

## TERMS AND CONDITIONS

### 1 Commencement and term

1.1 The Contract shall commence on the Commencement date shall continue, unless terminated earlier in accordance with its terms, once the Services have been completed.

1.2 This agreement shall begin on the Commencement Date and shall continue, unless terminated earlier in accordance with clause 9, for the Initial Term, and thereafter on the same terms for subsequent periods of 12 months (Extended Term) unless terminated in accordance with this agreement, by either party giving the other Party not less than three (3) months' written notice to terminate in whole or in part, such notice to expire at the end of the Initial Term or the relevant Extended Term.

### 2 Supply of services

2.1 The Company shall supply the Services to the Customer from the Commencement Date in accordance with the Contract.

2.2 In supplying the Services, the Company shall:

2.2.1 perform the Services with reasonable care and skill;

2.2.2 use reasonable endeavours to perform the Services in accordance with the service description set out in the Contract Details;

2.2.3 allocate sufficient resources and an adequate number of the Company's personnel to provide the Services in accordance with the terms of this Contract;

2.2.4 ensure each of the Company's personnel is suitably qualified, adequately trained and capable of providing the applicable Services in respect of which they are engaged; and

2.2.5 comply with all applicable laws, statutes, regulations from time to time in force provided that the Company 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.

2.3 The Company shall maintain up-to-date personnel records on the Company's personnel engaged in the provision of the Services and, on request, and subject to compliance with clause 10 and the Data Protection Legislation provide reasonable information to the Customer on the Company's personnel.

2.4 During the Term, the Company shall subject to availability and these Conditions, supply and the Customer shall purchase such quantities of Products as detailed in the Contract Details and or any additional Products that the Customer may order from the Company.

2.5 Whilst the Company will endeavour to meet the date and timing of the Services as may be stated in Contract Details and agreed dates for the supply of Products it is agreed that the date and time of performance of the Services shall not be of the essence and the Company shall have no responsibility for any delay of the Services or the supply of any Products.

2.6 The Services do not include public holidays in England unless otherwise stated in the Contract Details.

### 3 Customer's obligations

3.1 The Customer shall:

3.1.1 co-operate with the Company in all matters relating to the Services;

3.1.2 ensure that the Services are properly described for what the Customer requires, if the description is incorrect, the Services may be suspended and any alterations will be subject to clause 11 (variation);

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

3.1.4 comply with all applicable laws, statutes, regulations from time to time in force

3.2 If the Company'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, the Company shall:

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

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

3.2.3 be entitled to recover any additional costs, charges or losses the Company sustains or incurs that arise directly or indirectly from such prevention or delay.

### 4 Customer Premises

4.1 The Customer shall:

4.1.1 provide, for the Company, its agents, subcontractors, consultants and employees, in a timely manner and at no charge, access to the Customer Premises, and other facilities as reasonably required by the Company to access the Customer Premises or to otherwise provide the Services;

4.1.2 permit the Company to install in the Customer Premises any equipment to be used by the Company for the use solely in connection with the Services and subject to the Conditions of this Contract;

4.1.3 provide free of charge all water, electric power, lighting and heating at the Customer Premises;

4.1.4 not impede or prevent access at the Customer Premises or to adjacent parts at any time. The Customer shall keep any interference with operations of the Company and the Services to a minimum;

4.1.5 ensure that all desks, surfaces, ledges and any areas to be cleaned are cleared by the Customer, in order to facilitate the Services;

4.1.6 ensure the Customer Premises comply with all required Health and Safety laws and inform the Company of all health and safety and security requirements that apply at the Customer Premises; and

4.1.7 obtain and maintain all necessary licences and consents and comply with all relevant legislation as required to enable the Company to provide the Services at the Customer Premises.

4.2 The Company shall observe all reasonable health and safety rules and regulations and security requirements that apply at any of the Customer's Premises and that have been communicated to the Company, provided that the Company 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.

### 5 Company Equipment

5.1 Where the Services are to be delivered in part or in full at the Customer Premises with the use of Company Equipment this clause shall apply.

5.2 The Company Equipment shall remain the absolute property of the Company.

5.3 The Customer shall not use, move or dispose of any Company Equipment unless authorised to do so by the Company.

5.4 The Company Equipment while at the Customer Premises will be at the Customer's risk, except to the extent that any damage is caused by the Company.

5.5 In the event of the expiry or termination of the agreement for any reason, the Customer shall on reasonable notice provide the Company with such access as the Company reasonably requires to the Customer Premises to remove any of the Company Equipment. All such Company Equipment shall be promptly removed by the Company.

### 6 Customer Equipment

6.1 Where the Services are to be delivered in part or in full at the Customer Premises with the use of Customer Equipment this clause shall apply.

6.2 The Customer Equipment shall remain the absolute property of the Company.

6.3 The Customer Equipment while at the Customer Premises will be at the Customer's risk, except to the extent that any damage is caused by the Company.

6.4 The Customer shall

6.4.1 ensure that all the Customer's Equipment is in good working order and suitable for the purposes for which it is used and conforms to all relevant United Kingdom standards or requirements;

6.4.2 maintain at its own expense the Customer Equipment in good and substantial repair in order to keep it in as good an operating condition including replacement of worn, damaged and lost parts;

6.4.3 provide all necessary information, training and instructions as may be necessary or requested by the Company for any Company employees, agents of staff required to operate the Customer Equipment;

6.4.4 obtain and maintain all necessary licences and consents and comply with all relevant legislation as required to enable the Company to use the Customer Equipment;

6.4.5 be responsible for insuring the Company Equipment against all usual risks (including fire, theft, wilful damage (except where damage is caused by the Company) and storm damage until such time as it is removed from the Customer Premises by the Company.

### 7 Charges and payment

7.1 In consideration for the provision of the Services, the Customer shall pay the Company the Charges and shall pay the Product Prices for any Products used or supplied by the Company in accordance with this clause 7.

7.2 The Charges are calculated on a fixed price basis and, unless increased in accordance with clause 7.4 the Charges for the period from the Commencement Date to the end of the Initial Term shall be the prices set out in the Contract Details.

7.3 No deductions shall be made to the Charges were Services are not provided on any public holiday in England which are not included unless stated otherwise in the Contract Details. Any Services provided on any public holiday in England shall be charged at the additional rates in set out in the Contract Details or as notified to by the Company.

7.4 The Company may increase the Charges:

7.4.1 at the start of any Extended Term in line with the percentage increase in the Retail Prices Index in the preceding 12-month period and the first such increase shall take effect from the start of the first Extended Term and shall be based on the latest available figure for the percentage increase in the Retail Prices Index; and or

7.4.2 at any time in the event of any increase in national insurance contributions; or wages due to an increase or introduction of any statutory minimum wage rate(s); or any other levy by any Government Department made upon the company in respect of its employees

7.5 The Charges for the Services do not include any Products which will be charged in accordance with the Product Prices detailed in the Contract Details or as otherwise notified to the Customer from time to time.

7.6 All amounts payable by the Customer are exclusive of amounts in respect of VAT. The Customer shall, on receipt of a valid VAT invoice from the Company, pay to the Company any additional amounts in respect of VAT at the prevailing rate (if applicable), as are chargeable on a supply of Services.

7.7 The Company shall submit invoices for the Charges and any Product Prices plus VAT if applicable to the Customer on a monthly basis in arrears.

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

7.9 If the Customer fails to make any payment due to the Company under the Contract by the due date for payment, then, without limiting the Supplier's remedies under clause 9 (Termination):

7.9.1 the Customer shall pay interest on the overdue sum from the due date until payment of the overdue sum, whether before or after judgment. Interest under this clause will accrue each day at 4% a year above the Bank of England's base rate from time to time, but at 4% a year for any period when that base rate is below 0%.

7.9.2 the Company may suspend all Services until payment has been made in full.

7.10 All amounts due under the Contract from the Customer to the Company 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).

7.11 Any queries on an invoice must be raised in writing by the Customer within 30 days of the invoice date, otherwise the invoiced amount shall be deemed to be accepted by the Customer.

**8 Limitation of liability**

8.1 The Supplier has obtained insurance cover in respect of its own legal liability for individual claims not exceeding £5,000,000 per claim. The limits and exclusions in this clause reflect the insurance cover the Supplier has been able to arrange and the Customer is responsible for making its own arrangements for the insurance of any excess loss.

8.2 References to liability in this clause 8 include every kind of liability arising under or in connection with the Contract including but not limited to liability in contract, tort (including negligence), misrepresentation, restitution or otherwise.

8.3 Nothing in this clause 8 shall limit the Customer's payment obligations under the Contract.

8.4 Nothing in the Contract limits any liability which cannot legally be limited, including but not limited to liability for:

8.4.1 death or personal injury caused by negligence;

8.4.2 fraud or fraudulent misrepresentation; and

8.4.3 breach of the terms implied by section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession).

8.5 Subject to clause 8.3 (No limitation on customer's payment obligations), and clause 8.4 (Liabilities which cannot legally be limited) the Company's total liability to the Customer for all other loss or damage shall not exceed £5,000,000.

8.6 The caps on the parties' liabilities shall be reduced by:

8.6.1 payment of an uncapped liability; and

8.6.2 amounts awarded by a court or arbitrator, using their procedural or statutory powers in respect of costs of proceedings or interest for late payment.

8.7 Subject to clause 8.3 (No limitation on customer's payment obligations) and clause 8.4 (Liabilities which cannot legally be limited), this clause 8.5 sets out the types of loss that are wholly excluded:

8.7.1 loss of profits;

8.7.2 loss of sales or business;

8.7.3 loss of agreements or contracts;

8.7.4 loss of anticipated savings;

8.7.5 loss of use or corruption of software, data or information;

8.7.6 loss of or damage to goodwill; and

8.7.7 indirect or consequential loss.

8.8 The Company has given commitments as to compliance of the Services with relevant specifications in clause 2. In view of these commitments, the terms 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 the Contract.

8.9 Unless the Customer notifies the Company that it intends to make a claim in respect of an event within the notice period, the Company shall have no liability for that event. The notice period for an event shall start on the day on which the Customer became, or ought reasonably to have become, aware of the event having occurred and shall expire 12 months from that date. The notice must be in writing and must identify the event and the grounds for the claim in reasonable detail.

## 9 Termination

9.1 Without affecting any other right or remedy available to it, either party to the Contract may terminate it with immediate effect by giving written notice to the other party if:

9.1.1 the other party commits a material breach of any term of the Contract which breach is irremediable or (if such breach is remediable) fails to remedy that breach within a period of 30 days after being notified in writing to do so; or

9.1.2 the other party takes any step or action in connection with its entering administration, provisional liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver appointed to any of its assets or ceasing to carry on business or, if the step or action is taken in another jurisdiction, in connection with any analogous procedure in the relevant jurisdiction;

9.2 Without affecting any other right or remedy available to it, the Company may terminate the Contract with immediate effect by giving written notice to the Customer if:

9.2.1 the Customer fails to pay any amount due under the Contract on the due date for payment;

9.2.2 there is a change of control of the Customer; or

9.2.3 if there is any breach of clause 3.1.4 (compliance with laws) and 4.1 (Customer Premises).

9.3 Without affecting any other right or remedy available to it, the Company may terminate the Contract without cause by giving 6 months written notice to the Customer.

9.4 On termination of the Contract for whatever reason:

9.4.1 the Customer shall immediately pay to the Company all of the Company's outstanding unpaid invoices and interest and, in respect of Services supplied but for which no invoice has been submitted, the Company may submit an invoice, which shall be payable immediately on receipt;

9.4.2 any provision of the Contract that expressly or by implication is intended to come into or continue in force on or after termination or expiry of the Contract shall remain in full force and effect; and

9.4.3 termination or expiry of the Contract shall not affect any of the rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination or expiry, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination or expiry.

## 10 Data protection

10.1 Both parties will comply with all applicable requirements of the Data Protection Legislation. This clause 10 is in addition to, and does not relieve, remove or replace, a party's obligations or rights under the Data Protection Legislation.

10.2 The parties acknowledge that for the purposes of the Data Protection Legislation, each party is a Data Controller. Where it is necessary to share any personal data for the purposes of this Contract the recipient shall comply with all the obligations imposed on a controller under the Data Protection Legislation, including the following:

10.2.1 to ensure that it has all necessary notices and consents in place to enable lawful transfer of the data for the intended purpose;

10.2.2 to process the personal data only for the purpose;

10.2.3 to ensure all individuals required to undertake any obligation under this

10.2.4 to ensure that it has in place appropriate technical and organisational measures to protect against unauthorised or unlawful processing of the personal data and against accidental loss or destruction of, or damage to, the personal data; and

10.2.5 not to transfer any personal data outside the EEA unless the transferor ensures that (i) the transfer is to a country approved by the European Commission as providing adequate protection pursuant to Article 45 of the GDPR; or (ii) there are appropriate safeguards in place pursuant to Article 46 of the GDPR; or (iii) binding corporate rules are in place or (iv) one of the derogations for specific situations in Article 49 of the GDPR applies to the transfer.

10.3 Each party shall assist the other in complying with all applicable requirements of the Data Protection Legislation in relation to any shared personal data and in particular, each party shall:

10.3.1 assist the other party in ensuring compliance with its obligations under the Data Protection Legislation with respect to security, personal data breach notifications, data protection impact assessments and consultations with supervisory authorities or regulators;

10.3.2 notify the other party without undue delay on becoming aware of any breach of the Data Protection Legislation; and

- 10.3.3 maintain complete and accurate records and information to demonstrate its compliance with this clause 10.
- 11 Staff**
- 11.1 The Customer and the Company have agreed the terms and conditions which shall apply in relation to Employees and Transferring Employees in Schedule 2 (Employees) and both parties shall comply with the provisions of Schedule 2 (Employees).
- 12 Force majeure**
- 12.1 The Company shall not be in breach of the Contract nor liable for delay in performing, or failure to perform, any of its obligations under the Contract if such delay or failure result from events, circumstances or causes beyond its reasonable control or a Force Majeure Event.
- 12.2 Provided it has complied with clause 12.3, if the Company is prevented, hindered or delayed in or from performing any of its obligations under this agreement by a Force Majeure Event, the Company shall not be in breach of this agreement or otherwise liable for any such failure or delay in the performance of such obligations. The time for performance of such obligations shall be extended accordingly.
- 12.3 The Company shall:
- 12.3.1 as soon as reasonably practicable after the start of the Force Majeure Event notify the other party in writing of the Force Majeure Event, the date on which it started, its likely or potential duration, and the effect of the Force Majeure Event on its ability to perform any of its obligations under the agreement; and
- 12.3.2 use all reasonable endeavours to mitigate the effect of the Force Majeure Event on the performance of its obligations.
- 12.4 If the Force Majeure Event prevents, hinders or delays the Company's performance of its obligations for a continuous period of more than three months, either party may terminate this agreement by giving one month's written notice to the other party.
- 13 Assignment and other dealings**
- 13.1 The Customer shall not assign, transfer, charge, subcontract, declare a trust over or deal in any other manner with any or all of its rights and obligations under the Contract without the Supplier's prior written consent.
- 13.2 The Company may at any time assign, transfer, charge, subcontract, declare a trust over or deal in any other manner with any or all of its rights under the Contract.
- 14 Confidentiality**
- 14.1 Each party undertakes that it shall not at any time disclose to any person any confidential information concerning the business, affairs, customers, clients or suppliers of the other, except as permitted by this clause 14.
- 14.2 Each party may disclose the other party's confidential information:
- 14.2.1 to its employees, officers, representatives, contractors, subcontractors or advisers who need to know such information for the purposes of carrying out the party's obligations under the Contract. Each party shall ensure that its employees, officers, representatives, contractors, subcontractors or advisers to whom it discloses the other party's confidential information comply with this clause 14; and
- 14.2.2 as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.
- 14.3 Neither party shall use any other party's confidential information for any purpose other than to perform its obligations under the Contract.
- 15 Entire agreement**
- 15.1 The Contract constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.
- 15.2 Each party acknowledges that in entering into the Contract it does not rely on and shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in the Contract. Each party agrees that it shall have no claim for innocent or negligent misrepresentation [or negligent misstatement] based on any statement in the Contract.
- 16 Variation**
- 16.1 No variation of the Contract shall be effective unless it is in writing and signed by both the parties (or their authorised representatives).
- 17 Waiver**
- 17.1 A waiver of any right or remedy under the Contract or by law is only effective if given in writing and shall not be deemed a waiver of any subsequent right or remedy.
- 17.2 A failure or delay by a party to exercise any right or remedy provided under the Contract or by law shall not constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict any further exercise of that or any other right or remedy. No single or partial exercise of any right or remedy provided under the Contract or by law shall prevent or restrict the further exercise of that or any other right or remedy.

**18 Severance**

- 18.1 If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum 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. Any modification to or deletion of a provision or part-provision under this clause 18 shall not affect the validity and enforceability of the rest of the Contract.

**19 Third party rights**

- 19.1 Unless it expressly states otherwise, the Contract does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Contract.
- 19.2 The rights of the parties to rescind or vary the Contract are not subject to the consent of any other person.

**20 Governing law**

- 20.1 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.

**21 Jurisdiction**

- 21.1 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.

**22 Definitions and interpretation**

- 22.1 In the agreement the following definitions and rules of interpretations shall apply:

**Charges:** the charges payable by the Customer for the supply of the Services by the Supplier, as set out in the Contract Details.

**Company Equipment:** any equipment supplied by the Company to perform the Services.

**Conditions:** these terms and conditions.

**Contract:** the contract between the Customer and the Company for the supply of the Services in accordance with the Contract Details, these Conditions and any Schedules.

**Customer Equipment:** any equipment supplied by the Customer for the Company to use to provide the Services.

**Customer Premises:** Customer premises detailed in the Contract Details at which any Services if described in the Contract Details will be provided at.

**Data Protection Legislation:** all applicable data protection and privacy legislation in force from time to time in the UK including the General Data Protection Regulation ((EU) 2016/679); the Data Protection Act 2018; the Privacy and Electronic Communications Directive 2002/58/EC (as updated by Directive 2009/136/EC) and the Privacy and Electronic Communications Regulations 2003 (SI 2003/2426) as amended.

**Extended Term:** any extended term of the agreement, as determined in accordance with clause 1 of the Conditions.

**Initial Term:** the initial term of the agreement, as specified in the Contract Details and determined in accordance with clause 1 of the Conditions.

**Force Majeure Event** means any circumstance not in a party's reasonable control including but not limited to: acts of God, flood, drought, earthquake or other natural disaster; epidemic or pandemic; terrorist attack, civil war, civil commotion or riots, war, threat of or preparation for war, armed conflict, imposition of sanctions, embargo or breaking off of diplomatic relations; and nuclear, chemical or biological contamination, or sonic boom.

**Services:** the services to be provided by the Company pursuant to the Contract, as described in the Contract Details.

**Term:** means the period from the Commencement Date until the end of the Initial Term or the relevant Extended Term as specified in any termination notice given under clause 1 or until any earlier termination of this agreement in accordance with clause 9 or otherwise.

**VAT** means Value Added Tax.

- 22.2 Unless the context otherwise requires, references to any statute includes all regulations and orders made under the relevant statute and any statute, regulation or order amending, consolidating or replacing them in force from time to time.

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

## SCHEDULE 2 – EMPLOYEES

### 1 Interpretation

1.1 The following additional definitions and rules of interpretation in this paragraph apply in this Schedule **Error! Bookmark not defined.**

**Employees:** those employees who are listed in Annex 1 of this Schedule 2 (Employees) whose contracts of employment will transfer to the Company from the Customer as at the Commencement Date.

**Employee Liability Information:** in respect of each of the Employees: (a) the identity and age of the Employee; (b) those particulars of employment that an employer is obliged to give the Employee under section 1 of the Employment Rights Act 1996; (c) information about any disciplinary procedure taken against the Employee and any grievances raised by the Employee within the previous two years, where a Code of Practice issued under Part IV of the Trade Union and Labour Relations (Consolidation) Act 1992 relating exclusively or primarily to the resolution of disputes or any other applicable code or statutory procedure applied; (d) information about any court or tribunal case, claim or action either brought by the Employee against the Customer within the previous two years or where the Customer has reasonable grounds to believe that such action may be brought against the Company arising out of the Employee's employment with the Customer; and (e) information about any collective agreement which will have effect after the Commencement Date in relation to the Employee pursuant to regulation 5(a) of the Employment Regulations.

**Staffing Information:** in relation to all persons detailed on the Company's Provisional Staff List, such information as the Customer may reasonably request (subject to the Data Protection Legislation), but including in an anonymised format: (a) their ages, dates of commencement of employment or engagement and gender; (b) details of whether they are employees, workers, self-employed, contractors or consultants, agency workers or otherwise; (c) the identity of their employer or relevant contracting party; (d) their relevant notice periods and any other terms relating to termination of employment or engagement, including any redundancy procedures and contractual redundancy payment schemes; (e) the current wages, salaries (including holiday pay), profit sharing, incentive and bonus arrangements applicable to them and how they are calculated; (f) details of other employment-related benefits including (without limitation) medical insurance, life assurance, pension or other retirement benefit schemes, share option schemes and customer car schemes applicable to them; (g) any outstanding or potential contractual, statutory or other liabilities in respect of such individuals (including in respect of personal injury claims); (h) details of any such individuals on long-term sickness absence, maternity or other statutory leave or otherwise absent from work; and (i) copies of all relevant documents and materials relating to such information including copies of relevant contracts of employment or engagement (or relevant standard contracts if applied generally in respect of such individuals).

**Claims:** has the meaning accorded to it in paragraph 2.3(c) of this Schedule 2.

**Service Transfer Date:** the date on which the Services (or any part of the Services), for whatever reason transfer from the Company to the Customer or any Replacement Company.

**Company's Final Staff List:** the list of all the Company's Personnel engaged in or wholly or mainly assigned to the provision of the Services or any part of the Services at the Service Transfer Date.

**Company's Provisional Staff List:** a list prepared and updated by the Company of all the Company's personnel engaged in, or wholly or mainly assigned to, the provision of the Services or any part of the Services at the date of preparation of the list.

### 2 Transfer of Employees to the Company at the Effective Date

2.1 The Customer and the Company believe that, pursuant to the Employment Regulations, at the Effective Date, the Company will become the employer of the Employees.

2.2 The Customer represents, warrants and undertakes to the Company that:

2.2.1 no persons are employed or engaged in the provision of the Services other than the Employees;

2.2.2 none of the Employees has given or received notice terminating their employment or will be entitled to give notice as a result of the provisions of this agreement;

2.2.3 full particulars of the terms of employment of all the Employees (including all remuneration, incentives, bonuses, expenses and other payments and benefits whatsoever payable) are set out in Annex 1 of this Schedule 2;

2.2.4 there is not in existence any contract of employment with directors or employees of the Customer (or any contract for services with any individual) relating to the Services which cannot be terminated by three months' notice or less without giving rise to the making of a payment in lieu of notice or a claim for damages or compensation (other than a statutory redundancy payment or statutory compensation for unfair dismissal);

2.2.5 in relation to each of the Employees (and so far as relevant to each of its former employees who were employed or engaged in the provision of the Services) the Customer has:

2.2.5.1 complied with all obligations imposed on it by Articles of the Treaty on the Functioning of the European Union, European Commission Regulations and Directives and all statutes, regulations and codes of conduct relevant to the relations between it and its employees or it and any recognised trade union or appropriate representatives;

2.2.5.2 maintained adequate and suitable records regarding the service of each of its employees;

2.2.5.3 calculated and paid all holiday pay for periods of holiday taken under regulation 13 of the Working Time Regulations 1998 (SI 1998/1833) in accordance with Directive 2003/88/EC of the European Parliament and of the Council of 4 November 2003 concerning certain aspects of the organisation of working time;

2.2.5.4 complied with all collective agreements and customs and practices for the time being dealing with such relations or the conditions of service of its employees; and

2.2.5.5 complied with all relevant orders and awards made under any statute affecting their conditions of service;

2.2.6 the Customer has not been involved in any industrial or trade disputes in the last three years and to the best of the Customer's knowledge, information and belief there are no circumstances which may result in any industrial dispute involving any of the Employees and none of the provisions of this agreement including the identity of the Company is likely to lead to any industrial dispute;

2.2.7 there is not outstanding any agreement or arrangement to which the Customer is party in relation to the Employees for profit sharing or for payment to any of the Employees of bonuses or for incentive payments or other similar matters;

2.2.8 the Customer has not entered into any recognition agreement with a trade union in relation to the Employees nor has it done any act which may be construed as recognition;

2.2.9 the Customer has complied with all recommendations made by the Advisory Conciliation and Arbitration Service in relation to the Employees and with all awards and declarations made by the Central Arbitration Committee in relation to the Employees;

2.2.10 no amounts due to or in respect of any of the Employees (including PAYE and National Insurance and pension contributions) are in arrears or unpaid;

2.2.11 no monies or benefits other than in respect of contractual emoluments are payable to any of the Employees and there is not at present a claim, occurrence or state of affairs which may hereafter give rise to a claim against the Customer arising out of the employment or termination of employment of any of the Employees for compensation for loss of office or employment or otherwise and whether under contract or any statute or regulations or otherwise;

2.2.12 the Customer has provided the Employee Liability Information to the Company regarding each of the Employees either in writing or by making it available to the Company in a readily accessible form;

2.2.13 the Employee Liability Information contains information as at a specified date not more than 14 days before the date on which the information was provided to the Company;

2.2.14 the Customer has notified the Company in writing of any change in the Employee Liability Information since the date on which it was provided; and

2.2.15 the Employee Liability Information was provided not less than 28 days before the Commencement Date.

2.3 The Customer shall indemnify the Company in full for and against all claims, costs, expenses or liabilities whatsoever and howsoever arising incurred or suffered by the Company including without limitation all legal expenses and other professional fees (together with any VAT thereon) in relation to:

2.3.1 the termination by the Customer of the employment of any of the Employees;

2.3.2 anything done or omitted to be done in respect of any of the Employees which is deemed to have been done by the Company by virtue of the Employment Regulations;

2.3.3 any claim made at any time by any employee of the Customer other than the Employees who claim to have become an employee of or have rights against the Company by virtue of the Employment Regulations (**Claims**); and

provided that in relation to sub-paragraphs (a)-(c) above such costs, claims, expenses and liabilities are not payable as a result of any act or omission of the Company.

2.4 All salaries and other emoluments including holiday pay, taxation and National Insurance contributions and contributions to retirement benefit schemes relating to the Employees shall be borne by the Customer up to and including the Commencement Date and by the Company with effect from the Commencement Date.

### 3 Employment exit provisions

3.1 This agreement envisages that subsequent to the commencement of this agreement, the identity of the provider of the Services (or any part of the Services) may change (whether as a result of termination of this agreement, or part, or otherwise) resulting in a transfer of the Services in whole or in part (**Service Transfer**). If a Service Transfer is a relevant transfer for the purposes of the Employment Regulations then, in such event, the Customer or a Replacement Company would inherit liabilities in respect of the Transferring Employees. Accordingly if the Employment Regulations apply on a Service Transfer the provisions in paragraph 3.2 to paragraph 3.5 of this Schedule 2 shall apply. Paragraph 3.8 of this Schedule 2 shall apply to a Service Transfer which is not a

- relevant transfer for the purposes of the Employment Regulations. For the avoidance of doubt, all other paragraphs in this paragraph 3 of this Schedule 2 shall apply to all Service Transfers, whether or not the Employment Regulations apply.
- 3.2 The Company agrees that, subject to compliance with the Data Protection Legislation:
- 3.2.1 within 30 days of the earliest of:
- 3.2.1.1 receipt of a notification from the Customer of a Service Transfer or intended Service Transfer; or
- 3.2.1.2 receipt of the giving of notice of early termination of this agreement or any part thereof; or
- 3.2.1.3 the date which is 12 months before the expiry of the Initial Term or any renewal term,
- and, in any event, on receipt of a written request of the Customer at any time, it shall provide the Company's Provisional Staff List and the Staffing Information to the Customer or, at the direction of the Customer, to a Replacement Company and it shall provide an updated Company's Provisional Staff List when reasonably requested by the Customer or, any Replacement Company;
- 3.2.2 at least 28 days before the Service Transfer Date, the Company shall prepare and provide to the Customer and/or, at the direction of the Customer, to the Replacement Company, the Company's Final Staff List, which shall be complete and accurate in all material respects. The Company's Final Staff List shall identify which of the Company's Personnel named are Transferring Employees;
- 3.2.3 on reasonable request by the Customer the Company shall provide the Customer or at the request of the Customer, the Replacement Company, with access (on reasonable notice and during normal working hours) to such employment records (and provide copies) as the Customer reasonably requests.
- 3.3 The Customer shall indemnify the Company against all claims arising from the Customer's or the Replacement Company's failure to perform and discharge any obligation and against any claims in respect of any Transferring Employees arising from or as a result of:
- 3.3.1 any act or omission by the Customer or the Replacement Company relating to a Transferring Employee occurring on or after the Service Transfer Date; and
- 3.3.2 all and any claims in respect of all emoluments and outgoings in relation to the Transferring Employees (including without limitation all wages, bonuses, PAYE, National Insurance contributions, pension contribution and otherwise) accrued and payable after the Service Transfer Date.
- 3.4 The parties shall co-operate to ensure that any requirement to inform and consult with the employee representatives in relation to any relevant transfer as a consequence of a Service Transfer will be fulfilled.
- 3.5 The Customer shall assume (or shall procure that the Replacement Company shall assume) the outstanding obligations of the Company in relation to any Transferring Employees in respect of accrued holiday entitlements and accrued holiday remuneration prior to the Service Transfer Date.
- 3.6 The parties agree that the Contracts (Rights of Third Parties) Act 1999 shall apply to paragraph 3.2 to paragraph 3.5 of this Schedule 2 to the extent necessary to ensure that any Replacement Company shall have the right to enforce the obligations owed to, and indemnities given to, the Replacement Company by the Company or the Customer to the Company under paragraph 3.2 to paragraph 3.5 in its own right pursuant to section 1(1) of the Contracts (Rights of Third Parties) Act 1999.
- 3.7 Notwithstanding paragraph , it is expressly agreed that the parties may by agreement rescind or vary this schedule 2 or any term of this schedule 2 without the consent of any other person who has the right to enforce the terms of this Schedule 2 or the term in question notwithstanding that such rescission or variation may extinguish or alter that person's entitlement under that right.
- 3.8 If, in the event of a Service Transfer to which the Employment Regulations do not apply the following provisions shall apply:
- 3.8.1 the Customer or the Replacement Company can, at its discretion, make to any of the employees listed on the Company's Provisional Staff List or any Company's Personnel assigned to the Services an offer, in writing, to employ that employee under a new contract of employment to take effect at the earliest reasonable opportunity;
- 3.8.2 when the offer has been made by the Customer or Replacement Company and accepted by any employee or worker, the Company shall permit the employee or worker to leave their employment, as soon as practicable depending on the business needs of the Company which could be without the employee or worker having worked his full notice period, if the employee so requests and where operational obligations allow; and
- 3.8.3 if the employee does not accept an offer of employment made by the Customer or Replacement Company, the employee shall remain employed by the Company and all claims in relation to the employee shall remain with the Company;
- 3.8.4 if the Customer or the Replacement Company does not make an offer to any employee on the Company's Provisional Staff List or any Company's Personnel, then that employee and all claims in relation to that employee remains with the Company.