

Your Agreement is with Digital Destiny Limited (Company Number 16999256) having its registered office at Fitzroy House, Crown Street, Ipswich, IP1 3LG (**“the Supplier”**), and is comprised of the following:

- (1) the Order Form
- (2) these Conditions

THE CONDITIONS

BACKGROUND

- (A) The Supplier is in the business of providing managed information technology platform services under the brands of Common Wholesale Platform (**“CWP”**) and Common Switching Platform (**“CSP”**).
- (B) The Customer wishes to obtain, and the Supplier wishes to provide the Services on the terms set out in this agreement.

AGREED TERMS

1 INTERPRETATION

The following definitions and rules of interpretation apply in this agreement.

1.1 Definitions:

Additional Services:	the additional services available as an “add on” or “complimentary to” the Services and such are detailed on the Supplier’s Website.
Acceptable Use Policy:	the Supplier’s acceptable use policy in force from time to time located at https://cwpuuk.org/legal-page/
Affiliate:	any entity that directly or indirectly controls, is controlled by, or is under common control with another entity.
Applicable Laws:	all applicable laws, statutes, regulations and codes from time to time in force.
Business Day:	a day, other than a Saturday, Sunday or public holiday in England, when banks in London are open for business.
Business Hours:	the period from 9.00 am to 5.00 pm on any Business Day.
Charges:	the sums payable for the Services and/or any Additional Services, as set out in an Order Form.
Commencement Date:	the date detailed in the Order Form for the commencement of the Services.

Communication Law:	communications law in the UK, including current versions of the Communications Act 2003 and the General Conditions of Entitlement (as amended by OFCOM from time to time).
Communications Provider (“CP”):	means the retail communications provider that resells an Access Provider’s network to its end user customers.
control:	shall be as defined in section 1124 of the Corporation Tax Act 2010, and the expression change of control shall be construed accordingly.
Customer/You:	the entity receiving and paying for the Services detailed within the Order Form.
Customer’s Equipment:	any equipment, systems, or facilities, used by the Customer to receive and access the Services.
Data Protection Legislation:	all legislation and regulatory requirements in force from time to time relating to the use of personal data and the privacy of electronic communications, including, without limitation (i) any data protection legislation from time to time in force in the UK including the Data Protection Act 2018 or any successor legislation, as well as (ii) the General Data Protection Regulation ((EU) 2016/679) and any other directly applicable European Union regulation relating to data protection and privacy (for so long as and to the extent that the law of the European Union has legal effect in the UK).
Extended Term:	has the meaning ascribed at clause 2.2.
Initial Term:	means three (3) calendar years from the Commencement Date.
Intellectual Property Rights:	patents, rights to inventions, copyright and neighbouring and related rights, moral rights, trademarks and service marks, business names and domain names, rights in get-up, goodwill and the right to sue for passing off or unfair competition, rights in designs, rights in computer software, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how and trade secrets) and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.

Mandatory Policies:	the policies and codes listed below that the Supplier requires the Customer to have in place to receive the Services: <ul style="list-style-type: none"> • Data Protection and Privacy Policy • Security Policy • Disaster Recovery and Business Continuity Policy
OFCOM or Office of Communications:	the national communications regulatory authority in United Kingdom.
OFCOM General Conditions of Entitlement:	the mandatory regulatory rules that all providers of electronic communications networks and services (fixed, mobile, internet) in the UK must follow.
On Boarding Process	the onboarding process in force from time to time detailed at https://support.cwpuk.org .
Order Form:	the order confirmation received from the Supplier confirming acceptance of your Order for the Services and the Charges payable.
Retail Communication Provider Identification Code (RCPID):	the unique, four-digit character code assigned by TOTSCo to communications providers.
Security Policy:	the Supplier's security policy in force from time to time located at https://cwpuk.org/legal-page .
Services:	the services as detailed on the Supplier's Website https://cwpuk.org/csp-for-retailers/ and https://cwpuk.org/cwp-for-wholesalers/ and the detailed documentation in the Support Portal (https://support.cwpuk.org) as amended from time to time.
Supplier's Website:	www.cwpuk.org .
TOTSCo:	the not-for-profit messaging platform used by communication providers to initiate and complete switches (www.totsco.org.uk).
VAT:	value added tax or any equivalent tax chargeable in the UK.

- 1.2 Clause, Schedule and paragraph headings shall not affect the interpretation of this agreement.
- 1.3 A **person** includes a natural person, corporate or unincorporated body (whether having separate legal personality).
- 1.4 The Schedules form part of this agreement and shall have effect as if set out in full in the body of this agreement. Any reference to this agreement includes the Schedules.
- 1.5 A reference to a **company** shall include any company, corporation or other body corporate, wherever and however incorporated or established.

- 1.6 Unless the context otherwise requires, words in the singular shall include the plural and, in the plural, shall include the singular.
- 1.7 Unless the context otherwise requires, a reference to one gender shall include a reference to the other genders.
- 1.8 This agreement shall be binding on, and ensure to the benefit of, the parties to this agreement and their respective personal representatives, successors and permitted assigns, and references to any party shall include that party's personal representatives, successors and permitted assigns.
- 1.9 A reference to a statute or statutory provision is a reference to it as [amended, extended or re-enacted from time to time.
- 1.10 A reference to a statute or statutory provision shall include all subordinate legislation made from time to time under that statute or statutory provision.
- 1.11 A reference to **writing** or **written** includes email.
- 1.12 Any obligation on a party not to do something includes an obligation not to allow that thing to be done.
- 1.13 A reference to **this agreement** or to any other agreement or document referred to in this agreement is a reference of this agreement or such other agreement or document as varied or novated (in each case, other than in breach of the provisions of this agreement) from time to time.
- 1.14 References to clauses and Schedules are to the clauses and Schedules of this agreement and references to paragraphs are to paragraphs of the relevant Schedule.
- 1.15 Any words following the terms **including**, **include** 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.

2 COMMENCEMENT AND DURATION

- 2.1 This agreement shall commence the Commencement Date and shall continue, unless terminated earlier in accordance with clause 13 (Termination), for the Initial Term.
- 2.2 Unless the Supplier has received written notice of termination from the Customer no less than three (3) months prior to the expiry of the Initial Term, this agreement shall renew on a rolling twelve (12) monthly term ("**the Extended Term**").
- 2.3 Each Extended Term shall renew on expiry for a further twelve (12) months unless the Customer provides written notice of termination to the Supplier no less than three (3) months prior to the expiry of the relevant Extended Term.
- 2.4 The Supplier shall provide the Services to the Customer in accordance with this agreement.
- 2.5 **Additional Services:** You may purchase Additional Services during the Initial Term and any Extended Term which will be added to your contract. These may be subject to additional terms and conditions and/or additional costs as detailed in the relevant Order Form. You accept that the Additional Services may be subject to a minimum term and additional charges.

3 SUPPLIER'S RESPONSIBILITIES

The Supplier shall use reasonable endeavours to supply the Services in accordance with this agreement in all material respects.

4 CUSTOMER'S OBLIGATIONS

4.1 The Customer confirms it:

- (a) will undertake the On-Boarding Process;
- (b) is a legal entity or incorporated entity;
- (c) is a provider of electronic communications networks and services;
- (d) will comply with the Ofcom General Conditions of Entitlement;
- (e) is
 - i. registered with Ofcom on their "Register of persons with powers under the Electronic Communications Code"; or
 - ii. an Access Communications Provider (AP); or
 - iii. a provider of electronic communications networks and services and holds a valid Ofcom Reseller ID (**RID**); or
 - iv. a Communications Provider (CP).
- (f) will co-operate with the Supplier in all matters relating to the Services including (without limitation) complying with the Supplier's Acceptable Use Policy and Security Policy;
- (g) has in place the Mandatory Policies and its business operations comply with such, and it will provide copies of the same when requested by the Supplier;
- (h) will appoint individuals within its organisation to be points of contact:
 - i. for the Services; and
 - ii. for finance, payment and billing; and
 - iii. a Data Protection Officer,

and inform the Supplier of the contact details. Such individuals shall have the authority to contractually bind the Customer on matters relating to the Services and/or the payment of the Charges and/or Data Protection requirements;

- (i) provide to the Supplier in a timely manner all documents, information, items and materials in any form (whether owned by the Customer or third party) required or otherwise reasonably required by the Supplier in connection with the Services and ensure that they are accurate and complete in all material respects;
- (j) obtain and maintain all necessary licences and consents and comply with all relevant legislation as required to enable the Supplier to provide the Services, insofar as such licences, consents and legislation relate to the Customer's business, premises, staff and equipment, in all cases before the Commencement Date.

- 4.2 If the Supplier's performance of its obligations under this agreement is prevented or delayed by any act or omission of the Customer, its agents, subcontractors, consultants or employees, then, without prejudice to any other right or remedy it may have, the Supplier shall be allowed an extension of time to perform its obligations equal to the delay caused by the Customer.

5 NON-SOLICITATION

- 5.1 The Customer shall not, without the prior written consent of the Supplier, at any time from the Commencement Date to the expiry of twelve (12) months after the termination [or expiry of this agreement, solicit or entice away from the Supplier or employ or attempt to employ any person who is, or has been, engaged as an employee, consultant or subcontractor of the Supplier in the provision of the Services.
- 5.2 Any consent given by the Supplier in accordance with clause 5.1 shall be subject to the Customer paying to the Supplier a sum that is a reasonable compensation for the loss suffered by the Supplier.

6 CHARGES AND PAYMENT

- 6.1 In consideration of the provision of the Services by the Supplier, the Customer shall pay the Charges as detailed within the Order Form.
- 6.2 Where the Order Form stipulates that:
- (a) the Charges are payable monthly; the payment shall be made monthly in advance by Direct Debit; or
 - (b) the Charges are to be paid quarterly or annually; the payment shall be paid in advance by BACS or Direct Debit.
- 6.3 The Supplier may increase the Charges on an annual basis with effect from each anniversary of the Commencement Date in line with the percentage increase in the Retail Prices Index in the preceding twelve (12) month period, and the first such increase shall take effect on the first anniversary of the Commencement Date and shall be based on the latest available figure for the percentage increase in the Retail Prices Index.
- 6.4 The Customer shall pay the Charges to the Supplier within thirty (30) days of the date of any Direct Debit and/or invoice.
- 6.5 Without prejudice to any other right or remedy that it may have, if the Customer fails to pay the Supplier any sum due under this agreement on the due date:
- (a) 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 6.5(a) 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%; and
 - (b) the Supplier may suspend all or part of the Services until payment has been made in full.
- 6.6 All sums payable to the Supplier under this agreement:
- (a) are exclusive of VAT, and the Customer shall in addition pay an amount equal to any VAT chargeable on those sums on delivery of a VAT invoice; and
 - (b) shall be paid in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law).

7 INTELLECTUAL PROPERTY RIGHTS

7.1 The Supplier:

- (a) warrants that the receipt, use of the Services by the Customer and its permitted sublicensees shall not infringe [the rights, including any Intellectual Property Rights, of any third party;
- (b) shall, subject to clause 12.3, indemnify the Customer in full against all costs, expenses, damages and losses, including any interest, fines, legal and other professional fees and expenses awarded against or incurred or paid by the Customer as a result of or in connection with any claim brought against the Customer for actual or alleged infringement of a third party's Intellectual Property Rights[, to the extent that the infringement or alleged infringement results from copying, arising out of, or in connection with, the receipt, use or supply of the Services; and
- (c) shall not be in breach of the warranty at clause 7.1(a), and the Customer shall have no claim under the indemnity at clause 7.1(b), to the extent the infringement arises from any modification of the Services, other than by or on behalf of the Supplier;

7.2 If either party (the **Indemnifying Party**) is required to indemnify the other party (the **Indemnified Party**) under this clause 7, the Indemnified Party shall:

- (a) notify the Indemnifying Party in writing of any claim against it in respect of which it wishes to rely on the indemnity at clause 7.1(b) (**IPR Claim**);
- (b) allow the Indemnifying Party, at its own cost, to conduct all negotiations and proceedings and to settle the IPRs Claim, always provided that the Indemnifying Party shall obtain the Indemnified Party's prior approval of any settlement terms, such approval not to be unreasonably withheld;
- (c) provide the Indemnifying Party with such reasonable assistance regarding the IPRs Claim as is required by the Indemnifying Party, subject to reimbursement by the Supplier of the Indemnified Party's costs so incurred; and
- (d) not, without prior consultation with the Indemnifying Party, make any admission relating to the IPRs Claim or attempt to settle it, provided that the Indemnifying Party considers and defends any IPRs Claim diligently, using competent counsel and in such a way as not to bring the reputation of the Indemnified Party into disrepute.

8 COMPLIANCE WITH LAWS AND POLICIES

8.1 Both the Supplier and Customer shall comply with the Applicable Laws.

8.2 The Customer shall comply with the Mandatory Policies; the Customer shall give the Supplier not less than three (3) months' notice of any change to its Mandatory Policies.

8.3 Changes to the Services required because of changes to the Applicable Laws shall be notified to the Customer in writing within reasonable notice and posted on the Supplier's Website.

9 SERVICE MONITORING

9.1 The Supplier may not monitor or view or collect the contents of your data or traffic, save in the following circumstances: -

- (a) It is required to do so by law or any governmental entity having appropriate jurisdiction;

- (b) It may monitor any control traffic, flow data by standard sampling methods or transaction header and protocol information necessary for the operation, problem resolution and engineering of the Service;
- (c) it may collect statistical information derived from your data and traffic for the purposes of the proper operation, problem resolution and engineering of the Services.
- (d) It reasonably believes that your data or traffic gives rise to a material breach of this agreement.
- (e) If you have explicitly requested the specific monitoring or have consented to it following a request from the Supplier.

PROVIDED that the rights granted to the Supplier pursuant to clause this clause 9 shall not include a right to monitor or access the personal information of any of your customers, suppliers, employees, contractors, directors or officers.

- 9.2 Where the Supplier undertakes monitoring or viewing or collection the contents of data or traffic, it will endeavour (if possible) to make sure that any monitoring will neither:
- (a) have a substantially adverse effect on the Services; nor
 - (b) compromise your confidentiality of your customers, suppliers, employees, contractors, directors, officers, agents, successors, and assigns.
 - (c) breach Data Protection Legislation.
- 9.3 If the Supplier does monitor or view or collect the contents of your data or traffic, unless prevented by law, it will use reasonable efforts to notify the Customer whose port/connection is being monitored.
- 9.4 The Supplier shall use reasonable endeavours to protect the Services from unauthorised access, transmission, or use and shall cooperate with you to address security issues and develop security procedures.
- 9.5 This clause 9 shall not be interpreted to prevent the Supplier collecting and publishing aggregated statistics provided these do not identify the Customer.

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 under the Data Protection Legislation.
- 10.2 The parties acknowledge that for the purposes of the Data Protection Legislation, the Customer is the data controller, and the Supplier is the data processor (where Data Controller and Data Processor have the meanings as defined in the Data Protection Legislation).
- 10.3 Without prejudice to the generality of clause 10.1, the Customer will ensure that it has all necessary appropriate consents and notices in place to enable lawful transfer of the Personal Data to the Supplier for the duration and purposes of this agreement.
- 10.4 Without prejudice to the generality of clause 10.1, the Supplier shall, in relation to any Personal Data processed in connection with the performance by the Supplier of its obligations under this agreement:

- (a) process that Personal Data only on the written instructions of the Customer unless the Supplier is required by Applicable Laws to otherwise process that Personal Data. Where the Supplier is relying on the 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;
- (b) 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);
- (c) ensure that all personnel who have access to and/or process Personal Data are obliged to keep the Personal Data confidential; and
- (d) 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:
 - (i) the Customer or the Supplier has provided appropriate safeguards in relation to the transfer;
 - (ii) the data subject has enforceable rights and effective legal remedies;
 - (iii) 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
 - (iv) the Supplier complies with reasonable instructions notified to it in advance by the Customer with respect to the processing of the Personal Data;
- (e) 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;
- (f) notify the Customer without undue delay on becoming aware of a Personal Data breach;
- (g) at the written direction of the Customer, delete or return Personal Data and copies thereof to the Customer on termination of the agreement unless required by Applicable Law to store the Personal Data; and
- (h) maintain complete and accurate records and information to demonstrate its compliance with this clause 10 and allow for audits by the Customer or the Customer's designated auditor.

10.5 The Customer consents to the Supplier appointing a third-party processor of Personal Data under this agreement. The Supplier confirms that it has entered or (as the case may be) will enter with the third-party processor into a written agreement incorporating terms which are

substantially similar to those set out in this clause 10. 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 10.

- 10.6 The Supplier may, at any time on not less than thirty (30) days' notice, revise this clause 10 by replacing it with any applicable controller to processor standard clauses or similar terms forming part of an applicable certification scheme.

11 CONFIDENTIALITY

- 11.1 Each party undertakes that it shall not at any time during this agreement, and for a period of five (5) years after termination of this agreement, disclose to any person any confidential information concerning the business, affairs, customers, clients or suppliers of the other party [or of any member of the group of companies to which the other party belongs, except as permitted by clause 11.2.

- 11.2 Each party may disclose the other party's confidential information:

- (a) to its employees, officers, representatives or advisers who need to know such information for the purposes of exercising the party's rights or carrying out its obligations under or in connection with this agreement. Each party shall ensure that its employees, officers, representatives or advisers to whom it discloses the other party's confidential information comply with this clause 11; and
- (b) as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.

- 11.3 No party shall use any other party's confidential information for any purpose other than to exercise its rights and perform its obligations under or in connection with this agreement.

12 LIMITATION OF LIABILITY

- 12.1 Nothing in this agreement shall limit or exclude the Supplier's liability for:

- (a) death or personal injury caused by its negligence;
- (b) fraud or fraudulent misrepresentation; or
- (c) breach of the terms implied by section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession) or any other liability which cannot be limited or excluded by applicable law.

- 12.2 Subject to clause 12.1, the Supplier shall not be liable to the Customer, whether in contract, tort (including negligence), for breach of statutory duty, or otherwise, arising under or in connection with this agreement for:

- (a) loss of profits;
- (b) loss of sales or business;
- (c) loss of agreements or contracts;
- (d) loss of anticipated savings;
- (e) loss of or damage to goodwill;

- (f) loss of use or corruption of software, data or information; or
- (g) any indirect or consequential loss.

12.3 Subject to clause 12.1, the Supplier's total liability to the Customer, whether in contract, tort (including negligence), for breach of statutory duty, or otherwise, arising under or in connection with this agreement shall be limited to twelve (12) months of Charges paid or payable by the Customer (in successive twelve (12) month periods from the Commencement Date) paid by the Customer under this agreement.

12.4 Subject to clause 12.1, the Customer's total liability to the Supplier, whether in contract tort (including negligence) for breach of statutory duty or otherwise arising or in connection to this agreement shall be limited to the total contractual value of Services provided by Supplier.

12.5 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 this agreement.

13 **TERMINATION**

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

- (a) the other party commits a material breach of any [other] term of this agreement which breach is irremediable or (if such breach is remediable) fails to remedy that breach within a period of thirty (30) days after being notified in writing to do so;
- (b) the other party repeatedly breaches any of the terms of this agreement in such a manner as to reasonably justify the opinion that its conduct is inconsistent with it having the intention or ability to give effect to the terms of this agreement;
- (c) the other party suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 as if the words "it is proved to the satisfaction of the court" did not appear in sections 123(1)(e) or 123(2) of the Insolvency Act 1986;
- (d) the other party commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with any of its creditors [other than (being a company) for the sole purpose of a scheme for a solvent amalgamation of that other party with one or more other companies or the solvent reconstruction of that other party];
- (e) a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of that other party (being a company) [other than for the sole purpose of a scheme for a solvent amalgamation of that other party with one or more other companies or the solvent reconstruction of that other party];
- (f) an application is made to court, or an order is made, for the appointment of an administrator, or if a notice of intention to appoint an administrator is given or if an administrator is appointed, over the other party (being a company);
- (g) the holder of a qualifying floating charge over the assets of that other party (being a company) has become entitled to appoint or has appointed an administrative receiver;
- (h) a person becomes entitled to appoint a receiver over all or any of the assets of the other party or a receiver is appointed over all or any of the assets of the other party;

- (i) a creditor or encumbrancer of the other party attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of the other party's assets and such attachment or process is not discharged within [fourteen (14)] days;
 - (j) any event occurs, or proceeding is taken, with respect to the other party in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clause 13.1(c) to clause 13.1(i) (inclusive); or
 - (k) the other party suspends or ceases, or threatens to suspend or cease, carrying on all or a substantial part of its business.
- 13.2 For the purposes of clause 13.1(a) **material breach** means a breach (including an anticipatory breach) that is serious in the widest sense of having a serious effect on the benefit which the terminating party would otherwise derive from:
- (a) a substantial portion of this agreement; or
 - (b) any of the obligations set out in clauses 4 (Customer's Obligations), 6 (Charges and Payment), 8 (Compliance with Laws and Policies), 10 (Data Protection) and 11 (Confidentiality) over the term of this agreement. In deciding whether any breach is material no regard shall be had to whether it occurs by some accident, mishap, mistake or misunderstanding.
- 13.3 Without affecting any other right or remedy available to it, the Supplier may terminate this agreement with immediate effect by giving written notice to the Customer if:
- (a) the Customer fails to pay any amount due under this agreement on the due date for payment and remains in default not less than thirty (30) days after being notified in writing to make such payment; or
 - (b) there is a change of control of the Customer.
- 13.4 Without affecting any other right or remedy available to it, the Customer may terminate this agreement with immediate effect by giving written notice to the Supplier provided that if:
- (a) such notice by the Customer is during the Initial Term, the Customer shall immediately pay to the Supplier the Charges for the remainder of the Initial Term and interest;
 - (b) such notice by the Customer is during the Extended Term the Customer shall immediately pay to the Supplier the Charges for the remainder or the Extended Term and interest
- 13.5 The following clauses shall continue in force: clause 1 (Interpretation), clause 5 (Non-Solicitation), clause 7 (Intellectual Property Rights), clause 11 (Confidentiality), clause 12 (Limitation of Liability), clause 18 (Waiver), clause 20 (Severance), clause 22 (Conflict), clause 27 (Multi-Tiered Dispute Resolution Procedure), clause 28 (Governing Law) and clause 29 (Jurisdiction).
- 13.6 Termination or expiry of this agreement shall not affect any 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 agreement which existed at or before the date of termination or expiry.

14 FORCE MAJEURE

14.1 **Force Majeure Event** means any circumstance not within a party's reasonable control including, without limitation:

- (a) acts of God, flood, drought, earthquake or other natural disaster;
- (b) epidemic or pandemic;
- (c) 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;
- (d) nuclear, chemical or biological contamination or sonic boom;
- (e) any law or any action taken by a government or public authority, including without limitation imposing an export or import restriction, quota or prohibition, or failing to grant a necessary licence or consent;
- (f) collapse of buildings, fire, explosion or accident; [and]
- (g) any labour or trade dispute, strikes, industrial action or lockouts [(other than in each case by the party seeking to rely on this clause, or companies in the same group as that party)];
- (h) non-performance by suppliers or subcontractors (other than by companies in the same group as the party seeking to rely on this clause); and
- (i) interruption or failure of utility service.

14.2 Provided it has complied with clause 14.4, if a party is prevented, hindered or delayed in or from performing any of its obligations under this agreement by a Force Majeure Event (**Affected Party**), the Affected Party 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.

14.3 The corresponding obligations of the other party will be suspended, and its time for performance of such obligations extended, to the same extent as those of the Affected Party.

14.4 The Affected Party shall:

- (a) as soon as reasonably practicable after the start of the Force Majeure Event [but no later than sixty (60) days from its start, 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
- (b) use all reasonable endeavours to mitigate the effect of the Force Majeure Event on the performance of its obligations.

14.5 If the Force Majeure Event prevents, hinders or delays the Affected Party's performance of its obligations for a continuous period of more than sixty (60) days, the party not affected by the Force Majeure Event may terminate this agreement by giving thirty (30) days' written notice to the Affected Party.

15 PUBLICITY

The Supplier may publish a list of its Customers on its Website. The Customer hereby provides its consent of the Supplier's use of its corporate name and logo for this purpose;

16 ASSIGNMENT AND OTHER DEALINGS

16.1 This agreement is personal to the Customer, and the Customer shall not assign, transfer, mortgage, charge, subcontract, declare a trust over or deal in any other manner with any of its rights and obligations under this agreement.

16.2 The Supplier may at any time assign, novate, mortgage, charge, declare a trust over or deal in any other manner with any or all of its rights under this agreement, provided that the Supplier gives the Customer written notice within a reasonable time following such event.

16.3 Where there is a novation of this agreement by the Supplier, such novation shall be effective upon the delivery of the written notice within clause 16.2. Thereafter the Supplier shall be released from all liabilities and obligations arising under this agreement.

17 VARIATION

The Supplier may vary the Services and/or the Charges on thirty (30) days written notice to the Customer.

18 WAIVER

18.1 A waiver of any right or remedy under this agreement or by law is only effective if given in writing and shall not be deemed a waiver of any subsequent breach or default.

18.2 A failure or delay by a party to exercise any right or remedy provided under this agreement 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 this agreement or by law shall prevent or restrict the further exercise of that or any other right or remedy.

18.3 A party that waives a right or remedy provided under this agreement or by law in relation to one party or takes or fails to take any action against that party, does not affect its rights in relation to any other party.

19 RIGHTS AND REMEDIES

The rights and remedies provided under this agreement are in addition to, and not exclusive of, any rights or remedies provided by law.

20 SEVERANCE

20.1 If any provision or part-provision of this agreement 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 shall not affect the validity and enforceability of the rest of this agreement.

20.2 If one party gives notice to the other of the possibility that any provision or part-provision of this agreement is invalid, illegal or unenforceable, the parties shall negotiate in good faith to amend such provision so that, as amended, it is legal, valid and enforceable, and, to the greatest extent possible, achieves the intended commercial result of the original provision.

21 ENTIRE AGREEMENT

21.1 This agreement 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.

21.2 Each party agrees that it shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in this agreement. Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in this agreement.

22 CONFLICT

If there is an inconsistency between any of the provisions of this agreement and the provisions of the Schedules, the provisions of this agreement shall prevail.

23 NO PARTNERSHIP OR AGENCY

23.1 Nothing in this agreement is intended to, or shall be deemed to, establish any partnership or joint venture between any of the parties, constitute any party the agent of another party, or authorise any party to make or enter into any commitments for or on behalf of any other party.

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

24 THIRD PARTY RIGHTS

24.1 Unless it expressly states otherwise, this agreement does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this agreement.

24.2 The rights of the parties to rescind or vary this agreement are not subject to the consent of any other person.

25 NOTICES

25.1 Any notice [or other communication] given to a party under or in connection with this agreement shall be in writing and shall be:

(a) delivered by hand or by pre-paid first-class post or other next Business Day delivery service at its registered office (if a company) or its principal place of business (in any other case); or

(b) sent by email to [insert email address].

25.2 Any notice or communication shall be deemed to have been received:

(a) if delivered by hand, on signature of a delivery receipt [or at the time the notice is left at the proper address];

(b) if sent by pre-paid first-class post or other next Business Day delivery service, at 9.00 am on the second Business Day after posting; and

(c) if sent by email, at 9.00 am on the next Business Day after transmission.

25.3 This clause does not apply to the service of any proceedings or any documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

26 COUNTERPARTS

- 26.1 This agreement may be executed in any number of counterparts, each of which when executed and delivered shall constitute a duplicate original, but all the counterparts shall together constitute the one agreement.
- 26.2 Transmission of an executed counterpart of this agreement (but for the avoidance of doubt not just a signature page) by email (in PDF, JPEG or other agreed format) shall take effect as delivery of an executed counterpart of this agreement. If either method of delivery is adopted, without prejudice to the validity of the agreement thus made, each party shall provide the other with the original of such counterpart as soon as reasonably possible thereafter.
- 26.3 No counterpart shall be effective until each party has executed and delivered at least one counterpart.]

27 MULTI-TIERED DISPUTE RESOLUTION PROCEDURE

- 27.1 If a dispute arises out of or in connection with this agreement or the performance, validity or enforceability of it (**Dispute**) then [except as expressly provided in this agreement,] the parties shall follow the procedure set out in this clause:
- (a) either party shall give to the other written notice of the Dispute, setting out its nature and full particulars (**Dispute Notice**), together with relevant supporting documents. On service of the Dispute Notice, the [EMPLOYEE TITLE]Operations Manager of the Customer and Operations Manager of the Supplier shall attempt in good faith to resolve the Dispute;
 - (b) if the Operations Manager of the Customer and Operations Manager of the Supplier are for any reason unable to resolve the Dispute within [thirty (30)] days of service of the Dispute Notice, the Dispute shall be referred to a Director of the Customer and Managing Director of the Supplier who shall attempt in good faith to resolve it; and
 - (c) if the Director of the Customer and Managing Director of the Supplier are for any reason unable to resolve the Dispute within thirty (30) days of it being referred to them, the parties will attempt to settle it by mediation in accordance with the CEDR Model Mediation Procedure. Unless otherwise agreed between the parties, the mediator shall be nominated by CEDR. To initiate the mediation, a party must serve notice in writing (**ADR notice**) to the other party to the Dispute, requesting a mediation. A copy of the ADR notice should be sent to CEDR. The mediation will start not later than fourteen days after the date of the ADR notice.
- 27.2 The commencement of mediation shall not prevent the parties commencing or continuing court proceedings in relation to the Dispute under clause 29 (Jurisdiction) which clause shall apply at all times.
- 27.3 If the Dispute is not resolved within fifty-six days after service of the ADR notice, or either party fails to participate or to continue to participate in the mediation before the expiration of the said period of fifty-six days, or the mediation terminates before the expiration of the said period of fifty-six days, the Dispute shall be finally resolved by the courts of England and Wales in accordance with clause 29 (Jurisdiction).

28 GOVERNING LAW

This agreement 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.

29 **JURISDICTION**

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

These Conditions are dated May 2026