

Terms and Conditions governing the provision of Services by Arceptive Limited

These terms and conditions ("**Terms**") govern the provision of services by **Arceptive Limited**, a company incorporated in Scotland under number SC646665 whose registered office is at 272 Bath Street, Glasgow, Scotland, G2 4JR (the "**Supplier**").

1 Definitions and interpretation

1.1 In these Terms:

"**Affiliate**" means any entity that directly or indirectly Controls, is Controlled by, or is under common Control with, another entity;

"**Background IP**" means all Intellectual Property Rights owned by or licensed to the Supplier prior to the Commencement Date or created outside the scope of the Contract;

"**Bribery Laws**" means the Bribery Act 2010 and all other applicable United Kingdom laws, legislation, statutory instruments and regulations in relation to bribery or corruption;

"**Business Day**" means a day other than a Saturday, Sunday or bank or public holiday in Scotland;

"**Commencement Date**" means the date the Services shall begin as set out in the Proposal or such other date as the Parties may agree in writing;

"**Completion**" has the meaning given in clause 4.4 and "**Complete**", "**Completed**" and similar expressions shall be construed accordingly;

"**Completion Note**" has the meaning given in clause 4.2;

"**Confidential Information**" has the meaning given to it in clause 13.1;

"**Contract**" means the agreement between the Supplier and the Customer for the supply and purchase of Services incorporating these Terms and the Proposal;

"**Control**" means the beneficial ownership of more than 50% of the issued share capital of a company or the legal power to direct or cause the direction of the management of the company and "**Controls**", "**Controlled**" and "**under common Control**" shall be interpreted accordingly;

"**Customer**" means the person specified in the Proposal;

"**Customer Materials**" means any material owned by the Customer or its Affiliates relating to the Services (and any modifications to that material) including any Intellectual Property Rights owned by or licensed to the Customer by third parties;

"**Data Protection Laws**" means, as binding on either Party or the Services:

- (a) the GDPR;
- (b) the Data Protection Act 2018;
- (c) any laws which implement or supplement any such laws; and
- (d) any laws that replace, extend, re-enact, consolidate or amend any of the foregoing;

"**Deliverables**" means the deliverables ancillary to the supply of the Services, including without limitation designs, documentation, software applications, programs and any media on which the results of the Services are supplied;

"**Force Majeure Event**" means an event beyond the reasonable control of a Party preventing it from performing its obligations under the Contract including without limitation strikes, lock-outs, labour disputes, acts of God, natural disasters, war, riots, civil commotion, malicious damage, imposition of sanctions, embargo, law, governmental order, rule, regulation or direction, accident, fire, explosion, building collapse, flood, drought, storm, pandemic or epidemic, nuclear or chemical or biological contamination, terrorism;;

"**Foreground IP**" means all Intellectual Property Rights newly arising or created exclusively in connection with the Supplier's performance of the Services;

"**GDPR**" means the General Data Protection Regulation, Regulation (EU) 2016/679 as it forms part of domestic law in the United Kingdom by virtue of section 3 of the European Union (Withdrawal) Act 2018 (including as further amended or modified by the laws of the United Kingdom from time to time);

"**Good Industry Practice**" means the exercise of that degree of professionalism, skill, diligence, prudence and foresight which would reasonably and ordinarily be expected from a skilled and experienced person or company engaged in the same type of activity under the same or similar circumstances;

"**Intellectual Property Rights**" means copyright, rights related to copyright, patents, rights in inventions, rights in Confidential Information, know-how, trade secrets, trade marks, geographical indications, service marks, trade names, design rights, rights in get-up, database rights, databases, data exclusivity rights, approvals, domain names, business names, rights in computer software, the right to sue for infringement, unfair competition and passing off, and all similar rights of whatever nature and, in each case: (i) whether registered or not, (ii) including any applications to protect or register such rights, (iii) including all renewals and extensions of such rights or applications, (iv) whether vested, contingent or future and (v) wherever existing;

"**Law**" means:

- (a) any law, statute, regulation, by-law or subordinate legislation in force from time to time to which a Party is subject and/or in any jurisdiction that the Services are provided to or in respect of;
- (b) the common law and laws of equity as applicable to the Parties from time to time;
- (c) any binding court order, judgement or decree;
- (d) any applicable industry code, policy or standard; or

- (e) any applicable direction, policy, rule or order that is binding on a Party and that is made or given by any regulatory body having jurisdiction over a Party or any of that Party's assets, resources or business;
- "Libraries"** means the libraries of code and all Intellectual Property Rights therein developed and owned by the Supplier;
- "Milestone"** means an activity, process or outcome described in the Proposal relating to the Services;
- "Milestone Payment"** means the proportion of the Prices described in the Proposal as being payable by the Customer when the corresponding Milestones have been achieved by the Supplier;
- "Minor Bug"** has the meaning given in clause 5.3.1;
- "MSA Offence"** has the meaning given in clause 15.1.1.1;
- "Party"** means the Supplier or the Customer and Parties shall be interpreted accordingly;
- "Price"** means the price of any of the Services determined under clause 7;
- "Proposal"** means the proposal for the Services and Deliverables provided by the Supplier to the Customer specifying the nature and general scope of the Services to be provided;
- "Relevant Period"** means the Term;
- "Representatives"** has the meaning given to it in clause 13.2.1;
- "Restricted Period"** means the Term of the Contract and a period of 12 months after its Completion or termination.
- "Restricted Person"** means any Supplier Personnel who has or had at any time during the Relevant Period been engaged in the provision of the Services or who has or had material contact or dealings with the Customer;
- "Services"** means the services listed in the Proposal together with the Deliverables;
- "Specification"** means the description of the Services set out in the Proposal;
- "Supplier Personnel"** means all employees, officers, staff, other workers, agents and consultants of the Supplier, its Affiliates and any of their subcontractors who are engaged in the performance of the Services from time to time;
- "Term"** has the meaning given to it in clause 2;
- "VAT"** means value added tax, as defined by the Value Added Tax Act 1994; and
- "Warranty Period"** means the period during which performance of the Services in respect of the relevant Milestone takes place and the period of 10 Business Days after Completion of such Milestone.
- 1.2 In these Terms:
- 1.2.1 a reference to a Party includes that Party's personal representatives, successors and permitted assigns;
- 1.2.2 a reference to a 'person' includes a natural person, corporate or unincorporated body (in each case whether or not having separate legal personality) and that person's personal representatives, successors and permitted assigns;
- 1.2.3 words in the singular include the plural and vice versa;
- 1.2.4 any words that follow 'include', 'includes', 'including', 'in particular' or any similar words and expressions shall be construed as illustrative only and shall not limit the sense of any word, phrase, term, definition or description preceding those words;
- 1.2.5 any headings are included for convenience only and shall have no effect on the interpretation of these Terms; and
- 1.3 If the Proposal is inconsistent with any of these Terms, the provisions in the Proposal shall prevail only to the extent of the inconsistency.
- 2 Commencement and Term**
- The Services shall commence on the Commencement Date and shall continue until the Services have been completed (the **"Term"**).
- 3 Customer obligations**
- 3.1 The Supplier agrees to supply, and the Customer agrees to purchase, the Services on the terms and conditions set out in these Terms.
- 3.2 The Customer shall at all times and in all respects:
- 3.2.1 perform its obligations in accordance with these Terms;
- 3.2.2 pay the Price for the Services (including the Milestone Payments, where applicable) in accordance with the provisions of clause 8;
- 3.2.3 cooperate with the Supplier in all matters arising under the Contract or otherwise relating to the performance of the Services;
- 3.2.4 provide the Customer Materials, and all other information, documents, materials, data or other items necessary for the provision of the Services, to the Supplier in a timely manner;
- 3.2.5 provide such access to the Customer's computer and information systems as the Supplier reasonably requires to perform the Services;
- 3.2.6 provide feedback to the Supplier on the progress of the Services and Deliverables in a timely manner;

- 3.2.7 inform the Supplier in a timely manner of any matters (including any technical or organisational security requirements) which may affect the provision of the Services;
- 3.2.8 ensure that all tools, equipment, materials or other items provided to the Supplier for the provision of the Services are suitable for the performance of the Services, in good condition and in good working order; and
- 3.2.9 obtain and maintain all necessary licences, permits and consents required to enable the Supplier to perform the Services and otherwise comply with its obligations under the Contract.

4 Performance of the services

- 4.1 The Supplier shall provide the Services subject to and in accordance with these Terms.
- 4.2 Following Completion of the Services or achievement of a Milestone, the Supplier shall provide written confirmation to the Customer stating:
 - 4.2.1 the categories, type and quantity of Services supplied; and
 - 4.2.2 the Price payable in respect of such Services or Milestone,
 (the "**Completion Note**").
- 4.3 The Supplier shall use reasonable endeavours to accommodate requested changes to the scope of the Services and/or the Deliverables as may be requested by the Customer, subject to the parties agreeing to the relevant changes and any variation to the Price required as a result of such changes. Any changes to the Services and/or Deliverables shall only be effective if recorded in writing and signed by an authorised representative of each party, only at which point it shall be binding on the parties.
- 4.4 The Services or the relevant Milestone (as applicable) shall be deemed to have been completed in full and in accordance with the terms of the Contract ("**Completion**") upon delivery of the Completion Note.
- 4.5 Time of performance shall not be of the essence. The Supplier shall use its reasonable endeavours to perform the Services in accordance with any commencement or end dates specified for performance. Any Services which do not have specified commencement or end dates shall be performed by the Supplier within a reasonable period of time.
- 4.6 In the event that the Supplier requests additional information or feedback on the Services from the Customer, the Customer shall respond to all such requests within a reasonable timescale, and in any event within 10 Business Days of the Supplier's request. All Customer responses shall be sufficiently accurate and detailed to enable the performance of the Services.
- 4.7 The Supplier shall not be liable for any delay or failure in Completion caused by:

- 4.7.1 the Customer's failure to provide the Supplier with adequate instructions for performance of the Services;
- 4.7.2 the Customer's failure to comply with the provisions of clause 3.2;
- 4.7.3 the Customer's failure to supply the Customer Materials required for the performance of the Services in a timely manner;
- 4.7.4 the Customer's failure to provide accurate and detailed information to Supplier requests within the timescales provided for in clause 4.6;
- 4.7.5 any delay or failure on the Customer's part to notify the Supplier of any error in the Services or Deliverables;
- 4.7.6 any fault or defect in the Customer's IT environment to the extent that the same prevents the performance of the Services or the Customer's use of the Deliverables;
- 4.7.7 Force Majeure.

5 Warranty

- 5.1 The Customer warrants that:
 - 5.1.1 it has the right, power and authority to enter into the Contract and grant to the Supplier the rights (if any) contemplated in the Contract; and
 - 5.1.2 the Customer Materials and all other information, documents, materials, data or other items provided by the Customer pursuant to the Contract do not infringe the Intellectual Property Rights of any third party.
- 5.2 The Supplier warrants that the Services and provision of any Deliverables shall be undertaken and performed in accordance with Good Industry Practice.
- 5.3 Subject to the provisions of clause 5.4, during the Warranty Period for the Services provided during achievement of the relevant Milestone the Supplier shall, at its option, remedy or re-perform any Services or Deliverables at no additional cost to the Customer in respect of the following defects:
 - 5.3.1 rectifying bugs or defects which result in unexpected or undesired behaviour but do not disrupt core functionality in any software provided as part of the Services (each a "**Minor Bug**");
 - 5.3.2 rectifying Minor Bugs in software which causes compatibility issues between software produced and the Customer's approved hardware and/or software infrastructure as per the Proposal;
 - 5.3.3 adjusting standard settings and configurations for compatibility with the Customer's approved IT infrastructure as per the Proposal;

- provided that the Customer serves a written notice on the Supplier identifying in sufficient detail the nature and extent of the bugs or defects within the Warranty Period. Any failure by the Customer to notify the Supplier of the same within the Warranty Period shall be deemed the Customer's acceptance of the Services and Deliverables. Any additional work subsequently requested or required to remedy defects which are not provided for under clause 5.2 shall be subject to additional fees for the work undertaken.
- 5.4 The Supplier shall not be liable for any failure of the Services or the Deliverables to comply with the provisions of clause 5.2 where the same arises directly or indirectly and whether in whole or in part as a result of:
- 5.4.1 a breach by the Customer of any of its obligations under the Contract;
- 5.4.2 an event of Force Majeure;
- 5.4.3 any design, specification or requirement of the Customer; or
- 5.4.4 use of the Customer Materials.
- 5.5 Except as set out in this clause 5:
- 5.5.1 the Supplier gives no warranty and makes no representations in relation to the Services;
- 5.5.2 the Supplier shall have no liability for any non-compliance with the warranty in clause 5.2, and
- 5.5.3 the conditions implied by the Supply of Goods and Services Act 1982, ss 12–16 (inclusive) are expressly excluded.
- 5.6 The Customer acknowledges that the Supplier is not and cannot be aware of the extent of any potential loss or damage to the Customer resulting from any failure of the Services to conform to the Specification, any delay in Completion or any failure by the Supplier to discharge its obligations under the Contract.
- 5.7 The provisions of this clause 5 set out the Customer's sole and exclusive remedies (howsoever arising, whether in contract, delict, negligence or otherwise) for any breach of clause 5.2 or for any other error or defect in the Deliverables or defective performance of the Services.
- 6 Suspension of services**
- 6.1 If the Supplier is prevented or delayed in performing the Services by any cause attributable to the Customer, the Supplier (without prejudice to its other rights):
- 6.1.1 may suspend performance of the Services until the Customer remedies its default;
- 6.1.2 shall not be liable for any costs or losses sustained by the Customer as a result of such suspension; and
- 6.1.3 may charge the Customer (and the Customer shall pay under the Contract) costs or losses incurred by the Supplier arising from the Customer's default.
- 7 Price**
- 7.1 Subject to clauses 4.3 and 7.4 and, the Prices payable by the Customer in respect of the Services are contained in the Proposal and may be increased by the Supplier under clauses 7.5 and 7.6.
- 7.2 The Prices are exclusive of VAT (or equivalent sales tax).
- 7.3 The Customer shall pay any applicable VAT (or equivalent sales tax) to the Supplier on receipt of a valid VAT invoice.
- 7.4 The calculation of the applicable charging rate for the Prices shall be determined by the Supplier on the basis of a number of factors, including the length for which the Services are to be provided, the Customer's requirements and the complexity of the Services to be performed, as applicable for the Services to be provided to achieve each Milestone. The calculation of the Prices may be based on the following:
- 7.4.1 a fixed price per fixed amount of time spent performing the Services;
- 7.4.2 time spent for each Supplier Personnel engaged in supplying the Services; or
- 7.4.3 fixed pricing for the Services and/or each relevant Milestone (as applicable).
- The basis on which the Prices are calculated shall be subject to adjustment in accordance with any Changes to the Services agreed in accordance with clause 4.3.
- 7.5 The Supplier may increase the Prices at any time by giving the Customer not less than 30 Business Days' notice in writing provided that:
- 7.5.1 the number of Price increases during any 12 month period during the Term does not exceed two (excluding any increases imposed under clause 7.6); and
- 7.5.2 the increase does not exceed 10% of the Prices in effect immediately prior to the increase.
- 7.6 Notwithstanding clause 7.5, the Supplier may increase the Prices with immediate effect by written notice to the Customer where there is an increase in the direct cost to the Supplier of supplying the relevant Services which exceeds 10% and which is due to any factor beyond the control of the Supplier.
- 8 Payment**
- 8.1 The Supplier shall issue its invoices for the Services in accordance with the timescales for invoicing stated in the Proposal or, where Milestone Payments are included, the Supplier may issue its invoices for Milestone Payments upon the achievement of the corresponding Milestone.
- 8.2 The Customer shall pay all invoices:
- 8.2.1 in full in cleared funds within 7 days of the date of each invoice; and

- 8.2.2 to the bank account nominated by the Supplier.
- 8.3 Time of payment is of the essence. Where sums due hereunder are not paid in full by the due date:
- 8.3.1 the Supplier may, without limiting its other rights, charge interest on such sums at 8% percentage points a year above the base rate of Bank of Scotland Plc from time to time in force; and
- 8.3.2 interest shall accrue on a daily basis, and apply from the due date for payment until actual payment in full, whether before or after judgement.
- 9 Intellectual Property Rights**
- 9.1 In consideration of the Price payable under the Contract and the Parties' mutual obligations under the Contract, the Supplier assigns to the Customer all rights, title and interest to the Foreground IP and undertakes to procure that the Supplier and the Supplier Personnel take such actions and sign such documents as are required to give effect to such transfer PROVIDED THAT such assignment shall not apply to Intellectual Property Rights in the Libraries or any Background IP to the extent the same is incorporated within the Foreground IP.
- 9.2 In consideration of the Price, the Supplier hereby grants to the Customer a non-exclusive, royalty-free, non-revocable and sublicensable (strictly with the Supplier's prior written consent) licence to access and make use of the Libraries only in connection with the Deliverables by the Customer in connection with its own business and not for any other purpose. For the avoidance of doubt the Customer shall not own any Intellectual Property Rights in the Libraries, including any part of the Libraries which are utilised or incorporated into the Deliverables or Foreground IP.
- 9.3 The Customer grants to the Supplier a non-exclusive licence to use the Intellectual Property Rights in the Customer Materials for the purpose of providing the Services and Deliverables. The Supplier acknowledges and accepts that the ownership of all Customer Materials shall remain with the Customer, its Affiliates or the third party licensors of the Customer or its Affiliates, as applicable.
- 9.4 Except as expressly agreed above, no Intellectual Property Rights of either Party are transferred or licensed as a result of the Contract.
- 10 Limitation of liability**
- 10.1 The extent of the Supplier's liability under or in connection with the Contract (regardless of whether such liability arises in delict, contract or in any other way and whether or not caused by negligence or misrepresentation) shall be as set out in this clause 10.
- 10.2 Subject to clause 10.4, the total liability of the Supplier under the Contract shall not exceed the Price paid by the Customer in the 6 months preceding the date of the event or act first giving rise to such liability..
- 10.3 Subject to clause 10.4, the Supplier shall not be liable for consequential, indirect or special losses or for loss or corruption of data, profit, goodwill, anticipated savings, revenue, contract or business (whether direct or indirect) in each case, however caused or arising and whether foreseeable or not, arising out of or in connection with the Contract.
- 10.4 Notwithstanding any other provision of these Terms, the liability of the Supplier shall not be limited in any way in respect of the following:
- 10.4.1 death or personal injury caused by negligence;
- 10.4.2 fraud or fraudulent misrepresentation; or
- 10.4.3 any other losses which cannot be excluded or limited by applicable law.
- 11 Termination**
- 11.1 The Contract may be terminated by either Party giving not less than 30 days' notice in writing to the other Party. If the Customer elects to terminate the Contract pursuant to this clause, the Customer shall be liable to reimburse the Supplier for any non-cancellable and non-recoverable costs incurred by the Supplier up to the time of termination, subject to the Supplier using its reasonable endeavours to cancel, avoid, reduce or otherwise mitigate such costs where possible.
- 11.2 Either Party may terminate the Contract at any time by giving notice in writing to the other Party if:
- 11.2.1 the other Party commits a material breach of the Contract and such breach is not remediable;
- 11.2.2 the other Party commits a material breach of the Contract which is not remedied within 30 days of receiving written notice of such breach;
- 11.2.3 any consent, licence or authorisation held by the other Party is revoked or modified such that the other Party is no longer able to comply with its obligations under the Contract or receive any benefit to which it is entitled; or
- 11.2.4 the other Party is involved in any legal proceedings concerning its solvency, or commits an act of bankruptcy or is adjudicated bankrupt or enters into liquidation, whether compulsory or voluntary, other than for the purposes of an amalgamation or reconstruction or makes an arrangement with its creditors or petitions for an administration order or has a receiver or manager appointed over all or any part of its assets or equivalent circumstances occur in any other jurisdiction.
- 11.3 Without prejudice to any other rights that it may have, the Supplier may terminate the Contract immediately on written notice to the Customer if the Customer has failed to pay any amount due under the Contract on the due date and

	such amount remains unpaid 10 Business Days after the Customer has received a written notification from the Supplier that the payment is overdue.				disclose, any Protected Data in or to any country or territory outside the United Kingdom without the prior written authorisation of the Customer except where required by applicable Law.
11.4	On termination of the Contract for any reason:				
	11.4.1 the Customer shall immediately pay all outstanding invoices of the Supplier;	13			Confidential Information
	11.4.2 the Supplier shall promptly invoice the Customer for all Services performed and Deliverables supplied but not yet invoiced and payment for such invoices shall be due immediately on receipt by the Customer;	13.1			Each Party undertakes that it shall keep any information that is confidential in nature concerning the other Party and its Affiliates including, any details of its business, affairs, customers, clients, suppliers, plans or strategy (" Confidential Information ") confidential and that it shall not use or disclose the other Party's Confidential Information to any person, except as permitted by clause 13.2.
	11.4.3 the Customer shall within 10 Business Days return any materials of the Supplier then in its possession or control; if it fails to do so, the Supplier may enter any premises owned by or under the control of the Customer and take possession of them; and	13.2			A Party may:
	11.4.4 the accrued rights and liabilities of the Parties (including any rights in relation to breaches of contract) shall not be affected.				13.2.1 disclose any Confidential Information to any of its employees, officers, representatives or advisers (" Representatives ") who need to know the relevant Confidential Information for the purposes of the performance of any obligations under the Contract, provided that such Party must ensure that each of its Representatives to whom Confidential Information is disclosed is aware of its confidential nature and agrees to comply with this clause 13 as if it were a party;
11.5	The following clauses of these Terms shall survive termination of the Contract, howsoever caused:				
	11.5.1 clause 10 (Limitation of Liability);				
	11.5.2 clause 12 (Data Protection);			13.2.2	disclose any Confidential Information as may be required by law, any court, any governmental, regulatory or supervisory authority (including any securities exchange) or any other authority of competent jurisdiction; and
	11.5.3 clause 11.4 (Termination);				
	11.5.4 clause 13 (Confidential Information);				
	11.5.5 clause 16 (Dispute Resolution);			13.2.3	use Confidential Information only to perform any obligations under the Contract.
	11.5.6 clause 19 (Notices);				
	11.5.7 clause 29 (Third party rights); and				
	11.5.8 clause 31 (Governing law and jurisdiction),	13.3			Confidential Information shall not include any information that:
	together with any other provision of these Terms which expressly or by implication is intended to survive termination.			13.3.1	is, or was already known or available to the receiving Party, otherwise than pursuant to or through breach of any confidentiality obligation owed to the disclosing Party (including the terms of any non-disclosure agreement entered into between the Parties or any third party obligation);
12	Data protection				
12.1	Unless otherwise defined, terms and expressions used in this clause shall have the same meanings as defined in the Data Protection Laws.				
12.2	The Customer acknowledges that the Supplier may process Personal Data which is supplied to and/or collected by the Supplier to the extent reasonably necessary for the Supplier, Supplier Personnel or its Affiliates to the extent necessary to fulfil its obligations under the Contract.			13.3.2	is, or becomes, lawfully available in the public domain;
				13.3.3	is disclosed to the receiving Party by a third party who is free to disclose the same;
12.3	The Supplier shall not:			13.3.4	is developed by or on behalf of the receiving Party in circumstances where the developing Party has not had direct or indirect access to the information disclosed, subject to the receiving Party providing satisfactory evidence of the same to the disclosing Party;
	12.3.1 permit any processing of Protected Data by any Sub-Processor without the prior specific written authorisation of the Customer; or				
	12.3.2 process and/or transfer, or otherwise directly or indirectly				

- 13.3.5 the disclosing Party agrees in writing that it does not constitute Confidential Information.
- 13.4 On the expiry or termination of the Contract, each Party undertakes to return, destroy or delete (at the disclosing Party's request) all Confidential Information of the other Party in its possession at the time of termination or expiry.
- 13.5 This clause 13 shall bind the Parties during the Term and for a period of two years following termination or expiry of the Contract.
- 13.6 Nothing in this clause 13 shall supersede or amend the terms of any confidentiality or non-disclosure agreement(s) entered into between the Parties prior to entering into the Contract.
- 14 Anti-bribery**
- 14.1 For the purposes of this clause 14 the expressions 'adequate procedures' and 'associated with' shall be construed in accordance with the Bribery Act 2010 and guidance published under it.
- 14.2 Each Party shall ensure that it and each person referred to in clauses 14.2.1 to 14.2.3 (inclusive) does not, by any act or omission, place the Supplier in breach of any Bribery Laws. Each Party shall comply with all applicable Bribery Laws in connection with the performance of the Services and the Contract, ensure that it has in place adequate procedures to prevent any breach of this clause 14 and ensure that:
- 14.2.1 all of its personnel and all direct and indirect sub-contractors, suppliers, agents and other intermediaries;
- 14.2.2 all others associated with it; and
- 14.2.3 each person employed by or acting for or on behalf of any of those persons referred to in clauses 14.2.1 and/or 14.2.2,
- involved in performance of obligations under the Contract so comply.
- 14.3 Without limitation to clause 14.2, neither Party shall in connection with the performance of the Contract make or receive any bribe (which term shall be construed in accordance with the Bribery Act 2010) or other improper payment or advantage, or allow any such bribe or improper payment or advantage to be made or received on its behalf, either in the United Kingdom or elsewhere, and will implement and maintain adequate procedures to ensure that such bribes or improper payments or advantages are not made or received directly or indirectly on its behalf.
- 14.4 Each Party shall immediately notify the other Party as soon as it becomes aware of a breach or possible breach of any of the requirements in this clause 14.
- 14.5 Any breach of this clause 14 by either Party shall be deemed a material breach of the Contract that is not remediable and shall entitle the Party not in breach to immediately terminate the Contract by notice under clause 11.2.1.

- 15 Modern slavery**
- 15.1 Each Party undertakes, warrants and represents that:
- 15.1.1 neither it nor any of its officers, employees, agents or subcontractors has:
- 15.1.1.1 committed an offence under the Modern Slavery Act 2015 (an "MSA Offence"); or
- 15.1.1.2 been notified that it is subject to an investigation relating to an alleged MSA Offence or prosecution under the Modern Slavery Act 2015; or
- 15.1.1.3 is aware of any circumstances within its supply chain that could give rise to an investigation relating to an alleged MSA Offence or prosecution under the Modern Slavery Act 2015;
- 15.1.2 it shall comply with the Modern Slavery Act 2015; and
- 15.1.3 it shall notify the other Party immediately in writing if it becomes aware or has reason to believe that it, or any of its officers, employees, agents or subcontractors have breached or potentially breached any of its obligations under clause 15. Such notice to set out full details of the circumstances concerning the breach or potential breach of the notifying Party's obligations.
- 15.2 Any breach of clause 15.1 by either Party shall be deemed a material breach of the Contract that is not remediable and shall entitle the non-defaulting Party to immediately terminate the Contract by notice under clause 11.2.1.
- 16 Dispute resolution**
- 16.1 Any dispute arising between the Parties out of or in connection with the Contract shall be dealt with in accordance with the provisions of this clause 16.
- 16.2 If any dispute arises out of or in connection with these Terms or the Contract, the matter shall be referred to senior representatives of each Party who shall use their reasonable endeavours to resolve it.
- 16.3 If the dispute has not been resolved within 15 Business Days of the first meeting of the senior representatives under clause 16.2 then the matter may be referred to mediation to attempt to resolve any dispute.
- 16.4 Until the Parties have completed the steps referred to in clauses 16.2 and 16.3, and have failed to resolve the dispute, neither Party shall commence formal legal proceedings or arbitration except that either Party may at any time seek urgent interim relief from the courts or emergency arbitrator relief.

<p>17 Non-solicitation</p> <p>17.1 During the Restricted Period the Customer shall not, either directly or indirectly, by or through itself, its Affiliates, its agent or otherwise, or in conjunction with any of the same, whether for its own benefit or for the benefit of any other person:</p> <p>17.1.1 solicit, entice or induce, endeavour to solicit, entice or induce, any Restricted Person of the Supplier with a view to employing or engaging the Restricted Person, or</p> <p>17.1.2 employ or engage, or offer to employ or engage a Restricted Person of the Supplier without the Supplier's prior written consent.</p> <p>17.2 Clause 17 shall not apply to any Restricted Person of the Supplier who has responded directly to a bona fide recruitment drive either through a recruitment agency engaged by the Customer or via an advertisement placed publicly by the Customer (either in the press, social media, online or in trade and industry publications).</p> <p>17.3 In the event of a breach of clause 17.1, the Customer shall pay to the Supplier by liquidated damages an amount equivalent to the relevant Restricted Person's gross annual salary paid by the Supplier at the time of the breach.</p> <p>17.4 The provisions in clause 17.3 shall be without prejudice to the Supplier's ability to seek damages or claim injunctive relief.</p> <p>18 Entire agreement</p> <p>18.1 The Contract constitutes the entire agreement between the Parties and supersedes all previous agreements, understandings and arrangements between them, whether in writing or oral in respect of its subject matter.</p> <p>18.2 Each Party acknowledges that it has not entered into the Contract or any documents entered into pursuant to it in reliance on, and shall have no remedies in respect of, any representation or warranty that is not expressly set out in the Contract or any documents entered into pursuant to it. No Party shall have any claim for innocent or negligent misrepresentation on the basis of any statement in the Contract.</p> <p>18.3 Nothing in these Terms purports to limit or exclude any liability for fraud.</p> <p>19 Notices</p> <p>19.1 Any notice or other communication given by a Party under the Contract shall be, in writing and in English and sent to the relevant Party at the address and/or email address set out in the Proposal or such other address as may be communicated for receiving notices by the relevant Party from time to time.</p> <p>19.2 Notices may be given, and are deemed received:</p> <p>19.2.1 by hand: on receipt of a signature at the time of delivery;</p> <p>19.2.2 by post: at 9.00 am on the second Business Day after posting; and</p>	<p>19.2.3 by email: on receipt of a delivery email from the correct address.</p> <p>20 Announcements</p> <p>20.1 No announcement or other public disclosure concerning the Contract or any of the matters contained in it shall be made by, or on behalf of, a Party without the prior written consent of the other Party (such consent not to be unreasonably withheld or delayed), except as required by law, any court, any governmental, regulatory or supervisory authority (including any recognised investment exchange) or any other authority of competent jurisdiction.</p> <p>20.2 Notwithstanding clause 20.1, the Supplier reserves the right to refer to the output of the Services (not including any Confidential Information of the Customer) in advertising and marketing materials or as part of a portfolio of work undertaken by the Supplier.</p> <p>21 Force Majeure</p> <p>21.1 Neither Party shall have any liability under or be deemed to be in breach of these Terms or the Contract for any delays or failures in performance of the Contract which result from a Force Majeure Event provided that The Party affected by a Force Majeure Event shall promptly notify the other Party in writing of the Force Majeure Event and uses reasonable endeavours to minimise the effects of the Force Majeure Event on the performance of the Contract.</p> <p>21.2 If a Force Majeure Event prevents performance of a Party's obligations under the Contract for a continuous period of more than 25 Business Days, the Party not affected may terminate this Agreement by written notice to the other Party without prejudice to the Customer's obligation to pay the Price for Services performed until the time of termination.</p> <p>21.3 For the avoidance of doubt, inability of the Customer to pay shall not be a Force Majeure Event for the purposes of this clause 21.</p> <p>22 Further assurance</p> <p>Each Party shall at the request of the other Party, and at the cost of the requesting Party, do all acts and execute all documents which are necessary to give full effect to the Contract.</p> <p>23 Variation</p> <p>No variation of these Terms, the Proposal or the Contract shall be valid or effective unless it is in writing, refers to the Contract and is duly signed or executed by, or on behalf of, each Party.</p> <p>24 Assignment and subcontracting</p> <p>24.1 The Supplier may at any time assign, sub-contract, transfer, mortgage, charge, declare a trust of or deal in any other manner with any or all of its rights under the Contract, provided that it gives prior written notice to the Customer.</p> <p>24.2 The Customer shall not assign, sub-contract, transfer, mortgage, charge, declare a trust of or deal in any other manner with any or all of its rights under the Contract, in whole or in part, without the Supplier's prior written consent.</p>
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25 Set off

Each Party shall pay all sums that it owes to the other Party under the Contract without any set-off, counterclaim, deduction or withholding of any kind, save as may be required by law.

26 No partnership or agency

The Parties are independent and are not partners or principal and agent and the Contract does not establish any joint venture, trust, fiduciary or other relationship between them, other than the contractual relationship expressly provided for in it. Neither Party shall have, nor shall represent that it has, any authority to make any commitments on the other Party's behalf.

27 Severance

If any provision of these Terms (or part of any provision) is or becomes illegal, invalid or unenforceable, the legality, validity and enforceability of any other provision of these Terms shall not be affected.

28 Waiver

No failure, delay or omission by the Supplier in exercising any right, power or remedy provided by law or under the Contract shall operate as a waiver of that right, power or remedy, nor shall it preclude or restrict any future exercise of that or any other right or remedy. No single or partial exercise by the Supplier of any right, power or remedy provided by law or under the Contract shall prevent any future exercise of it or the exercise of any other right, power or remedy..

29 Third party rights

No one other than a Party to the Contract, their successors and permitted assignees shall have any right to enforce any of its provisions under the Contract (Third Party Rights) (Scotland) Act 2017 or otherwise.

30 Compliance with Law

Each Party shall comply and shall (at its own expense unless expressly agreed otherwise) ensure that in the performance of its duties under the Contract, its employees, agents and representatives will comply with all applicable Laws and regulations, provided that neither Party shall be liable for any breach of this clause 30 to the extent that such breach is directly caused or contributed to by any breach of the Contract by the other Party (or its employees, agents and representatives).

31 Governing law and jurisdiction

The Contract and any dispute or claim arising out of, or in connection with, it, its subject matter or formation (including non-contractual disputes or claims) shall be governed by, and construed in accordance with, the laws of Scotland and irrevocably submit to the exclusive jurisdiction of the courts of Scotland to settle any dispute or claim arising out of or in connection with these Terms, the Proposal or the Contract (including non-contractual disputes or claims).