GENERAL TERMS AND CONDITIONS FOR THE PROVISION OF PRODUCTS, SOFTWARE, AND SERVICES

PART 1: GENERAL TERMS AND CONDITIONS

1. Definitions and Interpretation

Definitions

1.1 In the Contract, unless the context otherwise requires, the following words and expressions have the following meanings:

Affiliate in relation to a party, any entity which controls or is directly or indirectly controlled by, or is under common control with, such party (where "control" shall mean either the ownership of at least fifty per-cent (50%) or more of the voting shares in an entity, or the power to direct or cause the direction of the general management and policies of an entity (whether as a result of the ownership of shares, through control of the board of directors, by contract, under powers conferred by constitutional documents, or through any other means) (and the terms "controlled", "controlling" and "controls" shall be construed accordingly));

Applicable Law means all applicable regional, national and international laws, regulations, rules, requirements and binding guidance, standards and directions, including those imposed by any governmental or regulatory or judicial authority, in each case which apply from time to time to the person or activity in the circumstances in question;

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

Charges means the fees for any of the Products, Software and Services determined under clause 11 and as set out in the Order Form;

Confidential Information means all information relating to a party (or its Affiliates) which is disclosed or obtained under or in connection with the Contract (whether in writing, orally or by other means and whether directly or indirectly) whether or not designated as confidential information but which by its nature is confidential or should reasonably be considered as such, including (i) any information relating to a party or its Affiliates', suppliers' or subcontractors' business or prospective business, current or projected plans or internal affairs, (ii) information relating to each party's or its Affiliates' respective customers, (iii) the terms of the Contract, (iv) Know-How, trade secrets, products, operations, processes, product information and intellectual property rights of the parties and their Affiliates, and (v) any other commercial, financial and technical information relating to the business or prospective business of any of the parties, their Affiliates, subcontractors, or suppliers; but excluding information that:

(a) is (otherwise than by breach of the Contract) in the public domain;

(b) is in the lawful possession of the recipient party other than pursuant to disclosure from the disclosing party; and/or

(c) subsequently comes into the possession of the recipient party from a third party having the right to disclose the same;

Contract has the meaning set out in clause 2.1;

Customer means the customer specified in the Order Form;

Customer Materials means any material owned by the Customer or its Affiliates relating to the Products, Software and Services (and any modifications to that material) provided to the Supplier by the Customer, as specified in the relevant Order Form;

Customer Software means software used by the Customer and which is licensed by a third party to the Customer or which is proprietary to the Customer;

Customer Site means the location set out in the Order Form at which the Supplier shall perform, or procure the performance of, the Products, Software and Services;

Data Protection Legislation means any data protection legislation from time to time in force in the UK including the Data Protection Act 2018 and the UK GDPR (as defined in the Data Protection Act 2018) or any successor legislation;

Effective Date means the date the Order Form is signed by both parties;

Equipment Maintenance Services means ensuring the Supported Equipment remains in Good Working Order. The Equipment Maintenance Services are set out in Part 3;

Excluded Equipment Maintenance means any maintenance services required to restore any malfunctioning or failed Supported Equipment to Good Working Order where the malfunction or failure results from or is caused by any of the Excluded Causes;

Excluded Causes means:

(i) a defect in the manufacturer's design of the Supported Equipment;

(ii) faulty materials or workmanship in the manufacture of the Supported Equipment;

(iii) use of the Supported Equipment with computer equipment or materials not supplied or approved in writing by the Supplier;

(iv) any maintenance, alteration, modification or adjustment performed by persons other than the Supplier or its employees or agents;

(v) the Customer or a third party moving the Supported Equipment;

(vi) the use of the Supported Equipment in breach of any of the provisions of the Contract under which the Supported Equipment was supplied;

(vii) a failure, interruption or surge in the electrical power or its related infrastructure connected to the Supported Equipment, unless hosted in the Supplier's data centre;

(viii) a failure or malfunction in the air conditioning or other environmental controls required for the normal operation of the Supported Equipment, or an error or omission in the correct use of that air conditioning or other environmental controls by the Customer; or

(ix) the neglect of the Supported Equipment or misuse of the Supported Equipment not in accordance with Supplier's instructions or published user documentation;

Excluded Services has the meaning given in clause 5;

Force Majeure has the meaning given in clause 23;

General Terms and Conditions means these terms and conditions set out in Part 1;

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;

Good Working Order means the Supported Equipment operates in accordance with the Operating Manuals;

Hardware means all physical telecommunications, networking and computer equipment (including switches, routers, cables, servers, racks, cabinets and peripheral accessories) provided and used by the Supplier to deliver the Services to the Customer;

Incident has the meaning given to it in clause 37.3;

Index means the Consumer Price Index as published from time to time by the UK Office of National Statistics or where such index ceases publication such other equivalent and comparable index as the Supplier reasonably specifies;

Indexation means an increase or decrease (as the context requires) to the applicable prices by reference to the Index;

Initial Term means a period of thirty-six (36) months from the Services Commencement Date;

Insolvency Event means any of the following events affecting a party to the Contract. A party:

(i) suspends, or threatens to suspend, payment of its debts (whether principal or interest) or is deemed to be unable to pay its debts within the meaning of Section 123 of the Insolvency Act 1986;

(ii) calls a meeting, gives a notice, passes a resolution or files a petition, or an order is made, in connection with the winding up of that party (save for the sole purpose of a solvent voluntary reconstruction or amalgamation);

(iii) has an application to appoint an administrator made or a notice of intention to appoint an administrator filed or an administrator is appointed in respect of it or all or any part of its assets;

(iv) has a receiver or administrative receiver appointed over all or any part of its assets or a person becomes entitled to appoint a receiver or administrative receiver over such assets;

(v) takes any steps in connection with proposing a company voluntary arrangement or a company voluntary arrangement is passed in relation to it, or it commences negotiations with all or any of its creditors with a view to rescheduling any of its debts;

(vi) has any steps taken by a secured lender to obtain possession of the property on which it has security or otherwise to enforce its security; or

(vii) has any proceeding taken, with respect to it in any jurisdiction to which it is subject, or any event happens in such jurisdiction that has an effect equivalent or similar to any of the above events;

Intellectual Property Rights means copyright, patents, rights in inventions, rights in confidential information, Know-how, trade secrets, trade marks, service marks, trade names, design rights, rights in get-up, database rights, rights in data, semi-conductor chip topography rights, mask works, utility models, domain names, rights in computer software 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;

Know-how means inventions, discoveries, improvements, processes, formulae, techniques, specifications, technical information, methods, tests, reports, component lists, manuals, instructions, drawings and information relating to customers and suppliers (whether written or in any other form and whether confidential or not);

Licensed Software means any software that is licensed by the Supplier to the Customer under the Order Form, the terms for which are set out in Part 3;

Maintenance Releases means any release of the Supplier Software or Licensed Software that corrects faults, adds functionality or otherwise amends or upgrades the Supplier Software or Licensed Software but which does not constitute a New Version;

New Version means any new version of the Supplier Software or Licensed Software which from time to time is publicly marketed and offered for purchase by the Supplier in the course of its normal business, being a version which contains such significant differences from the previous versions as to be generally accepted in the marketplace as constituting a new product;

Normal Business Hours means 0800-1800 GMT on a Business Day;

Operating Manuals means any operating manuals, specifications and other manufacturer documentation relating to the Supported Equipment;

Order Form means the detail of the specific Products, Software and Services to be provided by the Supplier to the Customer;

Products, Software and Services means all products, services, programmes, hardware, knowhow, training, guidance, licences and support as set out in an Order Form to be purchased by the Customer and provided by the Supplier and reference to Products, Software or Services shall be interpreted accordingly;

Rollover Term has the meaning given in clause 3;

Services Commencement Date means the date(s) for commencement of the provision of the applicable Services, as specified in the relevant Order Form;

Service Level Arrangements (SLAs) mean the service levels applicable to certain Services as specified in the Order Form and as set out in Part 2 of these General Terms and Conditions;

SLA Start Date means the date specified in the Order Form as the SLA Start Date;

Supported Equipment means the equipment set out in the Order Form as being maintained by the Supplier;

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;

Supplier Software means the software used by the Supplier (or any of its sub-contractors) to provide the Services to the Customer and which is licensed by a Third Party Provider to the Supplier or which is proprietary to the Supplier;

Term means the Initial Term and any Rollover Term;

Third Party Additional Terms means the additional terms and conditions relating to the Licensed Software and any Third Party Software referred to in the Order Form, including any applicable end-user licence;

Third Party Provider means the third party manufacturer, vendor or licensor identified in the Order Form that provides (i) Third Party Software; (ii) Hardware; or (iii) Licensed Software;

Third Party Software means software provided by a Third Party Provider;

Update means a Maintenance Release or New Version; and

VAT means value added tax, as defined by the Value Added Tax Act 1994.

Interpretation

1.2 In the Contract, unless the context otherwise requires:

1.2.1 a reference to the Contract includes its schedules, appendices and annexes (if any);

1.2.2 a reference to a 'party' includes that party's personal representatives, successors and permitted assigns;

1.2.3 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;

1.2.4 a reference to a gender includes each other gender;

1.2.5 words in the singular include the plural and vice versa;

1.2.6 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;

1.2.7 the table of contents, background section and any clause, schedule or other headings in the Contract are included for convenience only and shall have no effect on the interpretation of the Contract; and

1.2.8 a reference to legislation is a reference to that legislation as amended, extended, re-enacted or consolidated from time to time.

2. The Contract

2.1 The relationship between the Supplier and Customer, including the supply of Products, Software and Services from the Supplier to the Customer, shall be governed wholly by the following (and in the following order of precedence, highest to lowest):

2.1.1 any applicable Order Form;

2.1.2 these General Terms and Conditions and all documents referred to within these General Terms and Conditions;

2.1.3 any Third Party Additional Terms,

the "**Contract**".

2.2 Subject to the above order of priority between documents, later versions of documents shall prevail over earlier ones if there is any conflict or inconsistency between them.

Applicable Service Terms

2.3 The Products, Software and Services purchased by the Customer may be subject to specific terms ("**Applicable Service Terms**") governing the Customer's use and access of the applicable Products, Software and Services. These are set out in Part 2, Part 3 and Part 4 to these General Terms and Conditions.

Modifications to the Contract

2.4 The Supplier reserves the right to modify the terms of the Products, Software and Services in the interest of maximising the effectiveness of its services, provided that such modification does not have an adverse effect on the Services.

2.5 The Supplier will ensure that all proposals provided by the Supplier to the Customer are prepared in good faith.

2.6 Any proposals (including all associated documentation, estimates, quotations, correspondence and information) provided by the Supplier to the Customer are for information purposes only.

3. Commencement and Term

3.1 The Contract shall commence on the Effective Date and, unless terminated earlier in accordance with clause 17, shall continue for the Initial Term and for successive periods of 12 months thereafter (each a "**Rollover Term**"), or until terminated by either the Supplier or the Customer on no less than 90 days' prior written notice to the other before end of the Initial Term or current Rollover Term.

4. Supply of Services

4.1 From the Services Commencement Date, the Supplier shall supply the Services to the Customer in accordance with:

4.1.1 Good Industry Practice; and

4.1.2 the description of the Services set out in the Contract in all material respects.

4.2 The Supplier shall use reasonable endeavours to meet any performance dates for the Services specified in the Order Form, but any such dates shall be estimates only and time shall not be of the essence for the performance of the Services under the Contract.

4.3 The Supplier shall only provide the Services during the service hours specified in the applicable Order Form or Service Level Arrangements.

4.4 The Supplier reserves the right to:

4.4.1 modify the Supplier's System, its network, system configurations or routing configuration; or

4.4.2 modify or replace any Hardware or Supplier Software in its network or in equipment used to deliver any Service over its network,

provided that this has no adverse effect on the Supplier's obligations under the Contract and its provision of the Services or the Service Level Arrangements.

4.5 The Supplier does not warrant that the Customer's use of the Services shall be uninterrupted or error-free.

5. Excluded Services

5.1 Unless expressly stated otherwise in the relevant Order Form, the Services do not include:

5.1.1 any equipment, software, hardware or accessories not specifically set out in the Order Form;

5.1.2 support at any Customer Site; and

5.1.3 any services relating to disaster recovery or business continuity on behalf of the Customer.

5.2 In the event that disaster recovery and/or business continuity planning are to be provided by the Supplier, these Services will be detailed within the relevant Order Form. Where the Supplier has not contracted to provide disaster recovery and/or business continuity planning under an Order Form, it is the Customer's responsibility to create and maintain the same and the Supplier shall have no liability whatsoever for the maintenance of and/or amendments to the Customer's disaster recovery and/or business continuity plans, procedures or processes.

6. Service Level Arrangements

6.1 Service Level Arrangements may apply to the provision of certain Services, as specified in the relevant Order Form and Part 2 of these General Terms and Conditions. Where SLAs are so specified then the Supplier shall perform the Services from the SLA Start Date in accordance with those SLAs.

6.2 The Supplier shall not be in breach of its obligation to perform the Services in accordance with the SLAs to the extent the failure to meet any SLAs has arisen as a result of:

6.2.1 the Customer failing to comply with any of the obligations set out in clause 8 of these General Terms and Conditions to the extent that such failure directly or indirectly causes the Supplier to fail to achieve the SLAs;

6.2.2 the services requested falling within one of the Excluded Services;

6.2.3 system restoration timeframes (applications and data) being extensive (provided this is generally understood in the industry or by both parties), so that it is not possible to restore the Supported Equipment or the Service within the time period specified in the SLAs;

6.2.4 the Customer invoking a change to an Incident, therefore, the resolution needs to be rescheduled at the request of the Customer; or

6.2.5 the Customer not being available when their input is required to resolve the issue provided that a minimum of 2 reasonable attempts is made to contact the Customer.

7. Customer Infrastructure

7.1 The Supplier provides the Products, Software and Services on the basis that the Customer's existing infrastructure, hardware, Customer Software, processes, policies and any other Customer provided elements which are integral to the successful provision of the Services (the "**Customer Infrastructure**") is in good working order and operating correctly such that it does not prevent the Supplier providing the Services or meeting the agreed SLAs and requirements stated in the relevant Order Form ("**Fit for Purpose**").

7.2 The Customer acknowledges and accepts that the Supplier shall not be liable for any failure to provide the Services or meet the SLAs and requirements stated in the relevant Order Form to the extent that such failure is due to the fact that the Customer Infrastructure does not meet the requirements of clause 7.1.

7.3 Any work required in order to ensure that the Customer Infrastructure meets the requirements of clause 7.1 shall be subject to a separate Order Form, including in connection with any charges

payable for such work and the timescales for the carrying out of such work.

8. Customer obligations

8.1 The Customer shall at all times and in all respects:

8.1.1 ensure that the terms of the Order Form and any information it provides to the Supplier are complete and accurate;

8.1.2 comply and use the Products, Software and Services in accordance with all Applicable Laws and in connection with the Contract;

8.1.3 co-operate with the Supplier in all matters arising under the Contract or otherwise relating to the Products, Software and performance of the Services including providing Supplier Personnel with such information, access and materials as the Supplier may reasonably require;

8.1.4 make the Customer Site accessible to the Supplier and the Supplier Personnel as may be necessary for the Supplier to perform the Services and otherwise comply with its obligations under the Contract;

8.1.5 provide the Customer Materials and all other information, documents, materials, data or other items necessary for the provision of the Products, Software and Services to the Supplier in a timely manner;

8.1.6 ensure that all tools, equipment, materials or other items provided to the Supplier for the provision of the Products, Software and Services are suitable for the performance of the Products, Software and Services, in good condition and in good working order;

8.1.7 keep confidential all passwords, logon codes and other access methods to the Services. The Supplier shall not be liable for any disclosure by the Customer of the same, whether intentional or otherwise;

8.1.8 with the exception of the Supported Equipment, provide all necessary computer hardware, software and/or telecommunications equipment and services necessary for the Customer to access and use the Products, Software and Services;

8.1.9 obtain and maintain all necessary licences, permits, consents and rights to use required to enable the Supplier to perform the Services and otherwise comply with its obligations under the Contract including all Customer Software; and

8.1.10 immediately notify the Supplier if there is any failure of the Products, Software and Services or Supported Equipment.

8.2 The Customer shall not store, distribute or transmit through the Products, Software and Services any material that:

8.2.1 is unlawful, harmful, threatening, defamatory, obscene, harassing or racially or ethnically offensive;

8.2.2 facilitates illegal activity;

8.2.3 depicts sexually explicit images; and/or

8.2.4 promotes unlawful violence, discrimination based on race, gender, age, disability, sexual orientation, religion, belief or gender reassignment, or any other illegal activity.

8.3 Upon notification from the Supplier, the Customer shall, at its cost, install and integrate any Update (or, if appropriate, substitute such New Version for the Licensed Software or Supplier Software) on the Supplier's normal commercial terms.

8.4 The Customer shall remain responsible for the use of the Products, Software and Services under its control, including any use by third parties (whether fraudulent or invited by the Customer).

8.5 The Customer must take reasonable measures to ensure that it does not jeopardise services supplied to third parties on the same shared access infrastructure (such infrastructure notified by the Supplier to the Customer). This includes informing the Supplier promptly in the case of a denial-of-service attack or distributed denial-of-service attack. In the event of any such incident, the Supplier shall work with the Customer to alleviate the situation as quickly as possible. The parties shall discuss and agree in writing appropriate action.

8.6 The Customer shall not use the Products, Software or Services directly or indirectly to provide services to third parties.

8.7 The Customer undertakes to comply with the Third Party Additional Terms referred to in the relevant Order Form or delivered with or embedded within the Product supplied.

9. Delays and Customer Cause

9.1 The Supplier and the Customer shall promptly notify the other as soon as reasonably practicable after it becomes aware of:

9.1.1 any failure, or likely failure, to perform their respective obligations under the Contract within any agreed timescale;

9.1.2 any other events or circumstances that they consider may materially and adversely affect the provision of the Products, Software or Services.

9.2 If the Customer is in breach of any of its obligations under the Contract or if the Supplier is prevented or delayed in delivering the Products or Software or performing the Services for any reason attributable to the Customer, its Affiliates, employees, agents, representative or subcontractors ("**Customer Cause**"), then the Supplier (without prejudice to its other rights):

9.2.1 may suspend performance of the Products, Software and Services under the Contract until such time as the Customer fully remedies its breach or default to the Supplier's reasonable satisfaction;

9.2.2 shall not be liable for any losses, damages, costs and expenses incurred by the Customer as a result of such suspension;

9.2.3 shall recover from the Customer all losses, damages, costs and expenses incurred by the Supplier arising from the Customer Cause provided the Supplier can demonstrate that such amounts were incurred by the Customer's failure to comply with its obligations under the Contract.

10. Products

10.1 Where the Order Form specifies that the Supplier is to supply Products to the Customer, the provisions of this clause 10 shall apply.

Delivery

10.2 The Supplier shall deliver the Products to the location set out in the Order Form or such other location as the parties may agree (the "**Delivery Location**") at any time after the Supplier notifies the Customer that the Products are ready for delivery.

10.3 Delivery of the Products shall be completed on the completion of unloading of the Products at the Delivery Location.

10.4 Any dates quoted for delivery of the Products are approximate only, and the time of delivery is not of the essence. The Supplier shall not be liable for any delay in delivery of the Products that is caused by Force Majeure or the Customer's failure to provide the Supplier with adequate delivery instructions or any other instructions that are relevant to the supply of the Products.

10.5 If the Customer fails to take delivery of the Products within 3 Business Days of the Supplier notifying the Customer that the Products are ready for delivery, then except where such failure or delay is caused by Force Majeure or by the Supplier's failure to comply with its obligations under the Contract in respect of the Products:

1.2.9 delivery of the Products shall be deemed to have been completed at 9.00 am on the third Business Day following the day on which the Supplier notified the Customer that the Products were ready for delivery; and

1.2.10 the Supplier shall store the Products until delivery takes place and charge the Customer for all related costs and expenses (including insurance).

10.6 The Customer will provide at its expense at the Delivery Location, adequate and appropriate equipment and manual labour for off-loading the Products.

Title and Risk

10.7 Risk of damage to or loss of the Products will pass to the Customer on delivery.

10.8 Title to and property in any Products will remain vested in the Supplier until payment in full of the Charges (together with any interest and VAT thereon) and in cleared funds has been received by the Supplier in respect of those Products.

10.9 Until title to the Products has passed to the Customer, the Customer shall:

10.9.1 store the Products separately from all other goods held by the Customer so that they remain readily identifiable as the Supplier's property;

10.9.2 not remove, deface or obscure any identifying mark or packaging on or relating to the Products;

10.9.3 maintain the Products in satisfactory condition and keep them insured against all risks for their full price on the Supplier's behalf from the date of delivery;

10.9.4 notify the Supplier immediately if it becomes, or reasonably suspects it may become, subject to an Insolvency Event; and

10.9.5 give the Supplier such information relating to the Products as the Supplier may require from time to time.

10.10 If, before title to the Products passes to the Customer, the Customer becomes subject to an Insolvency Event then, without limiting any other right or remedy the Supplier may have the Supplier may at any time:

10.10.1 require the Customer to deliver up all Products in its possession which have not been resold, or irrevocably incorporated into another product; and

10.10.2 if the Customer fails to do so promptly, enter any premises of the Customer or of any third party where the Products are stored in order to recover them.

Quality of Products

10.11 The Supplier warrants that on delivery the Products shall conform in all material respects with their description.

10.12 The Supplier shall, at its option, repair or replace any defective Products, or refund the price of the defective Products in full if:

10.12.1 the Customer gives notice in writing within 72 hours from delivery that some or all of the Products are defective;

10.12.2 the Supplier is given a reasonable opportunity of examining such Products; and

10.12.3 the Customer (if asked to do so by the Supplier) returns such Products to the Supplier's place of business at the Customer's cost.

10.13 The Supplier shall not be liable for the Products' failure to comply with clause 10.11 if:

10.13.1 the Customer makes any further use of such Products after giving notice in accordance with clause 10.12;

10.13.2 the defect arises because the Customer failed to follow the Supplier's oral or written instructions as to the storage, commissioning, installation, use or maintenance of the Products or (if there are

none) good trade practice regarding the same;

10.13.3 the defect arises as a result of the Supplier following any drawing, design or specification supplied by the Customer;

10.13.4 the Customer alters or repairs such Products without the written consent of the Supplier; or

10.13.5 the defect arises as a result of fair wear and tear, wilful damage, negligence, or abnormal storage or working conditions.

11. Warranties

11.1 Each Party warrants to the other that:

11.1.1 a duly authorised representative shall validly execute the Contract;

11.1.2 it has and shall maintain and comply with all consents, approvals, licences or permits necessary for it to enter into and perform its obligations under the Contract; and

11.1.3 it shall comply with all Applicable Laws in connection with the performance of its obligations under the Contract.

12. Subcontracting

12.1 Save as permitted by clause 12.2 or otherwise agreed in writing between the parties, neither party will delegate the performance of their respective obligations to a third party without the prior written consent of the other (not to be unreasonably withheld or delayed).

12.2 The Customer consents to the Supplier delegating the supply of Products, Software and Services the Supplier has agreed to provide to the Customer under the Contract.

12.3 The Supplier will be responsible for all acts and omissions of its sub-contractors and the acts and omissions of those employed or engaged by its sub-contractors as if such acts and omissions were its own.

13. Charges and Payment

13.1 The Charges payable by the Customer in respect of the Contract are set out in the Order Form.

13.2 The Charges are in pounds sterling and exclusive of VAT (or equivalent sales tax). The Customer shall pay any applicable VAT (or equivalent sales tax) to the Supplier on receipt of a valid VAT invoice.

13.3 Where the Customer has purchased Products, the Charges for such Products are exclusive of all costs and charges of packaging, insurance, transport of the Products, which shall be invoiced to the Customer.

13.4 Where the Charges are calculated on a time and material basis, the Supplier's rates shall be as set out in the Order Form.

Payment

13.5 The Customer shall pay each invoice submitted by the Supplier in full and in cleared funds within 30 days of the date of the invoice or in accordance with any credit terms agreed by the Supplier and set out in the Order Form. Payment shall be made to a bank account nominated in writing by the Supplier.

13.6 The Supplier will be entitled to be reimbursed by the Customer for all out-of-pocket expenses (including travelling and entertainment expenses but not parking fines or road traffic offence fines) incurred by the Supplier and the Supplier Personnel in the proper provision of the Services, subject to the production of such receipts or other evidence as the Customer may reasonably require.

13.7 Time of payment is of the essence. Where sums due hereunder are not paid in full by the due date:

13.7.1 the Supplier may, without limiting its other rights, charge interest on such sums at 4% a year above the Bank of England's base rate from time to time in force, but 4% a year for any period when that base rate is below 0%;

13.7.2 interest shall accrue on a daily basis, and apply from the due date for payment until actual payment in full, whether before or after judgment; and

13.7.3 the Supplier may charge an administration fee of £45.00 for any failed or returned payment.

13.8 All amounts due under the Contract shall be paid in full without any set-off, counterclaim, deduction or withholding of any kind, save as may be required by law.

Third Party Charges

13.9 The Customer acknowledges that in order to provide the Products, Software and Services, the Supplier is reliant on third party suppliers and contractors who may change their costs to the Supplier from time to time. Consequently, the Supplier shall be entitled to increase the Charges at any time on written notice to the Customer to reflect such changes in costs where the Supplier uses the services of those third party suppliers as part of its Service delivery.

Indexation

13.10 Unless otherwise specified in the Order Form, following the first anniversary of the Effective Date, the Supplier shall be entitled to increase the relevant Charges in March each year to reflect Indexation. Such Indexation shall apply by reference to the Index as at 28 February (that is to say by reference to the percentage increase (if any) in the Index over the preceding 12 months) in each year.

13.11 Where, at the request of the Customer, any work to provide the Products, Software and Services is done (i) outside of Normal Business Hours; or (ii) at a Customer Site, unless otherwise agreed and set out in the Order Form, the Customer shall pay a charge for such work calculated at the Supplier's then current standard hourly rate.

14. Data protection and data processing

14.1 Both parties will comply with all applicable requirements of the Data Protection Legislation. This clause 14 is in addition to, and does not relieve, remove or replace, a party's obligations or rights under the Data Protection Legislation.

14.2 In this clause 14, Controller, Data Subject, Personal Data, Personal Data Breach, process, processing, Processor, transfer (in the context of Personal Data transfers) and appropriate technical and organisational measures shall be interpreted in accordance with the Data Protection Legislation.

14.3 The parties acknowledge that for the purposes of the Data Protection Legislation, the Customer is the Controller and the Supplier is the Processor.

14.4 Where the Customer transfers Personal Data to the Supplier, the Customer warrants to the Supplier that it has the right to transfer that Personal Data to the Supplier and that it has either:

14.4.1 obtained at the appropriate time all necessary consents to transfer Personal Data to the Supplier and for the Supplier to undertake such processing activities as contemplated by the Contract; or

14.4.2 secured another legal data processing ground, in accordance with applicable Data Protection Legislation, to share Personal Data with the Supplier and for the Supplier to undertake such processing activities as contemplated by the Contract.

14.5 Without prejudice to the generality of clause 14.1, the Supplier shall, in relation to any Personal Data processed in connection with the performance by the Supplier of its obligations under the Contract:

14.5.1 not disclose that Personal Data to any Data Subject or to a third party other than at the written request of the Customer or as expressly provided for in the Contract;

14.5.2 process that Personal Data only on the instructions of the Customer unless the Supplier is required by Applicable Law to otherwise process that Personal Data. Where the Supplier is relying on laws of a member of the European Union or European Union law as the basis for processing Personal Data, the Supplier shall promptly notify the Customer of this before performing the processing required by the Applicable Laws unless those Applicable Laws prohibit the Supplier from so notifying the Customer;

14.5.3 not process that Personal Data for any purpose other than those expressly authorised by the Customer;

14.5.4 ensure that it has in place appropriate technical and organisational measures, reviewed and approved by the Customer, to protect against unauthorised or unlawful processing of Personal Data and against accidental loss or destruction of, or damage to, Personal Data, appropriate to the harm that might result from the unauthorised or unlawful processing or accidental loss, destruction or damage and the nature of the data to be protected, having regard to the state of technological development and the cost of implementing any measures (those measures may include, where appropriate, pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of its systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the technical and organisational measures adopted by it);

14.5.5 ensure that all Supplier Personnel who have access to and/or process Personal Data are obliged to keep the Personal Data confidential; and

14.5.6 assist the Customer, at the Customer's cost, in responding to any request from a Data Subject and in ensuring compliance with its obligations under the Data Protection Legislation with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators;

14.5.7 notify the Customer without undue delay on becoming aware of a Personal Data Breach;

14.5.8 at the written direction, and cost, of the Customer, delete or return Personal Data and copies thereof to the Customer on termination of the Contract unless required by Applicable Law to store the Personal Data; and

14.5.9 maintain records and information to demonstrate its compliance with this clause 14.

14.6 The Supplier may subcontract its processing of Personal Data processed in connection with the performance by the Supplier of its obligations under the Contract. The Supplier shall procure that any such subcontractors enter into a written contract with the Supplier which contains obligations for the protection of Personal Data which are no less onerous than those set out in this clause 14. The Supplier shall inform the Customer of any intended changes concerning the addition or replacement of its third party processors by way of notice, with such change to be effective 10 Business Days following the delivery of this notice, unless the Customer raises an objection to the proposed change during that notice period. As between the Customer and the Supplier, the Supplier shall remain fully liable for all acts or omissions of any third party processor appointed by it pursuant to this clause 14.

14.7 Subject to clause 14.6, the Supplier shall not transfer any Personal Data outside of the European Economic Area unless the prior written consent of the Customer has been obtained and the following conditions are fulfilled:

14.7.1 the Customer or the Supplier have provided appropriate safeguards in relation to the transfer;

14.7.2 the Data Subject (as defined in the Data Protection Legislation) has enforceable rights and effective legal remedies;

14.7.3 the Supplier complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred; and

14.7.4 the Supplier complies with reasonable instructions notified to it in advance by the Customer with respect to the processing of the Personal Data.

14.8 For the purposes of the Data Protection Legislation, the processing of Personal Data to be carried out by the Supplier in connection with the Contract shall be as follows:

14.8.1 **Subject matter and duration of processing**: For the delivery of the Products, Software and Services;

14.8.2 **Nature and purpose of processing**: As necessary for the delivery of the Products, Software and Services;

14.8.3 **Type of Personal Data**: Names, contact details and such other data as is provided

by the Customer in the context of the Customer's receipt of the Products, Software and Services;

14.8.4 **Categories of Data Subject**: Customer employees, contractors and other nominated end users of the Products, Software and Services.

15. Intellectual property rights

15.1 Each party shall retain ownership of all Intellectual Property Rights that:

15.1.1 it owned or developed prior to entering into the Contract; and

15.1.2 it creates independently of the Contract and not in connection with the Products, Software and Services provided under the Contract.

15.2 Except as expressly stated in the Contract, nothing in the Contract shall transfer, assign, or grant any rights, title, or interest in either party's Intellectual Property Rights to the other party.

15.3 All Intellectual Property Rights in or arising out of or in connection with the Services (other than Intellectual Property Rights in any Customer Materials, including Customer Software) shall be owned by the Supplier.

15.4 The Supplier grants to the Customer a royalty free, non-exclusive, non-transferable, right to use the Supplier's Intellectual Property Rights solely to the extent necessary to receive and use the Services.

15.5 The Customer grants the Supplier a fully paid-up, non-exclusive, royalty-free non-transferable licence to copy and modify any Customer Materials during the Term for the purpose of providing the Services to the Customer.

16. Limitation of liability

16.1 The extent of the Supplier's liability under or in connection with the Contract (regardless of whether such liability arises in tort, contract or in any other way and whether or not caused by negligence or misrepresentation) shall be as set out in this clause 16.

16.2 Nothing in the Contract shall limit or exclude the Supplier's liability for:

16.2.1 death or personal injury caused by negligence;

16.2.2 fraud or fraudulent misrepresentation;

16.2.3 any other losses which cannot be excluded or limited by English law.

16.3 Subject to clause 16.2, the Supplier shall not be liable for any of the following (whether direct or indirect): loss of profit; loss of revenue; loss of data (unless due to the negligence of the Supplier); corruption of data; loss or corruption of software or systems; loss or damage to Supported Equipment; loss of use; loss of production; loss of contract; loss of commercial opportunity; any consequential, indirect or special loss of savings, discount or rebate (whether actual or anticipated); harm to reputation or loss of goodwill; loss or incompatibility of Third Party Software not provided or approved by the Supplier (whether direct or indirect); and/or wasted expenditure.

16.4 Subject to clause 16.2 and 16.3, the Supplier's total aggregate liability to the Customer, whether in contract, tort (including negligence), breach of statutory duty or otherwise, arising under or in connection with the Contract will be limited to one hundred per-cent (100%) of the Charges paid by the Customer in the previous 12 months or, where an event giving rise to a loss occurs prior to the Customer having paid any amounts to the Supplier, a sum equivalent to amounts invoiced or payable for the then current month.

16.5 The terms implied by sections 13 to 15 of the Sale of Goods Act 1979 and the terms implied by sections 3 to 5 of the Supply of Goods and Services Act 1982 are, to the fullest extent permitted by law, excluded from the Contract.

17. Termination

Supplier termination rights

17.1 The Supplier may terminate the Contract if:

17.1.1 the Customer commits a material breach of the Contract and such breach is not remediable;

17.1.2 the Customer commits a material breach of the Contract which is not remedied within 30 days of receiving written notice of such breach;

17.1.3 the Customer is affected by an Insolvency Event;

17.1.4 any Charges due to the Supplier by the Customer remain unpaid for a period of 45 days or more following the due date for payment;

17.1.5 any consent, licence or authorisation held by the Supplier is revoked or modified such that the Supplier is no longer able to comply with its obligations under the Contract or receive any benefit to which it is entitled; or

17.1.6 the Supplier, in its absolute discretion, believes the Customer is not using the Products, Software and Services in a fair manner.

Customer termination rights

17.2 The Customer may terminate individual Products, Software and Services at any time by giving notice in writing to the Supplier if:

17.2.1 the Supplier commits a material breach of the Contract and such breach is not remediable; or

17.2.2 the Supplier commits a material breach of the Contract which is not remedied within 30 days of receiving written notice of such breach,

provided that the matter has first been referred to the Dispute Resolution procedure referred to in clause 22 and the Customer has not found the outcome satisfactory.

General

17.3 Without affecting any other right or remedy available to it, the Supplier may suspend the supply of the Products, Software and Services or all further deliveries of Products under the Contract if the Customer fails to pay any amount due under the Contract on the due date for payment, the Customer cancels a Direct Debit, the Customer becomes subject to an Insolvency Event or the Supplier reasonably believes that the Customer is about to become subject to an Insolvency Event.

18. Consequences of Termination

18.1 On termination of the Contract for any reason:

18.1.1 the Customer shall return any Supported Equipment, Hardware or other equipment provided by the Supplier to the Customer for the delivery of the Products, Software and Services;

18.1.2 the Customer shall immediately pay to the Supplier all the Supplier's outstanding invoices and interest and, in respect of Products, Software and Services supplied but for which no invoice has been submitted, the Supplier shall submit an invoice for which payment shall become immediately due;

18.1.3 the following clauses of the Contract shall survive termination, howsoever caused: clause 11 (warranty); clause 14 (data protection); clause 16 (limitation of liability); clause 18.1 (consequence of termination); clause 19 (non-solicitation); clause 20 (confidential information); clause 22 (dispute resolution); clause 26 (notices); clause 33 (third party rights); clause 34 (governing law and jurisdiction), together with any other provision of the Contract which expressly or by implication is intended to survive termination;

18.1.4 if the Order Form states that the Customer has purchased backup services as part of the Services, and the Supplier receives, no later than 10 days after the date of the expiry or termination of the Contract, a written request for the delivery to the Customer of the most recent backup of the Customer's data, the Supplier shall deliver the backup to the Customer within 30 days of its receipt of such written request, provided that the Customer has at that time paid all Charges outstanding at expiry or termination;

18.1.5 the licence granted by the Supplier to the Customer in Part 4 shall immediately cease.

18.2 Termination of the Contract shall be without prejudice to the rights and remedies of either party which may have accrued up to the date of termination of the Contract.

18.3 Unless specified in the Order Form, no exit assistance shall be provided, except as agreed pursuant to the remainder of this clause. If the Contract is terminated for any reason, the Customer may request the Supplier to provide exit assistance. The provision of such exit assistance shall be subject to the parties agreeing a separate Order Form, clearly defining each party's obligations in respect of the transfer of the responsibility for the provision of the relevant Products, Software and Services to the Customer or, at the Customer's request, to another supplier and the Charges for the provision of such exit assistance.

19. Non-solicitation

19.1 In order to protect the legitimate business interests of the Supplier, except with the prior written consent of the Supplier, during the Term of the Contract and for a period of 6 months thereafter, the Customer will not directly or indirectly employ or engage or make an offer of employment or engagement to any person employed or engaged by the Supplier in relation to the Contract, save as a result of a bona fide general recruitment campaign or advertisement.

19.2 In the event of a breach of clause 19.1, the Customer shall pay to the Supplier the greater of:

19.2.1 the relevant individual's gross annual salary inclusive of all benefits at the time of their resignation or departure; and

19.2.2 the equivalent of 6 months of the relevant individual's new annual salary or fee inclusive of all benefits,

that sum being agreed by both parties to be fair compensation for the loss suffered as a result of breach.

20. Confidential information

20.1 Each party undertakes that it shall keep all 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 20.2.

20.2 A party may disclose the other party's Confidential Information:

20.2.1 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 ensures that each of its Representatives to whom Confidential Information is disclosed is aware of its confidential nature and agrees to comply with clause 20 as if it were a party; and

20.2.2 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 to be disclosed; and

20.2.3 only to perform any obligations under the Contract.

20.3 Each party shall, immediately upon becoming aware of the same, give notice to the other of any unauthorised disclosure, misuse, theft or other loss of Confidential Information of the other party, whether inadvertent or otherwise.

20.4 The Customer grants to the Supplier the non-exclusive right to use its name and/or logo in publicity material.

21. Change Control

21.1 If the Customer wishes to change the scope of the Products, Software and Services, it shall submit

written details of the requested change to the Supplier (a "**Change Request**").

21.2 The Supplier shall, within a reasonable time, provide a written estimate to the Customer of:

21.2.1 the likely time required to implement the change;

21.2.2 any variations to the Charges arising from the change; and

21.2.3 any other impact of the change on the terms of the Contract.

21.3 If either party wishes the other party to proceed with the relevant change referred to in clause 21.1 neither party shall have obligation to do so unless and until the parties have agreed in writing the necessary variations to the terms of the Contract to take account of the change, and such variation meets the requirements of clause 28.

22. Dispute Resolution

22.1 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 22.

22.2 Unless the Contract subject to the dispute has already been terminated by the date of the notice of dispute, the Supplier shall continue with the supply of the Products, Software and Services regardless of the nature of the dispute and the Customer shall continue to make payments (excluding any disputed sums) in accordance with the Contract.

22.3 The dispute resolution process may be initiated at any time by either party serving a notice in writing on the other party that a dispute has arisen. The notice shall include reasonable information as to the nature of the dispute.

22.4 The parties shall use all reasonable endeavours to reach a negotiated resolution through the following procedures:

22.4.1 within 3 Business Days of service of the notice, the contract managers of the parties shall meet to discuss the dispute and attempt to resolve it; and

22.4.2 if the dispute has not been resolved within 7 Business Days of the first meeting from the date of service of the notice, then the matter shall be referred to the Steve Holloway (M&A Director) (or persons of equivalent seniority) who shall contact the Customer to arrange a meeting within 7 Business Days to discuss the dispute and attempt to resolve it.

23. Force majeure

23.1 In this clause 23, **Force Majeure** means an event or sequence of events beyond a party's reasonable control preventing or delaying it from performing its obligations under the Contract. Inability to pay is not Force Majeure.

23.2 An event of Force Majeure includes any act, event, non-happening, omission or accident beyond the Supplier's reasonable control which would make it impossible, impractical or materially more onerous or expensive for the Supplier to perform the affected obligations and includes (but is not limited to):

23.2.1 epidemic, pandemic or other outbreak of infectious disease;

23.2.2 storm (including lightning strike), flood, drought, hurricane, earthquake or other natural disaster or adverse weather conditions;

23.2.3 civil commotion, riot, invasion, terrorist attack or threat of terrorist attack, war (whether declared or not) or threat or preparation for war;

23.2.4 failures or delays involving hardware, software or power systems not within the Supplier's control;

23.2.5 denial of service attacks;

23.2.6 fire, explosion, malicious damage, collapse of building, subsidence, nuclear, chemical or biological contamination or electromagnetic pulse; or

23.2.7 impossibility of the use of public or private telecommunications networks, or interruption or failure of utility service.

23.3 A party shall not be liable if delayed in or prevented from performing its obligations under the Contract due to Force Majeure, provided that it:

23.3.1 promptly notifies the other of the Force Majeure event and its expected duration; and

23.3.2 uses reasonable endeavours to minimise the effects of that event.

24. Bribery Act and Modern Slavery Act

24.1 The parties shall comply with all Applicable Laws, regulations, codes and sanctions relating to (i) anti-bribery and anti-corruption, including the Bribery Act 2010, and (ii) the Modern Slavery Act 2015.

25. Entire agreement

25.1 The parties agree that the Contract entered into pursuant to it constitutes the entire agreement between them and supersedes all previous agreements, understandings and arrangements between them, whether in writing or oral in respect of its subject matter.

25.2 Each party acknowledges that it has not entered into the Contract in reliance on, and shall have no remedies in respect of, any representation or warranty that is not expressly set out in the Contract. No party shall have any claim for innocent or negligent misrepresentation on the basis of any statement in the Contract.

26. Notices

26.1 Any notice or other communication given by a party under the Contract must be in writing and in English and either delivered by hand or sent by first class post to the recipient's nominated address set out below, or sent by email to the email address set out below (and in any case must be marked for the attention of the contact identified below;

26.1.1 Notices to the Supplier: **FAO**: Steve Holloway Unit 9 Carnival Park, Basildon, Essex, England, SS14 3WN steve.holloway@arcsystems.co.uk

26.1.2 Notices to the Customer: FAO: Customer Manager to the registered address of the Customer set out in the Order Form.

26.2 A notice or communication will be treated as being received:

26.2.1 by hand: when delivered;

26.2.2 by first class post: at 9.00 am on the second Business Day after posting;

26.2.3 by email: at the time of sending if between 9am and 4:30pm on a Business Day, at 9am on that day if sent before 9am on a Business Day, or otherwise at 9am on the next Business Day (provided in each case that no delivery failure notification is received).

26.3 Notwithstanding clause 26.1, any notice that seeks to terminate the Contract or that will or may lead to the termination of the Contract if certain criteria are met or not met may only be delivered by hand or pre-paid recorded delivery post.

26.4 This clause does not apply to notices given in legal proceedings or other documents in any legal proceedings.

27. Further assurance

27.1 The Customer shall at the request of the Supplier, and at the cost of the Customer, do all acts and execute all documents which are necessary to give full effect to the Contract.

28. Variation

28.1 No variation of 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.

29. Assignment

29.1 The Supplier may at any time assign, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any or all of its rights and obligations under the Contract, provided that it gives prior written notice of such dealing to the Customer.

29.2 The Customer shall not assign, transfer, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any of its rights and obligations under the Contract.

30. No partnership or agency

30.1 The parties are independent businesses and are not partners, principal and agent or employer and employee 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. None of the parties shall have, nor shall represent that they have, any authority to make any commitments on the other party's behalf.

31. Severance

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

31.2 If any provision of the Contract (or part of any provision) is or becomes illegal, invalid or unenforceable but would be legal, valid and enforceable if some part of it was deleted or modified, the provision or part-provision in question shall apply with such deletions or modifications as may be necessary to make the provision legal, valid and enforceable.

32. Waiver

32.1 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. 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.

33. Third party rights

33.1 A person who is not a party to the Contract shall not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any of the provisions of the Contract.

34. Governing law

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

PART 2: APPLICABLE SERVICE TERMS: HOSTING SERVICES AND IT SUPPORT SERVICE TERMS

35. General

35.1 This section sets out the Applicable Service Terms that both parties agree will apply if the Order Form indicates the Supplier shall perform aspects of the Services in accordance with the Service Level Arrangements.

36. Definitions

36.1 In this Part 2, the following definitions shall also apply:

Allowed Downtime means any time the hosting service is not Available due to Planned Maintenance, an emergency and/or an SLA Exclusion;

Available means the Included Services are available for the Customer to access;

Included Services means the service(s) set out in the Statement of Work as being performed by the Supplier in accordance with the Service Level Arrangements;

Planned Maintenance means maintenance of the Included Service that the Supplier (i) provides the Customer at least 24 hours advance notice; or (ii) schedules, to the extent reasonably possible outside of Normal Business Hours;

SLA Exclusion means a circumstance beyond the Supplier's reasonable control that causes an Included Service not to be Available, including an event of Force Majeure; and

Uptime Percentage means the percentage of time that the hosting service is Available, calculated as follows: the numerator is the number of minutes in a calendar month that the hosting service is Available, and the denominator is the total number of minutes in the calendar month minus the number of minutes of Allowed Downtime in the calendar month.

37. Service Level Arrangements (SLAs)

37.1 The SLAs shall apply from the SLA Start Date.

37.2 The Supplier shall ensure the Included Services are Available with an Uptime Percentage of 99.9%.

37.3 The Customer shall report any error reports or support requests for the IT services (an "**Incident**") during Normal Business Hours via telephone, email or the client portal. If the Order Form states that the Customer has purchased out-of-hours support, these Incidents outside of Normal Business Hours shall be via telephone to the out of hours service.

37.4 The Supplier shall process support requests, issue trouble ticket tracking numbers (if necessary), and use reasonable endeavours to determine the source of the problem and respond to the Customer in accordance with the SLAs.

PART 3: APPLICABLE SERVICE TERMS: EQUIPMENT MAINTENANCE SERVICES

38. General

38.1 This section sets out the Applicable Service Terms that both parties agree will apply if the Order Form indicates the Supplier shall perform Equipment Maintenance Services.

39. Customer Obligations

39.1 The Customer shall:

39.1.1 ensure that the Supported Equipment is installed and kept in suitable premises and under suitable conditions, as specified by the Supplier and in the Operating Manuals;

39.1.2 permit only trained and competent personnel to use the Supported Equipment and follow any operating instructions as the Supplier may give from time to time;

39.1.3 notify the Supplier promptly if the Supported Equipment is discovered to be operating incorrectly;

39.1.4 at all reasonable times permit full and free access to the Supplier Personnel at the Customer Site and to the Supported Equipment and provide them with adequate and safe working space, and any telecommunications facilities as are reasonably required to enable the Supplier to perform the Equipment Maintenance Services;

39.1.5 provide a safe working environment for the Supplier's personnel when attending the Customer Site;

39.1.6 not allow any person other than the Supplier to maintain, alter, modify or adjust the Supported Equipment without the prior written approval of the Supplier;

39.1.7 not move the Supported Equipment from the Customer Site without the prior written approval of the Supplier (approval not to be unreasonably withheld or delayed);

39.1.8 make all Supported Equipment available for periodic maintenance; and

39.1.9 only use supplies or materials supplied or approved by the Supplier.

40. Equipment Maintenance

40.1 The Equipment Maintenance Services shall be provided by the Supplier to the Customer at the Customer Site during Normal Business Hours during the Term.

40.2 The Customer shall be responsible for notifying the Supplier as soon as reasonably practicable that the Supported Equipment is malfunctioning or has failed or is otherwise not in Good Working Order (a "**Failure Notification**").

40.3 If a Failure Notification is received:

40.3.1 within Normal Business Hours, the Supplier shall:

(a) use reasonable endeavours to attend the Location during Normal Business Hours to perform diagnostics on the Supported Equipment within the response time set out in the Order Form; and

(b) use reasonable endeavours to perform maintenance of the Supported Equipment or replace the Supported Equipment as deemed necessary;

40.3.2 outside of Normal Business Hours, the Supplier shall use reasonable endeavours to attend the Customer Site as soon as reasonably practicable to perform diagnostics on the Supported Equipment. Any Equipment Maintenance Services performed outside of Normal Business Hours shall be charged at the Supplier's standard chargeable day rate.

40.4 In performing the Equipment Maintenance Services, the Supplier may be required to source spare parts to restore the Supported Equipment to Good Working Order. The Supplier shall charge the Customer for any spare parts.

40.5 All spare parts and/or replacements provided by the Supplier to the Customer shall become part of the Supported Equipment and the property of the Customer. This does not include any Hardware. The Supplier will assign to the Customer, with full title guarantee and free from all third party rights, all spare parts and/or replacements provided by the Supplier. All parts and components removed from the Supported Equipment by the Supplier in the course of performing Equipment Maintenance Services shall no longer constitute part of the Supported Equipment and will be the property of the Supplier. The Customer will assign to the Supplier, with full title guarantee and free from all third party rights, all parts and components removed from the Supported Equipment by the Supplier in accordance with this clause 40.5. For the purposes of this sub-clause, 'assign' includes 'transfer ownership of'.

41. Excluded Equipment Maintenance

41.1 The Supplier is not obliged to perform any Excluded Equipment Maintenance.

41.2 Where the Supplier is performing or has performed the Equipment Maintenance Services in circumstances where it is established that the Supported Equipment was not in Good Working Order due to any of the Excluded Causes, the Supplier may charge, and the Customer shall pay, any additional charges in respect of that work.

PART 4: APPLICABLE SERVICE TERMS: LICENSED SOFTWARE

42. General

42.1 This section sets out the Applicable Service Terms that both parties agree will apply if the Order Form indicates the Supplier shall provide Licensed Software to the Customer.

43. Licence

43.1 Where Third Party Software is licensed to the Customer by the Supplier, the applicable Third Party Additional Terms shall also apply.

43.2 The Supplier grants to the Customer a non-exclusive licence to use of the Licensed Software for a length of the Term.

43.3 In relation to scope of use:

43.3.1 for the purposes of clause 43.2, "*use of the Licensed Software*" shall be restricted to use of the Licensed Software in object code form in the manner specified in the Order Form for the purpose of processing the Customer's data for the normal business purposes of the Customer (which shall not include allowing the use of the Licensed Software by, or for the benefit of, any person other than an employee of the Customer).

43.3.2 For the purposes of clause 43.2, "*use of the Licensed Software*" means loading the Licensed Software into temporary memory or permanent storage on the relevant computer, provided that installation on a network server for distribution to other computers is not "use" if the Licensed Software is licensed under this licence for use on each computer to which the Licensed Software is distributed.

43.3.3 The Customer may not use the Licensed Software other than as specified in clause 43.2 and clause 43.3.1 without the prior written consent of the Supplier, and the Customer acknowledges that additional fees may be payable on any change of use approved by the Supplier.

43.3.4 The Customer may make backup copies of the Licensed Software as may be necessary for its lawful use. The Customer shall record the number and location of all copies of the Licensed Software and take steps to prevent unauthorised copying.

43.3.5 Except as expressly stated in this clause 43, the Customer has no right (and shall not permit any third party) to copy, adapt, reverse engineer, decompile, disassemble, modify, adapt or make error corrections to the Licensed Software in whole or in part except to the extent that any reduction of the Licensed Software to human readable form (whether by reverse engineering, decompilation or disassembly) is necessary for the purposes of integrating the operation of the Licensed Software with the operation of other software or systems used by the Customer, unless the Supplier is prepared to carry out such action at a reasonable commercial fee or has provided the information necessary to achieve such integration within a reasonable period, and the Customer shall request the Supplier to carry out such action or to provide such information (and shall meet the Supplier's reasonable costs in providing that information) before undertaking any such reduction.

43.3.6 The third-party software shall be deemed to be incorporated within the Licensed Software for the purposes of this licence (except where expressly provided to the contrary) and use of the third-party software shall be subject to the Third Party Additional Terms.

43.3.7 The Customer shall indemnify and hold the Supplier harmless against any loss or damage which it may suffer or incur as a result of the Customer's breach of any Third Party Additional Terms howsoever arising.

43.3.8 The Supplier may treat the Customer's breach of any Third Party Additional Terms as a material breach of this licence.

43.4 The Customer may not use any such information provided by the Supplier or obtained by the Customer during any such reduction permitted under clause 43.3.5 to create any software whose expression is substantially similar to that of the Licensed Software nor use such information in any manner which would be restricted by any copyright subsisting in it.

43.5 The Customer shall not:

43.5.1 sub-license, assign or novate the benefit or burden of this licence in whole or in part;

43.5.2 allow the Licensed Software to become the subject of any charge, lien or encumbrance; and

43.5.3 deal in any other manner with any or all of its rights and obligations under the Contract,

without the prior written consent of the Supplier, such consent not to be unreasonably withheld or delayed.

43.6 The Supplier may at any time sub-license, assign, novate, charge or deal in any other manner with any or all of its rights and obligations under this licence, provided it gives written notice to the Customer.

43.7 Each party confirms it is acting on its own behalf and not for the benefit of any other person.

43.8 The Customer shall:

43.8.1 ensure that the number of persons using the Licensed Software does not exceed that as stated in the Order Form;

43.8.2 ensure that the Licensed Software is installed on designated equipment only;

43.8.3 keep a complete and accurate record of the Customer's copying and disclosure of the Licensed Software and its users, and produce such record to the Supplier on request from time to time;

43.8.4 notify the Supplier as soon as it becomes aware of any unauthorized use of the Licensed Software by any person;

43.8.5 pay, for broadening the scope of the licences granted under this licence to cover the unauthorized use, an amount equal to the fees which the Supplier would have levied (in accordance with its normal commercial terms then current) had it licensed any such unauthorised use on the date when such use commenced.

43.9 The Customer shall permit the Supplier to inspect and have access to any premises (and to the computer equipment located there) at or on which the Licensed Software is being kept or used, and have access to any records kept in connection with this licence, for the purposes of ensuring that the Customer is complying with the terms of this licence, provided that the Supplier provides reasonable advance notice to the Customer of such inspections, which shall take place at reasonable times.

44. Maintenance Releases

44.1 The Supplier will provide the Customer with all Maintenance Releases generally made available to its customers. The Supplier warrants that no Maintenance Release will adversely affect the then existing facilities or functions of the Licensed Software provided that the Customer Infrastructure is on a vendor supported version. The Customer shall install all Maintenance Releases as soon as reasonably practicable after receipt.

45. Supplier's Warranties

45.1 The Supplier does not warrant that the use of the Licensed Software will be uninterrupted or error-free.

45.2 The Customer accepts responsibility for the selection of the Licensed Software to achieve its intended results and acknowledges that the Licensed Software has not been developed to meet the individual requirements of the Customer.

45.3 All other conditions, warranties or other terms which might have effect between the parties or be implied or incorporated into this licence or any collateral contract, whether by statute, common law or otherwise, are hereby excluded, including the implied conditions, warranties or other terms as to satisfactory quality, fitness for purpose or the use of reasonable skill and care.

46. Intellectual Property Rights

46.1 The Customer acknowledges that all Intellectual Property Rights in the Licensed Software and any Maintenance Releases belong and shall belong to the Supplier or the relevant third party owners (as the case may be), and the Customer shall have no rights in or to the Licensed Software other than the right to use it in accordance with the terms of this licence and any Third Party Additional Terms.

47. Termination

47.1 On termination for any reason:

47.1.1 all rights granted to the Customer under this licence shall cease;

47.1.2 the Customer shall cease all activities authorised by this licence;

47.1.3 the Customer shall immediately pay to the Supplier any sums due to the Supplier under this licence; and

47.1.4 the Customer shall immediately destroy or return to the Supplier (at the Supplier's option) all copies of the Licensed Software then in its possession, custody or control and, in the case of destruction, certify to the Supplier that it has done so.