



GRIFFIN HOUSE CONSULTANCY LIMITED TERMS AND CONDITIONS

("Terms") Updated January 2019

We are Griffin House Consultancy Limited, incorporated in England with company number 9028231, with a registered address at 4 Henley Way, LINCOLN, LN6 3QR, UK, ("GHC" "we" "us" "ours"). We have developed various data protection and information security, governance, audit, consultancy, support desk, managed support services and training programs. These services are provided and/or made available to clients for the purpose of providing data protection and information security compliance advice and services relating to compliance with standards, certifications, and legal obligations relating to information rights.

These Terms apply to the provision of any Services by us, GHC, to you, ("you" "yours"), so please read them carefully before you access or use our Services. If you want to order any more Services these Terms will apply.

1. Interpretation

1.1 The definitions and rules of interpretation in this clause apply in these Terms:

"Audit Services" means the audit and/or information security compliance service analysis described in the Audit Services Schedule;

"Audit Services Fee" means the fees payable by you to us for the Audit Services as set out in the Audit Services Schedule;

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

"Confidential Information" means information that is proprietary or confidential and is either clearly labelled as such or identified as Confidential Information;

"Consultancy Services" means the consultancy services described in the Consultancy Services Schedule;

"Consultancy Services Fee" means the fee as set out in the Consultancy Services Schedule;

"Content" means:

(a) all text, information, data, Personal Data, images, in whatever medium or form, supplied by you or your representative to us in relation to the use of (or facilitating the use of) our Services; and

(b) all information related to any End User that is processed or stored as part of offering our service,

"Data Controller (or Controller)" has the meaning given to that term in the Data Protection Law;

"Data Processor (or Processor)" has the meaning given to that term in the Data Protection Law;

"Data Protection Law" means the Data Protection Act 2018, the Privacy and Electronic Communications (EC Directive)

Regulations 2003, (SI 2003/2426) and/or the GDPR relating to the processing, privacy and use of Personal Data;

"Data Subject" has the meaning given to the term in Data Protection Law;

"Data Subject Request" means a request made by a Data Subject to exercise any rights of Data Subjects under Data Protection Law;

"Documentation" means the Information Governance Framework, white papers, opinions, guidelines instructions, templates, work methods and know-how published by us and provided to you;

"DPO Services" means the data protection officer services as set out in the DPO Service Schedule;

"DPO Service Fee" means the fees set out in the DPO Services Schedule;

"EEA" means all countries within the European Economic Area;

"Effective Date" means the date set out on the appropriate or subsequent Services Schedule;

"End-User" means any person you permit to use the GHC Service;

"Fees" means the total of the GHC Fee, the Managed Services Fee, the Training Services Fee, the Support Desk Services Fee, the Audit Services Fees, the Consultancy Fee, the DPO Service Fee and any other fees payable by you to us under the Terms all, as set out in the applicable Services Schedule;

"GDPR" means the General Data Protection Regulation EU2016/679;

"Initial Subscription Term" means the initial fixed period of time during which you may receive the Managed Services, Support Desk Services, DPO Services and/or are licensed to use the GHC Service as set out in the appropriate Services Schedule;

"Intellectual Property Rights" means patents, utility models, rights to inventions, copyright and neighbouring and related rights, moral rights, trademarks and service marks, business names and domain names, rights in get-up and trade dress, 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;



"Managed Services" means any online or offline service GHC may provide to manage the facilitation of our services

"Personal Data" has the meaning given to that term in Data Protection Law;

"Platform" means the infrastructure and cloud computing platform and runtime environment provided by us;

"Privacy Policy" means the Privacy policy and Information Security policy set out

[<https://www.griffinhouseconsultancy.co.uk/privacy-policy/>] or such other website address as may be notified to you or document provided to you from time to time;

"Pseudo Data Protection Officer Service" means the outsourced DPO officers service where we act as the named Data Protection Officer for your organisation as described in the Pseudo Data Protection Officer Service Schedule;

"Data Privacy Officer Service" means the outsourced privacy officer service where we act as a privacy officer for your organisation as described in the Data Privacy Officers Service Schedule;

"Remote Support Service" means the package of managed support, advisory, training, consultancy and other services to be provided by us as described in the Remote Support Services Schedule;

"Remote Support Services Fee" means the fees as set out in the Remote Support Service Schedule;

"Security Event" means:

(a) any unauthorised third party access (including without limitation, hacking) to GHC shared systems; or

"Services" means the provision by us of any or all of:

(a) the Audit Services; and/or

(b) the Consultancy Services; and/or

(c) the Remote Support Desk Services; and/or

(d) the Training Services; and/or

(e) DPO Services.

all as described and set out in the Service Schedule;

"Services Schedule" means any and all of the services schedules attached to these Terms which describe and contain details of the Services to be provided to you;

"Subscription Term" means the term during which the Remote Support Desk Services, DPO and Privacy Officer Services is to be provided to you as set out in the Services Schedule or otherwise provided to you from time to time;

"Subsequent Subscription Term" means a consecutive period of 12 months following expiry of the Initial Subscription Term or any consecutive 12 month period thereafter;

"Training Services" means the training services as set out in the Training Services Schedule;

"Training Services Fee" means the fee as set out in the Training Services Schedule;

"Virus" means any thing or device (including any software, code, file or programme) which may: prevent, impair or otherwise adversely affect the operation of any computer software, hardware or network, any telecommunications service, equipment or network or any other service or device; prevent, impair or otherwise adversely affect access to or the operation of any programme or data, including the reliability of any programme or data (whether by re-arranging, altering or erasing the programme or data in whole or part or otherwise); or adversely affect the user experience, including worms, trojan horses, viruses and other similar things or devices;

"Your Account" means your account with us in respect of the Services.

2. Licence to use Managed Services (if applicable)

2.1 Further to you paying the Managed Service Fee and complying with the restrictions set out in this clause 2, we hereby grant to you and your End-Users a non-exclusive, limited, non-transferable right during the Subscription Term to use the Managed Service, the Platform solely to access and use the Managed Service for your internal business purposes only.

2.2 Notwithstanding any other provision in these Terms, if there is a Security Event, we may, without liability or prejudice to its other rights and without prior notice to you or any End-User, remove Content and disable your Account until the relevant Security Event has been resolved. We shall give you written notice as soon as is reasonably practicable of the nature of the relevant Security Event.

2.3 You shall not:

- (a) except as may be allowed by any applicable law which is incapable of exclusion by these Terms between the parties: and
- (b) except to the extent expressly permitted under these Terms:
 - (i) attempt to copy, modify, duplicate, create derivative works from, frame, mirror, republish, download, display, transmit, hack or distribute all or any portion of GHC websites or services in any form or media or by any means; or
 - (ii) attempt to reverse compile, disassemble, reverse engineer or otherwise reduce to human-perceivable form all or any part of the GHC Service;
- (c) access all or any part of the Platform and/or the GHC Service in order to build a product or service which competes with the Services;
- (d) subject to clause 18.1 license, sell, rent, lease, transfer, assign, distribute, display, disclose, or otherwise commercially exploit, or otherwise make the GHC Service available to any third party provided that the provision of



the GHC Service to End-Users is permitted to the extent necessary to enable them to use the relevant services provided on the Platform.

2.4 You shall:

- (a) use all reasonable endeavours to prevent any unauthorised access to, or use of the GHC Service and, in the event of any such unauthorised access or use, promptly notify us;
- (b) keep any passwords or log-ins we give to you (and procure that your End-Users keep) confidential and in the event you become aware of any such breach by you or any End-User promptly notify us in writing and follow our instructions in order to restore security to the GHC Service.

2.5 From time to time we may:

- (a) modify the GHC Service by issuing updates; and
- (b) alter the features, functionality, applications or tools available in respect of the GHC Service, whose use may be subject to your acceptance of further terms and conditions and shall give you prompt written notice of material modifications to the GHC Service and any such changes to, functionality, applications or tools. For clarity, any modification to the Fees shall be addressed under clause 6.5

2.6 The rights provided under this clause 2 are granted to you only.

2.7 You (or your licensors) shall own all Intellectual Property Rights in and to all of the Content and shall have sole responsibility for the legality, reliability, integrity, accuracy and quality of the Content.

2.8 You hereby grant to us a non-exclusive, non-transferable right during the Subscription Term to carry out any acts that would otherwise be restricted by any of your Intellectual Property Rights in the Content for the sole purpose of enabling us to provide the GHC Service to you and the End-Users in accordance with these Terms.

3. Data Protection

3.1 We shall comply with Data Protection Law in respect of the performance of our obligations under these Terms.

3.2 If we process any Personal Data on your behalf when performing our obligations under these Terms in the capacity of a Data Processor clauses 3.4 - 3.14 shall apply.

3.3 We shall, in providing the Services, comply with our Privacy and Security Policy, as such document may be amended from time to time by us in its sole discretion.

3.4 We shall process Personal Data as part of the Services only on and in accordance with your lawful written instructions and we shall not process Personal Data for any purposes other than those expressly authorised by you except where

otherwise required by Data Protection Law (and shall inform you of that legal requirement before processing, unless the Data Protection Law prevents us from doing so).

3.5 We shall take reasonable steps to ensure the reliability of all our employees who have access to the Personal Data and ensure they are bound to keep Personal Data confidential.

3.6 We agree to assist you in ensuring compliance with the obligations pursuant to Articles 35 and 36 of the GDPR taking into account the nature of processing and the information available to us;

3.7 We shall implement and maintain, at our cost and expense, appropriate technical and organisational measures against unauthorised or unlawful processing of Personal Data and against accidental loss or destruction of, or damage to, Personal Data to ensure a level of security appropriate to:

- (a) the harm that might result from such unauthorised or unlawful processing or accidental loss, destruction or damage; and
- (b) the nature of the Personal Data to be protected.

3.8 You shall ensure that the relevant third parties including, if applicable, End Users have been informed of, and where required as an actual ground for processing, have given and will maintain their express consent to, such use, processing, and transfer of Personal Data as required by Data Protection Law.

3.9 You shall ensure that you are entitled to transfer the relevant Personal Data to us so that we may lawfully use, process and transfer the Personal Data as part of the Services and in accordance with these Terms on your behalf.

3.10 You agree to indemnify and keep indemnified us from and against any and all liabilities, losses, costs, expenses, damages, awards, fines and/or claims incurred by us in relation to our use of your Personal Data where we have used it in accordance with your instructions and where you are in breach of clause 3.7 to 3.9.

3.11 We shall, in accordance with Data Protection Law make available to you such information as is reasonably necessary to demonstrate our compliance with the Data Protection Law and to allow for a reasonable number of audits for this purpose. We shall be entitled to charge for our time and reasonable expenses in respect of any audits required by you. We shall promptly inform you if, in our opinion, an instruction from you infringes Data Protection Law.

3.12 You agree that we may appoint sub-processors to process Personal Data provided that we give to you no less than 14 days written notice. In the event that we appoint a sub-processor to process Personal Data we shall enter into a sub-processing agreement with the sub-processor which shall



impose upon the sub-processor the same obligations as are imposed upon us by these Terms and which shall permit both you and us to enforce those obligations.

3.13 We shall, at your written request, unless otherwise required by law, delete (or otherwise dispose of) the Personal Data or return it to you in the format(s) reasonably requested by you within a reasonable time after the earlier of the following: the end of the provision of the Services; or when the processing of that Personal Data by us is no longer required for the performance of our obligations under these Terms.

3.14 Where we are deemed to be a Data Processor we shall promptly record and refer all Data Subject Requests we receive to you and provide such information and cooperation at your cost and expense in relation to such Data Subject Request as reasonably required by you.

3.15 We shall notify you (and if required, the ICO) without undue delay and in any event, within 72 hours and in writing on becoming aware of any Personal Data breach in respect of Personal Data.

3.16 We understand and accept that the focus of our Services to you under these Terms is the provision of Services in order to help you to comply with Data Protection Law and information governance and security standards. We shall provide guidance, advice, strategy, proposals, directions and information as part of the Services ("advice"). You accept and agree that it is your responsibility to carry out and implement such advice promptly. Consequently, we exclude any liability should you suffer any loss, damage, fines, awards and/or, claims as of a result of your failure to do so.

4. Services

4.1 We shall provide the Services to you using all reasonable skill and care and substantially in accordance with any service levels as set out in the applicable Services Schedule and the Documentation.

4.2 We shall provide the Managed Services materially in accordance with the Managed Services Schedule.

4.3 We shall use reasonable endeavours to meet any performance dates specified in the appropriate Services Schedule but any such dates shall be estimates only and time for performance by us shall not be of the essence of the agreement.

4.4 Where applicable, we shall use reasonable endeavours to observe all health and safety rules and regulations and any other reasonable security requirements that apply at any of your premises where any part of the Services are provided and that have been communicated to us.

4.5 The undertakings at clauses 4.1 to 4.4 shall not apply to the extent of any non-conformance which is caused by use

of the Services contrary to our instructions, or modification or alteration of the Services by any party other than us or our duly authorised contractors or agents. If the Services do not conform with the foregoing undertaking, we will, at our expense, use reasonable commercial endeavours to correct any such non-conformance promptly, or provide you with an alternative means of accomplishing the desired performance. Such correction or substitution constitutes your sole and exclusive remedy for any breach of the undertakings set out in clauses 4.1 and 4.4. Notwithstanding the foregoing, we:

- (a) do not warrant that your use of the Services will be uninterrupted or error-free; or that the Services, Documentation and/or the information obtained by you or any End-User through the Services will meet your or any End-User's requirements;
- (b) cannot guarantee or warrant that we will succeed in identifying all data protection, privacy and information governance non-compliances nor information security threats in relation to your business or that we will identify all your privacy threats;
- (c) are not responsible for any delays, delivery failures, or any other loss or damage resulting from the transfer of data over communications networks and facilities, including the internet, and you acknowledge that the Services and Documentation may be subject to limitations, delays and other problems inherent in the use of such communications facilities.

4.6 These Terms shall not prevent us from entering into similar agreements with third parties, or from independently developing, using, selling or licensing documentation, products and/or services which are similar to those provided under these Terms.

4.7 We warrant that we have and we will maintain all necessary licences, consents, and permissions necessary for the performance of our obligations under these Terms.

5. Your Obligations

5.1 You shall:

- (a) provide us with:
 - (i) all necessary co-operation in relation to these Terms; and
 - (ii) all necessary access to such information as may be required by us, in order to provide the Services, including Content, security access information and configuration services;
- (b) carry out all your other responsibilities set out in these Terms in a timely and efficient manner. In the event of any delays in your provision of such assistance as agreed



- by the parties, we may adjust any agreed timetable or delivery schedule as reasonably necessary;
- (c) ensure that the End-Users use the GHC Service in accordance with the terms and conditions of these Terms and shall be responsible for breach of these Terms caused or contributed to by any acts or omissions on the part of any End-User;
 - (d) obtain and shall maintain all necessary licences, consents, and permissions necessary for us, our contractors and agents to perform their obligations under these Terms, including provision of the Services;
 - (e) ensure that your network and systems comply with the relevant specifications provided by us from time to time;
 - (f) be solely responsible for procuring and maintaining your network connections and telecommunications links from your systems to our data centres and all problems, conditions, delays, delivery failures and all other loss or damage arising from or relating to your or any End-User's network connections or telecommunications links or caused by the internet;
 - (g) as between the parties, be responsible for responding to all third party requests concerning the use of the Services by you or any End-User.

5.2 You shall indemnify and keep us indemnified from and against all liabilities, losses, damages, claims, costs, awards, fines and expenses incurred by us in respect of any breach by you of your obligations under this clause 5.

6. Fees and Payment

6.1 You shall pay the Fees to us for the Services in accordance with this clause 6 and the Services Schedule. Invoices shall be raised and payments made within 30 days of the date of such invoice unless otherwise agreed on the Services Schedule. Time of payment shall be of the essence.

6.2 You shall on or before the Effective Date provide to us valid, payment or approved purchase order information acceptable to us and any other relevant valid, up-to-date and complete contact and billing details and, if you provide your credit or debit card details to us, you hereby authorise us to bill such card:

- (a) on a periodic basis from the Effective Date for the Fees payable in respect of the Services; and
- (b) subject to clause 10.1, on a periodic basis following expiry of the Initial Subscription Term.

6.3 If we have not received payment within 30 days after the due date, and without prejudice to any of our other rights and remedies we may, without liability to you:

- (a) suspend the whole or any part of the Services;

- (b) disable your account and password and your access, and all End User passwords and End-Users' access, to all or part of the GHC Service; and

we shall be under no obligation to provide any or all of the Services while the fees concerned remain unpaid.

6.4 All amounts and fees stated or referred to in these Terms:

- (a) shall be payable in pounds sterling;
- (b) are exclusive of value added tax, which shall be added to our invoice(s) at the appropriate rate;
- (c) are exclusive of our reasonable travel, accommodation and other expenses which shall be added to our invoice in accordance with our expenses policy.

6.5 We shall be entitled to review the Fees for the Remote Support Services, Pseudo DPO and Privacy Officer Support Services and/or GHC Services following expiry of the Initial Subscription Term on an upwards basis only and such Fees shall be increased by the percentage increase in the Retail Price Index published by the Office for National Statistics or any successor department ("RPI"). The percentage increase shall be the increase in relation to the immediately preceding 12 month period in percentage terms in the RPI up to and including the last published monthly figure prior to the latest anniversary of the Effective Date upon giving 90 days' prior notice to you.

7. Proprietary Rights

7.1 You acknowledge and agree that we and/or our licensors own all Intellectual Property Rights in the Services, GHC and the Documentation. Except as expressly stated in these Terms, these Terms do not grant you any rights to, or in, any Intellectual Property Rights or any other rights or licences in respect of the Services, the Documentation or our trade marks.

7.2 We confirm that we have all the rights in relation to the Services, GHC and the Documentation and our trade marks that are necessary to grant all the rights we purport to grant under, and in accordance with, these Terms.

8. Confidentiality

8.1 Each party may be given access to Confidential Information from the other party in order to perform its obligations under these Terms. A party's Confidential Information shall not be deemed to include information that:

- (a) is or becomes publicly known other than through any act or omission of the receiving party;
- (b) was in the other party's lawful possession before the disclosure;
- (c) is lawfully disclosed to the receiving party by a third party without restriction on disclosure;



- (d) is independently developed by the receiving party, which independent development can be shown by written evidence; or
- (e) is required to be disclosed by law, by any court of competent jurisdiction or by any regulatory or administrative body.

8.2 Each party shall hold the other's Confidential Information in confidence and, unless required by law, not make the other's Confidential Information available to any third party, or use the other's Confidential Information for any purpose other than the implementation of these Terms.

8.3 Each party shall take all reasonable steps to ensure that the other's Confidential Information to which it has access is not disclosed or distributed by its employees or agents (and also, in the case of you only, by the End-Users) in breach of these Terms.

8.4 We shall not be responsible for any loss, destruction, alteration or disclosure of Confidential Information caused by any third party, except any third party subcontracted by us to perform services related to maintenance and back-up of Content.

8.5 You shall not be responsible for any loss, destruction, alteration or disclosure of Confidential Information caused by any third party, but shall be so responsible if caused by any End-User.

8.6 The parties acknowledge that:

- (a) our Confidential Information includes details and results of the Services; and
- (b) your Confidential Information includes the Content.

8.7 The above provisions of this clause 8 shall survive termination of these Terms, however arising.

8.8 No party shall make, or permit any person to make, any public announcement concerning these Terms without the prior written consent of the other parties (such consent not to be unreasonably withheld or delayed), except as required by law, any governmental or regulatory authority (including any relevant securities exchange), any court or other authority of competent jurisdiction.

9. Limitation of Liability

9.1 This clause 9 sets out our entire financial liability (including any liability for the acts or omissions of our employees, agents and sub-contractors) to you (or, in respect of the GHC Service to any End-User):

- (a) arising under or in connection with these Terms;
- (b) in respect of any use made by you (or any End-User) of the Services and the Documentation or any part of them; and

- (c) in respect of any representation, statement or tortious act or omission (including negligence) arising under or in connection with these Terms.

9.2 Except as expressly and specifically provided in these Terms:

- (a) you assume sole responsibility for results obtained from or the actions or inactions taken by you or others as a result of your use of the Services and the Documentation by you (or any End-User), and for conclusions drawn from such use. We shall have no liability for any damage caused by errors or omissions in any information, instructions, scripts or Documentation provided to us by you (or any End-User) in connection with the Services, or any actions taken by us at your direction;
- (b) all warranties, representations, conditions and all other terms of any kind whatsoever implied by statute or common law are, to the fullest extent permitted by applicable law, excluded from these Terms.

9.3 Nothing in these Terms excludes our liability:

- (a) for death or personal injury caused by our negligence; or
- (b) for fraud or fraudulent misrepresentation.

9.4 Subject to clause 9.2 and clause 9.3:

- (a) we shall not be liable whether in tort (including for negligence or breach of statutory duty), contract, misrepresentation, restitution or otherwise for any loss of profits, loss of business, depletion of goodwill and/or similar losses or loss or corruption of data or information, or pure economic loss, or for any special, indirect or consequential loss, costs, damages, charges or expenses however arising under these Terms; and
- (b) our total aggregate liability in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise, arising in connection with the performance or contemplated performance of these Terms shall be limited to the total Fees:
 - (i) in respect of the Audit Services, to the total Audit Service Fees paid under these Terms;
 - (ii) in respect of the Consultancy Services, to the total Consultancy Services Fees paid or payable under these Terms;
 - (iii) in respect of the Remote Support Services, to the total Remote Support Services Fees paid or payable during the 12 months immediately preceding the date in which the claim arose;
 - (iv) in respect of the Training Services, to the total Training Services Fees paid or payable under these Terms;



- (v) in respect of the DPO or Privacy Officer Services, to the total DPO or Privacy Officer Services Fees paid or payable during the 12 months immediately preceding the date in which the claim arose;
- (vi) in respect of the Managed Services, to the total Managed Services Fees paid or payable during the 12 months immediately preceding the date on which the claim arose.

10. Term and Termination

10.1 These Terms shall, unless otherwise terminated as provided in this clause 10, commence on the Effective Date and in respect of the Managed Services, Support Desk Services and the GHC Service shall continue for the Initial Subscription Term and, thereafter for Subsequent Subscription Terms, unless and until one party provides 30 Business Days' written notice to the other party such notice to expire prior to or on expiry of the Initial Subscription Term or the Subsequent Subscription Term (as applicable).

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

- (a) the other party fails to pay any amount due under these Terms on the due date for payment and remains in default not less than 30 days after being notified in writing to make such payment;
- (b) the other party commits a material breach of any other term which breach is irremediable or (if such breach is remediable) fails to remedy that breach within a period of 30 days after being notified in writing to do so;
- (c) the other party repeatedly breaches any of these Terms 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 these Terms;
- (d) 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;
- (e) the other party suspends or ceases, or threatens to suspend or cease, carrying on all or a substantial part of its business.

10.3 On termination of these Terms for any reason:

- (a) all licences granted under these Terms shall immediately terminate;
- (b) any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination, including the right to claim damages in respect of any

breach of these Terms which existed at or before the date of termination shall not be affected or prejudiced;

- (c) any provision of these Terms that expressly or by implication is intended to come into or continue in force on or after termination or expiry of these Terms, including clause 1 (Interpretation), clause 8 (Confidentiality), clause 9 (Limitation of Liability) and clause 10 (Term and termination), shall remain in full force and effect; and
- (d) any outstanding balance becomes immediately due and payable.

11. Force Majeure

11.1 We shall have no liability to you under these Terms if we are prevented from or delayed in performing our obligations under these Terms, or from carrying on our business, by acts, events, omissions or accidents beyond our reasonable control, including strikes, lock-outs or other industrial disputes (whether involving our workforce or any other party), failure of a utility service or transport or telecommunications network, act of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, storm or default of suppliers or subcontractors, provided that you are notified of such an event and its expected duration.

12. Conflict

12.1 If there is an inconsistency between any of the provisions of these Terms and the Services Schedule, the provisions in the Services Schedule shall prevail.

13. Variation

13.1 No variation of these Terms shall be effective unless it is in writing and signed by the parties (or their authorised representatives).

14. Waiver

14.1 No failure or delay or delay by a party to exercise any right or remedy provided under these Terms or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.

15. Rights and Remedies

15.1 Except as expressly provided in these Terms, the rights and remedies provided under these Terms are in addition to, and not exclusive of, any rights or remedies provided by law.



16. Severance

16.1 If any provision (or part of a provision) of these Terms is found by any court or administrative body of competent jurisdiction to be invalid, unenforceable or illegal, the other provisions shall remain in force.

16.2 If any invalid, unenforceable or illegal provision would be valid, enforceable or legal if some part of it were deleted, the provision shall apply with whatever modification is necessary to give effect to the commercial intention of the parties.

17. Entire Agreement

17.1 These Terms, and any documents referred to in it, constitute the whole agreement between the parties and supersede any previous arrangement, understanding or agreement between them relating to the subject matter they cover.

17.2 Each of the parties acknowledges and agrees that in entering into these Terms it does not rely on any undertaking, promise, assurance, statement, representation, warranty or understanding (whether in writing or not) of any person (whether party to these Terms or not) relating to the subject matter of these Terms, other than as expressly set out in these Terms.

18. Assignment

18.1 You shall not, without our prior written consent assign, transfer, charge, subcontract or deal in any other manner with all or any of its rights or obligations under these Terms.

18.2 We may at any time assign, transfer, charge, subcontract or deal in any other manner with all or any of our rights or obligations under these Terms.

19. No partnership or agency

19.1 Nothing in these Terms is intended to or shall operate to create a partnership between the parties, or authorise either party to act as agent for the other, and neither party shall have the authority to act in the name or on behalf of or otherwise to bind the other in any way (including the making of any representation or warranty, the assumption of any obligation or liability and the exercise of any right or power).

20. Third Party Rights

20.1 These Terms do not confer any rights on any person or party and are not enforceable by any person or party (other than the parties to these Terms and, where applicable, their successors and permitted assigns) under the Contracts (Rights of Third Parties) Act 1999.

21. Notices

21.1 Any notice required to be given under these Terms shall be in writing and shall be delivered by hand or sent by pre-paid first-class post or recorded delivery post to the other party at its address set out in these Terms, or such other address as may have been notified by that party for such purposes, or (with the exception of legal proceedings) sent by email to the other party's email address as set out in the Services Schedule.

21.2 A notice delivered by hand shall be deemed to have been received when delivered (or if delivery is not in business hours, at 9 am on the first business day following delivery). A correctly addressed notice sent by pre-paid first-class post or recorded delivery post shall be deemed to have been received at the time at which it would have been delivered in the normal course of post. A notice sent by email shall be deemed to have been received at the time of acknowledgement of receipt (as shown by the timed transmission successful receipt obtained by the sender).

22. Governing law and Jurisdiction

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

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

END

Terms updated: January 2019