal Period which falls after the Termination Notice has been effectively served by the other party.

2.3 If a Termination Notice is not served by either party

pursuant to clause 2.2, then immediately upon expiry of the Term (or relevant Renewal Period) the Contract shall automatically renew for a subsequent Renewal Period.

SUPPLY OF SERVICES

The Supplier shall supply or continue to supply (as the case may be) the Services to the Customer from the Services Start Date in accordance with the Contract.

3.2 In supplying the Services, the Supplier shall use their reasonable endeavours to;

- 3.2.1 perform the Services with reasonable care and skill in accordance with the Service and Support Schedule;
- 3.2.2 ensure that the Deliverables, and all goods, materials, standards and techniques used in providing the Services are of satisfactory quality and are fit for purpose;
- 3.2.3 ensure that the supply of the Services complies with all applicable laws, statutes, regulations from time to time in force provided that the Supplier shall not be liable under the Contract if, as a result of such compliance, it is in breach of any of its obligations under the Contract (including these Conditions); and
- 3.2.4 observe all reasonable health and safety rules and regulations and security requirements that apply at any of the Customer's premises and have been communicated to the Supplier, provided that the Supplier shall not be liable under the Contract if, as a result of such observation, it is in breach of any of its obligations under the Contract (including these Conditions).

3.3 Unless expressly agreed otherwise in writing;

- 3.3.1 time shall not be of the essence as regards the delivery of the Services by the Supplier, pursuant to the Service and Support Schedule;
- 3.3.2 any set times or delivery schedules contained in the Services and Support Schedule in respect of the delivery of the Services are to be treated only as estimates of when the Services will be provided; and
- 3.3.3 the Supplier need only use its' reasonable endeavours to provide the Services in accordance with set times or delivery schedules contained in the Service and Support Schedule.

CUSTOMER'S OBLIGATIONS

4.1 For so long as the Supplier is providing the Services to the Customer (whether under the Term or any Renewal Period) the Customer shall:

- 4.1.1 co-operate with the Supplier in all matters relating to the Services;
- 4.1.2 provide, for the Supplier, its agents, subcontractors, consultants and employees, in a timely manner and at no

charge, access to the Customer's premises, office accommodation, data and other facilities as reasonably required by the Supplier or any of them;

4.1.3 provide, in a timely manner, such information as the Supplier may reasonably require, and ensure that it is accurate and complete in all material respects;

4.1.4 ensure that the power supplied to any devices onsite is clean and supported by a UPS or other device;

4.1.5 only allow appropriately trained operators to use and manage any equipment previously provided by the Supplier;

4.1.6 back-up their critical computer programmes and software systems on a regular basis and if necessary, make such back-ups available to our employees who are delivering the Services to the Customer;

4.1.7 maintain copies of all system documentation including any technical drawings and make such materials available (upon reasonable request) to the employees of the Supplier who are delivering the Services to the Customer;

4.1.8 provide a safe working environment at the Customer's site for the employees, agents and/or sub-contractors who attend the Customer's site to carry out the Services;

4.1.9 not and shall procure that no other members of the group of companies of which the Customer is a part, shall deny or impede any attempted or actual physical access to the premises carried out by the Supplier's employees, authorised sub-contractors or consultants, without first providing (i) not less than twenty-eight (28) days advance written notice to the Supplier and (ii) a written explanation for the reasons behind the relevant denial of access; and

4.1.10 shall comply with any other reasonable request made by the Supplier in writing so as to enable the Supplier to satisfy its' obligations under the Contract.

4.2 If the Supplier's performance of its obligations under the Contract is prevented or delayed by any act or omission of the Customer, its agents, subcontractors, consultants or employees (whether or not such act or omission amounts to a breach of clause 4.1 above), the Supplier shall:

4.2.1 not be liable for any costs, charges or losses or damages of any kind, sustained or incurred by the Customer that arise directly or indirectly from such prevention or delay;

4.2.2 be entitled to payment of the Charges despite any such prevention or delay; and

4.2.3 be entitled to recover from the Customer, any additional costs, charges or losses the Supplier sustains or reasonably incurs that arise directly or indirectly from such

prevention or delay.

INTELLECTUAL PROPERTY

5.1 The Supplier and its licensors shall retain ownership of all Supplier IPRs. The Customer and its licensors shall retain ownership of all Intellectual Property Rights in the Customer Materials.

5.2 The Supplier grants the Customer, or shall procure the direct grant to the Customer of, a fully paid-up, worldwide, non-exclusive, royalty-free, licence to use the Supplier IPRs for the purpose of receiving and using the Services and the Deliverables in the Customer's business during the term of the Contract.

5.3 The Customer grants the Supplier a fully paid-up, worldwide, non-exclusive, royalty-free, non-transferable licence to copy and modify the Customer Materials for the term of the Contract for the purpose of providing the Services to the Customer in accordance with the Contract.

5.4 The Supplier shall indemnify the Customer in full against any sums awarded by a court against the Customer arising out of or in connection with any claim successfully brought against the Customer for infringement of a third party's rights (including any Intellectual Property Rights) arising out of or in connection with the receipt or use of the Services by the Customer.

5.5 The Customer shall indemnify the Supplier in full against any costs, damages or expenses or sums incurred by the Supplier arising of or in connection with any claim brought or threatened against the Supplier for infringement of a third party's rights (including any Intellectual Property Rights) arising out of, or in connection with, the receipt or use of the Customer Materials by the Supplier.

CHARGES AND PAYMENT

6.1 In consideration for the provision of the Services, the Customer shall pay the Supplier the Charges in accordance with this Clause 6.

6.2 All amounts payable by the Customer exclude amounts in respect of value added tax (VAT), which the Customer shall additionally be liable to pay to the Supplier at the prevailing rate (if applicable), subject to receipt of a valid VAT invoice.

6.3 The Supplier shall submit invoices for the Charges plus VAT if applicable to the Customer in accordance with any payment plan that may be contained in the Services and Support Schedule.

6.4 If no such payment plan (referred to in clause 6.3) is not contained in the Services and Support Schedule, the Supplier shall submit invoices for the Charges (plus VAT thereon) monthly in arrears. Each invoice shall include all reasonable supporting information required by the Customer.

6.5 The Customer shall pay each invoice due and submitted to it by the Supplier, within 30 days of receipt, to a bank account nominated in writing by the Supplier.

6.6 If the Customer fails to make any payment due to the Supplier by the due date for payment, then, without limiting the Supplier's remedies under Clause 8 (Termination):

6.6.1 the Supplier is entitled to charge the Customer interest on the overdue Charges, running from the due date until payment of the overdue Charges, whether before or

- after judgment. Interest under this clause will accrue each day at a rate of 4% per annum, above the Bank of England's base rate from time to time, but at a minimum of 4% a year for any period when that base rate is below 0%; and
- 6.6.2 the Supplier may at its' discretion (and without incurring any liability under these Conditions) suspend any part of the Services until payment has been made in full.
- 6.7 All amounts due under the Contract from the Customer to the Supplier shall be paid by in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law).
- 6.8 The Supplier shall be entitled to charge the Customer for any additional expenses reasonably incurred by the individuals and / or engineers to whom the Supplier entrusts with the completion of the Services, which arise outside the scope of any agreed Charges. Such expenses will include (but are not limited to) travelling expenses, hotel costs, subsistence and any other associated expenses with the provision of the Services to the Customer.
- 6.9 The Supplier reserves the right to;
- 6.9.1 increase the Charges for the Services on an annual basis with effect from each anniversary of the Services Start Date in line with the average percentage increase in either (i) the Retail Prices Index or the Consumer Price Index published in the preceding twelve (12) month period or (ii) the latest official average rate of inflation as published by the Office of National Statistics with the first such increase taking effect on the first anniversary of the Services Start Date and shall be based on the latest available figure for the percentage increase in the relevant indexation figure which is chosen by the Supplier as the basis for an increase in the Charges pursuant to this clause 6.9.1;
- 6.9.2 increase the Charges for the Services for any subsequent Renewal Periods that arise after the Term has expired, regardless of any clause to the contrary in this clause 6;
- 6.9.3 increase the Charges for the Services if any number of the assumptions in clause 6.10 are incorrect (as the case may be);
- 6.9.4 increase the Charges for the Services by giving notice to the Customer at any time (during either the Term or any Renewal Period) before delivery or deemed delivery or continued delivery of the Services, to reflect any increase in the cost of delivering the Services incurred by the Supplier that is due to;
- 6.9.4.1 any external factor beyond the reasonable control of the Supplier;
- 6.9.4.2 any request made by the Customer to change the delivery dates, of the Services previously ordered by the Customer;
- 6.9.4.3 any delay caused by any new instructions of the Customer in relation to the Services or caused by any failure of the Customer to give the Supplier adequate information or instructions relating to the Services; or a Brexit Trigger Event which has an Adverse Impact upon the Supplier.
- 6.9.4.4
- 6.10 In calculating the price for the Services (as the case may be) the Supplier has made the following assumptions;
- 6.10.1 that the Services will be carried out at either the Customer's premises or premises under the control or responsibility of the customer during normal working hours or out of normal working hours pursuant to the work schedule and that a continuity of work schedule is assured;
- 6.10.2 that the Supplier will be advised prior to performing any of the Services (either under the Term or any subsequent Renewal Period) by the Customer of any restrictions or conditions which may adversely affect access or cause additional labour time or unusual hours of work to be incurred;
- 6.10.3 that all necessary civil works at the Customer's premises necessary to enable the Supplier to provide the Services will be undertaken by others;
- 6.10.4 that all appropriate supplies of electricity necessary to enable the Supplier to provide the Services will be made available; and
- 6.10.5 that there are no hidden or unusual circumstances which may affect the provision of the Services which were not previously notified to the Supplier prior to the acceptance of any Order.
- 7. LIMITATION OF LIABILITY**
- 7.1 Nothing in the Contract shall limit or exclude the liability of either party liability for:
- 7.1.1 death or personal injury caused by the respective party's negligence, or the negligence of its personnel, agents or subcontractors;
- 7.1.2 fraud or fraudulent misrepresentation;
- 7.1.3 breach of the terms implied by section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession); or
- 7.1.4 any other liability which cannot be limited or excluded by applicable law.
- 7.2 Subject to Clause 7.1, the Supplier shall not be liable to the Customer whether in contract, tort (including negligence), for breach of statutory duty, or otherwise, howsoever caused and arising under or in connection with the Contract for:
- 7.2.1 direct losses suffered by the Customer which includes (but is not limited to);

	7.2.1.1	loss of profits;			
	7.2.1.2	loss of agreements or contracts;			
	7.2.1.3	pure economic loss;			
	7.2.1.4	loss of or damage to goodwill;			
	7.2.1.5	loss of use or corruption of any software data or Confidential Information; and / or			solvent restructuring), being wound up (whether voluntarily or by order of the court, unless for the purposes of a solvent restructuring), having a receiver appointed to any of its assets or ceasing to carry on business or, if the other party takes any steps or action in another jurisdiction, in connection with any analogous procedures in the relevant jurisdiction;
	7.2.2	any indirect or consequential losses suffered by the Customer.		8.1.3	the other party suspends or threatens to suspend or ceases or threatens to cease to carry on all or a substantial part of its business;
7.3		Subject to clause 7.1 the Supplier's total liability to the Customer in contract, tort (including negligence or breach of statutory duty), misrepresentation or otherwise, arising in connection with the performance of the Contract shall be limited to an amount equal to the Charges payable by the Customer for the Services pursuant to this Contract, payable during either (i) the Term or (ii) the relevant Renewal Period in which the Customer incurs the liability.		8.1.4	one party reasonably anticipates that any one of the above set of circumstances is about to occur in respect of the other party; or
7.4		The conditions implied by sections 3, 4 and 5 of the Supply of Goods and Services Act 1982 are, to the fullest extent permitted by law, excluded from this Contract.		8.1.5	one party fails to pay any amount due under the Contract on the due date for payment.
7.5		Subject to clause 7.1 and 7.3 the Supplier shall not be liable to the Customer whether in contract, tort (including negligence) for breach of any statutory duty or otherwise, howsoever caused and arising under or in connection with the Contract for any 'direct losses' (as the same is set out in clause 7.2.1 above) or any indirect or consequential losses suffered by the Customer, which arise from the Supplier performing (or not performing, as the case may be) any servicing or planned preventative maintenance work of any kind on any plant or equipment which has been marked by the manufacturer as 'end-of-life', 'obsolete' (or other similar designation that shows support for the relevant plant or equipment is no longer commercially available) or is no longer covered by any specific warranty or guarantee (whether offered by the manufacturer or the Supplier).	8.2		Notwithstanding any other provision in this clause 8 if the Customer does not accept a variation to the Price under clause 6.9.4.4 the Supplier may, without affecting any other right or remedy available to it, terminate this Contract by giving the Customer not less than 20 Business Days' notice subject to clause 8.3.
			8.3		On termination of the Contract;
				8.3.1	the Customer shall immediately pay all of the Supplier's outstanding unpaid invoices (and interest accrued thereon). In respect of any Services supplied but for which no invoice has been submitted, the Supplier shall submit an invoice, which shall be payable by the Customer immediately on receipt; and
				8.3.2	the Customer shall return all of the Supplier's materials or Deliverables or any goods or equipment which has not been fully paid for.
7.6		Notwithstanding clause 7.1 the Customer shall indemnify the Supplier against all actions, proceedings, costs, losses, claims or demands in any way connected with the Contract that are brought against, threatened to be brought against or incurred or suffered by the Supplier under any of these Conditions, save where the Supplier is solely responsible for such action, proceedings, costs, losses, claims or demands brought against, threatened to be brought against or incurred or suffered by the Supplier.	8.4		If the Customer fails to comply with clause 8.3 the Supplier may enter the Customer's premises and take possession of any goods or equipment which have been delivered to the Customer as part of the Services but which have not been paid for.
7.7		Nothing in this Contract shall be taken to restrict or limit a party's duty to mitigate any losses they may suffer as a result of a breach of this Contract by the other party.	8.5		Termination of the Contract shall not affect the rights, remedies, obligations and liabilities of the parties that have accrued up to the date of termination, including any right to claim damages in respect of any breach of the Contract which existed at or before the date of termination.
8.		TERMINATION			
8.1		Without affecting any other right or remedy available to it, either party may terminate the Contract with immediate effect if;	8.6		Any provision of the Contract whose intention is to have effect after termination (or expiry) shall continue in full force and effect.
	8.1.1	the other party commits a material breach of its obligations under the Contract and (providing that such breach is capable of remedy) fails to remedy that breach within ten (10) Business Days after receipt of a notice in writing from the injured party requesting them to do so;	9.		FORCE MAJEURE
	8.1.2	the other party takes any step or action in connection with its entering administration, provisional liquidation or other arrangement with its creditors (other than in relation to a	9.1		The Supplier shall not be in breach of this Contract nor shall they be liable to the Customer in any manner because of any failure to perform or any delay in performing their obligations under the Contract if the delay or failure was due to any Force Majeure Event which either prevents or significantly delays the Supplier from performing their obligations in this Contract.

- 9.2 If the circumstances set out in clause 9.1 arise, the Supplier shall be entitled to a reasonable extension of the time for performing their obligations contained herein. 10.5 pursuant to clause 10.6 below.
- 9.3 If the period of delay or non-performance continues for six (6) consecutive weeks either party may terminate this Contract by serving not less than ten (10) Business Days advance written notice on the other. Termination by either party under this clause 9.3 is made without prejudice to the rights or remedies available that have accrued up to the point of termination. 10.6 Each party acknowledges that in entering the Contract it has not relied on and shall have no remedies in respect of any statement, representation, assurance or warranty that is not set out in the Contract. Neither party shall have any claim for innocent or negligent misrepresentation based on any statement in the Contract.
- 9.4 Without prejudice to the generality of clause 9.1 any one or more of the following shall be regarded as a '**Force Majeure Event**'; 10.7 A variation to any part of this Contract or the provision of the Services provided hereunder shall have no effect unless expressly agreed in writing and signed by the Supplier.
- 9.4.1 government actions, war or threat of war, national emergency, riot, civil disturbance, acts of domestic or international terrorism, sabotage or requisition: 10.8 Failure by the Supplier to enforce or partially enforce any provision of the Contract will not be construed as a waiver of any of its rights under the Contract.
- 9.4.2 a cyber-attack (including but not limited to virus attacks or deliberate use of any form of malware, ransomware, phishing, spyware, 'Trojan Horse' viruses or any form of 'distributed-denial-of-service' attacks) perpetrated by a third party upon either the computer systems of either Supplier or the Customer; 10.9 A waiver by the Supplier of any breach of the Contract by the Customer will not be construed as a waiver of any subsequent breach of the same or any other provision.
- 9.4.3 an act of God fire, explosion, flood or epidemic; 10.9 The Supplier may assign, licence or sub-contact all or any part of its rights or obligations under the Contract without the Customer's consent.
- 9.4.4 any import or export regulations (including embargoes) relating to any goods or equipment required to for the delivery of the Services; 10.10 The Contract is personal to the Customer who may not assign, licence or sub-contact all or any of its rights or obligations under the Contract without the Supplier's prior written consent.
- 9.4.5 labour disputes including disputes involving the Supplier's workforce; or 10.11 The Supplier and the Customer do not intend that any of the terms of the Contract will be enforceable by virtue of the Contracts (rights of Third Parties) Act 1999 by any person not a party to it.
- 9.4.6 the inability to obtain or a delay in obtaining, supplies of adequate or suitable materials, fuel, parts, machinery or labour necessary for the Supplier to perform its obligations under this Contract. 10.12 Each party undertakes that it shall not at any time during the Contract and for a period of five years after termination of the Contract, disclose to any person any Confidential Information belonging to the other party, except as permitted by this Contract.
- 9.5 Nothing in this clause 9 shall be deemed to reduce or prevent the Supplier or the Customer from using their reasonable endeavours to re-commence performing their obligations, notwithstanding the existence of any ongoing Force Majeure Event, so long as it remains safe to do so. 10.13 Notwithstanding clause 10.11 above, each party may disclose the other party's Confidential Information as follows;
10. GENERAL 10.13.1 to its employees, officers, representatives or advisors who need to know such information in order to carry out their obligations under the Contract (provided that such recipients of the Confidential Information agree to the terms of a confidentiality obligation in respect of the Confidential Information that is at least equal to that set out in clause 10.11);
- 10.1 Each right of remedy of the Supplier under the Contract is reserved without prejudice to any other right of remedy the Supplier may have (whether under the Contract or not). 10.13.2 as may be required by law, by order of a court of competent jurisdiction or any governmental or regulatory body; and
- 10.2 If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the extent necessary to make it valid, legal and enforceable. If such modification is not possible the relevant provision or part provision shall be deemed deleted and such deletion shall not affect the enforceability of the rest of the Contract. 10.13.3 to the extent that either the Customer or the Supplier expressly allows (in writing) the other party (**Discloser**) to disclose such Confidential Information pursuant to a contractual obligation, providing always that such disclosure contains only the minimum amount of Confidential Information required to satisfy the relevant obligation imposed upon the Discloser.
- 10.3 The Contract constitutes the entire agreement between the Supplier and the Customer and supersedes and extinguishes all previous agreements, promises, warranties, representations and understandings between them, whether written or oral, relating to its subject matter. 10.14 Neither party shall use the Confidential Information for anything other than for the performance of their respective obligations under this Contract (and any associated document).
- 10.4 These Conditions will continue to apply during any Renewal Period(s), subject to any variations made

- 10.15 Unless expressly agreed otherwise between the parties, in respect of the Customer's obligations in this Contract, time shall be of the essence.
- 11. NOTICES**
- 11.1 All notices and demands to be served on either the Customer or the Supplier under the Contract must be in writing and delivered by hand or sent by pre-paid first class post or by other next working day delivery service to;
- 11.1.1 the registered office or principal place of business of either the Customer or the Supplier;
- 11.1.2 to any address of either the Customer or the Supplier which is set out in any document that forms part of the Contract (including the Service and Support Schedule); or
- 11.1.3 such other address as may be notified by one party to another from time to time.
- 11.2 Notices and demands shall be deemed to have been received;
- 11.2.1 if sent by pre-paid first class post or by other next working day delivery service, two Business Days after posting (exclusive of the day of posting);
- 11.2.2 if delivered by hand, on the day of delivery; or
- 11.2.3 if delivered by e-mail on 09:00am on the next Business Day.
- 11.3 Notices and demands addressed to the Supplier shall be marked for the attention of a company director.
- 11.4 This clause does not apply to the service of any proceedings or other documents in any legal action or where applicable, any other method of dispute resolution.
- 12. ETHICAL COMPLIANCE**
- 12.1 In performing their obligations under this Contract the Supplier and the Customer shall;
- 12.1.1 comply with all applicable anti-slavery and human trafficking laws, statutes, regulations from time to time in force including the Modern Slavery Act 2015;
- 12.1.2 comply with the Anti-Slavery Policy;
- 12.1.3 not engage in any activity or conduct that would constitute an offence under sections 1, 2 or 4 of the Modern Slavery Act 2015, if such activity, practice or conduct were carried out in the United Kingdom;
- 12.1.4 not employ, have not employed and will not employ or use in anyway an individual who is under the age of sixteen (16) years of age (**Child**), regardless of whether any national or local laws to which the Supplier may also be subject, define a child as being younger than sixteen (16) years of age; and
- 12.1.5 include, when appropriate and where required by the Modern Slavery Act 2015, in its contracts with subcontractors and suppliers, suitable anti-slavery and human trafficking provisions that are at least as onerous as those set out in this clause 12.
- 12.2 The Supplier and the Customer each represent and warrant to the other that at the date of this Contract:
- 12.2.1 neither they nor any of their officers, employees or other persons associated with them have been convicted of any offence involving slavery and human trafficking; and
- 12.2.2 having made reasonable enquiries, so far as they are aware have been or are the subject of any investigation or other enforcement proceedings by any governmental or other regulatory body regarding any offence arising in connection with slavery and human trafficking.
- 12.3 The Supplier shall implement reasonable procedures and protocols to ensure that there is no slavery or human trafficking in its' supply chains.
- 12.4 Either party shall notify the other as soon as it becomes aware of any actual or suspected breach of clause 12.1 above or any actual or suspected slavery or human trafficking in another supply chain that is connected (directly or indirectly) to this Contract.
- 12.5 For each 12 month period that this Contract has been in force (from the Services Start Date) each of the Supplier and the Customer shall prepare and deliver an annual slavery and human trafficking report setting out the steps it has taken to ensure that slavery and human trafficking is not taking place in its' supply chains or within any part of its' business or operations.
- 12.6 Each of the Supplier and Customer shall;
- 12.6.1 maintain records to trace, as far as is reasonably possible, the supply of Services provided under this Contract;
- 12.6.2 permit each other upon receipt of an advance written notice to have access to and take copies of any records maintained pursuant to this clause 12; and
- 12.6.3 implement annual audits of their subcontractors' and suppliers' compliance with the Anti-Slavery Policy for each complete 12 month period running from the Services Start Date.
- 12.7 The Supplier hereby agrees to indemnify the Customer against any losses, liabilities, damages or costs (including reasonable legal fees) and expenses incurred by (or awarded against) the Customer as a result of any breach of this clause 12 by the Supplier.
- 12.8 The Customer hereby agrees to indemnify the Supplier against any losses, liabilities, damages or costs (including reasonable legal fees) and expenses incurred by (or awarded against) the Supplier as a result of any breach of this clause 12 by the Customer.
- 12.9 Notwithstanding any other clause in this Contract, either party may terminate the Contract with immediate effect by giving written notice to the other party, if the other party commits a breach of clause 12.1.
- 12.10 Each of the Supplier and the Customer shall use their reasonable endeavours to procure that any companies in a group of which they are also a member, will comply with the terms and spirit of this clause 12.

<p>13. ANTI BRIBERY</p> <p>13.1 Each of the Supplier and the Customer shall;</p> <p>13.1.1 comply with all applicable laws, regulations, codes and sanctions relating to anti-bribery and anti-corruption including the Bribery Act 2010;</p> <p>13.1.2 not engage in any activity, practice or conduct which would constitute an offence under sections 1, 2 or 6 of the Bribery Act 2010 if such activity, practice or conduct had been carried out in the United Kingdom;</p> <p>13.1.3 have and shall maintain in place throughout the term of the Contract its own policies and procedures, including adequate procedures under the Bribery Act 2010, to ensure compliance with the Relevant Requirements and will enforce them where appropriate;</p> <p>13.1.4 promptly report to the other, any request or demand for any undue financial or other advantage of any kind received in connection with the performance of this Contract;</p> <p>13.1.5 immediately notify the other party (in writing) if a foreign public official becomes an officer or employee of the Supplier or the Customer and acquires a direct or indirect interest in either the Supplier or the Customer (and each of the Supplier and the Customer warrant that they have no foreign public officials as officers or employees or as direct or indirect owners at the date of this Contract); and</p> <p>13.1.6 within two (2) months of the date of this Contract and annually thereafter, certify to the other party in writing signed that they have complied with this clause 13. Each party shall provide such supporting evidence of compliance with this clause 13 to the other, as they may reasonably request.</p> <p>13.2 The Supplier shall use their reasonable endeavours to ensure that any person who is performing services or providing goods in connection with this Contract does so only on the basis of a written contract which imposes on and secures from such person terms equivalent to those imposed on the Supplier in this clause 13.</p> <p>13.3 Breach of this clause 13 shall be deemed a material breach which is irremediable under clause 8.</p> <p>13.4 For the purpose of this clause 13, the meanings of 'adequate procedures' and 'foreign public official' shall be determined in accordance with section 7(2) of the Bribery Act 2010 (and any guidance issued under section 9 of that Act), sections 6(5) and 6(6) of that Act and section 8 of that Act respectively. For the purposes of this clause 13 a person associated with the Supplier includes any subcontractor of the Supplier.</p> <p>13.5 Each of the Supplier and the Customer shall use their reasonable endeavours to procure that any companies in a Group, of which they are also a member, will comply with the terms and spirit of this clause 13.</p>	<p>14. ANTI FACILITATION OF TAX EVASION</p> <p>14.1 Each of the Supplier and the Customer shall and shall procure that any companies in a group of which they are a member, or any persons associated with them who are performing any services on their behalf under this Contract will;</p> <p>14.1.1 not engage in any activity, practice or conduct which would constitute;</p> <p>14.1.1.1 a tax evasion offence under section 45 (1) Criminal Finances Act 2017; or</p> <p>14.1.1.2 a foreign tax evasion facilitation offence under section 46 (1) Criminal Finances Act 2017;</p> <p>14.1.2 not do, or omit to do any act that will cause or lead either the Supplier or the Customer to breach any part of the Criminal Finances Act 2017; and / or</p> <p>14.1.3 report any request from a third party to facilitate the evasion of tax in any jurisdiction within the meaning of Part 3 Criminal Finances Act 2017; and</p> <p>14.1.4 have and shall maintain throughout the term of this Contract, such policies and procedures as are reasonable to prevent the facilitation of tax evasion and to ensure compliance with this clause 14.</p> <p>14.2 Breach of this clause 14 shall be deemed a material breach under clause 8.1 of this Contract.</p> <p>15. FREEDOM OF INFORMATION</p> <p>15.1 This clause 15 shall only apply where the Customer is a public authority or body that is subject to the provisions of the FOIA.</p> <p>15.2 Where the Customer is subject to the requirements of the FOIA, the Supplier shall;</p> <p>15.2.1 provide all necessary assistance and cooperation reasonably required by the Customer to enable the Customer to comply with its obligations under the FOIA;</p> <p>15.2.2 transfer to the Customer any Request For Information relating to this Contract that will fall under the FOIA, as soon as is reasonably practicable for the Supplier to do so;</p> <p>15.2.3 provide the Customer with a copy of all information belonging to the Customer referred to in the Request For Information which is in its' possession or control in a form reasonable required by the Customer within 5 Business Days of the Customers' request for such information; and</p> <p>15.2.4 not respond directly to a Request For Information made pursuant to the FOIA unless authorised in writing to do so by the Customer.</p> <p>15.3 The Supplier acknowledges that the Customer may be required under the FOIA to disclose Information (including Commercially Sensitive Information) without consulting or obtaining consent from the Supplier. 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Customer shall take reasonable steps to notify the Supplier of a Request For Information (in accordance with the Secretary of State's section 45 Code of Practice on the Discharge of the Functions of Public Authorities under Part 1 of the FOIA) to the extent that it is permissible and reasonably practical for it to do so but (notwithstanding any other provision in this Contract) the Customer shall be responsible for determining in its absolute discretion whether any Commercially Sensitive Information and/or any other information is exempt from disclosure in accordance with the FOIA.

15.4 Unless the Customer is explicitly and directly required to disclose Commercially Sensitive Information belonging to the Supplier pursuant to the FOIA, the Customer will use their best endeavours to ensure that their response to a Request For Information does not include any Commercially Sensitive Information.

15.5 Notwithstanding any other term of this Contract, the Supplier consents to the publication of this Contract in its entirety (including variations), subject only to the redaction of information that is exempt from disclosure in accordance with the provisions of the FOIA.

15.6 The Customer shall, prior to publication, consult with the Supplier on the manner and format of publication and to inform its decision regarding any redactions. The Supplier shall assist and co-operate with the Authority to enable the Customer to publish this Contract if required, provided always that the reasonable costs incurred by the Supplier in complying with this clause 15, will be met by the Customer.

16. DATA PROTECTION

16.1 To the extent that either the Supplier or the Customer are processing Personal Data (**Data Processor**) belonging to the other (**Data Controller**), the Data Processor shall:

16.1.1 process the Personal Data only in accordance with any written instructions provided by the Data Controller;

16.1.2 implement appropriate technical, secure and organisational measures to protect the Personal Data against unauthorised or unlawful processing and against loss, destruction, damage, alteration or disclosure of the Personal Data (accidental or otherwise), having regard to the state of the art, the costs of implementing the protective measures, the nature, scope, context and purposes for which the Data Processor is to process the Personal Data, as well as having regard to;

16.1.2.1 the ability of the Data Processor to anonymise the Personal Data;

16.1.2.2 the ability to ensure the Personal Data's ongoing confidentiality and integrity;

16.1.2.3 the ability for the Data Processor to restore any Personal Data; and

16.1.2.4 the processes required to test and evaluate the effectiveness of these measures;

16.1.3 provide the Data Controller with all reasonable assistance and support that

allows the Data Controller to respond to and comply with, the terms of any information request sent from a Data Subject to a Data Controller in accordance with Chapter III GDPR;

16.1.4 assist the Data Controller in ensuring their compliance with any of the obligations contained in article 32 to 36 GDPR (as amended from time to time);

16.1.5 upon receipt of a written request from the Data Controller or following termination of this Contract, delete or return all copies of any Personal Data previously received pursuant to the terms of this Contract to the Data Controller, save where any Personal Data must be retained by the Data Processor in accordance with any law, rule, court order or other legal obligation or duty;

16.1.6 ensure that any employee, agent or authorised representative has agreed to comply with the terms of this clause 16 and are aware of the confidential nature of the Personal Data received from the Data Controller;

16.1.7 not cause or permit the Personal Data to be transferred to any territory outside of the European Union without first obtaining the express written permission of the Data Controller;

16.1.8 following receipt of a reasonable written request from the Data Controller, provide such information and evidence as may be reasonably required to show that the Data Processor is complying with its obligations under this clause 16 and any Data Protection Legislation;

16.1.9 as soon as reasonably practicable, notify the Data Controller in writing (by providing sufficient details) of;

16.1.9.1 any breach of the security measures required to be put in place to protect any Personal Data;

16.1.9.2 any loss or potential loss of any Personal Data, arising from any breach of the security measures in place that are to protect the Personal Data;

16.1.10 ensure it does not knowingly or negligently do or omit to do anything which places the Data Controller in breach of its' obligations under the Data Protection Legislation;

16.1.11 ensure that any third party (whether individual or body corporate) or sub-contractor that will process any piece of Personal Data previously supplied by the Data Controller to the Data Processor will;

16.1.11.1 comply with the terms of this clause 16; and

16.1.11.2 implement its own appropriate contractual, technical and organisational security measures so that the

processing of any Personal Data performed by a third party will comply with all Data Protection Laws;

16.1.12 in the event that any complaint is made by a Data Subject regarding the Data Controller's handling of that subject's Personal Data;

16.1.12.1 provide the Data Controller with full details of the complaint;

16.1.12.2 comply with any data access requests in accordance with the Data Protection Legislation, to the extent that it is able to; and

16.1.12.3 provide the Data Controller with any information requested by the Council;

16.1.13 permit the Data Controller to inspect and audit the Supplier's data processing activities (and/or those of its agents, subsidiaries and Sub-contractors) and comply with all reasonable requests or directions by the Data Controller to enable them to verify and/or procure that Data Processor is in full compliance with its obligations under this Contract; and

16.1.14 upon request, provide a written description of the technical and organisational methods employed by Data Processor for processing Personal Data.

16.2 Each of the Supplier and the Customer agreed to indemnify and keep indemnified and defend at its own expense the other party against all costs, claims, damages or expenses incurred by the other party or for which the other party may become liable due to any failure by the first party or its employees or agents to comply with any of its obligations under this clause 16, providing that the liability of either party under this clause 16 shall be subject to the limitations in clause 7.

16.3 The authority for any third party to process any Personal Data belonging to the Data Controller on behalf of the Data Processor shall terminate automatically when this Contract terminates.

17. GOVERNING LAW

The Contract, and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation, shall be governed by, and construed in accordance with the law of England and Wales.

18. JURISDICTION

Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with the Contract or its subject matter or formation.



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