

COOPER SOFTWARE LIMITED (TRADING AS PROSCOPE FOR NETSUITE)

TERMS AND CONDITIONS FOR THE PROVISION OF SERVICES (VERSION 2: MARCH 2023)

1. Commencement and Duration

This Agreement shall commence on the Effective Date and shall, unless otherwise terminated as provided in Condition 10 (*Termination*), continue until the completion by the Supplier of the Services (the "**Term**").

2. Supplier's Obligations

2.1 The Supplier shall:

- (a) provide the Services, and deliver any deliverables specified in the Letter of Engagement to the Client, in accordance with this Agreement in all material respects;
- (b) use reasonable endeavours to meet any performance dates specified in the Letter of Engagement but any such dates shall be estimates only and time for performance by the Supplier shall not be of the essence of this agreement;
- (c) ensure that the Supplier's personnel who deliver the Service are appropriate trained and sufficiently qualified and experienced in order to provide the Services;
- (d) use reasonable endeavours to observe all health and safety and security requirements that apply at any of the Client's premises and that have been communicated to it under Condition 3.1(d) (*Client's Obligations*), provided that it shall not be liable under this Agreement if, as a result of such observation, it is in breach of any of its obligations under this Agreement.

2.2 The Supplier shall appoint a manager for the Services. That person shall have authority to contractually bind the Supplier on all matters relating to the Services. The Supplier shall use reasonable endeavours to ensure that the same person acts as the Supplier's manager throughout the Term, but may replace that person from time to time where reasonably necessary in the interests of the Supplier's business.

2.3 This Agreement shall not prevent the Supplier 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 this Agreement.

2.4 The Supplier warrants that it has and will maintain all necessary licences, consents, and permissions necessary for the performance of its obligations under this Agreement.

3. Client's Obligations

3.1 The Client shall:

- (a) provide the Supplier with:
 - (i) all necessary co-operation in relation to this Agreement; and
 - (ii) all necessary access to such information as may be required by the Supplier;in order to provide the Services, including but not limited to the Input Material;
- (b) appoint a manager for the Services, such person to be notified to the Supplier in writing. That person shall have the authority to contractually bind the Client on matters relating to the Services. The Client shall use reasonable endeavours to ensure that the same person acts as the Client's manager throughout the Term, but may replace that person from time to time where reasonably necessary in the interests of the Client's business.;

- (c) provide, for the Supplier, its agents, subcontractors, consultants and employees, in a timely manner and at no charge, access to the Client's premises, office accommodation, data and other facilities as required by the Supplier for the performance of the Services
- (d) inform the Supplier of all health and safety and security requirements that apply at any of the Client's premises in advance of the Supplier's personnel attending the Client's premises;
- (e) carry out all other Client responsibilities set out in this Agreement in a timely and efficient manner. In the event of any delays in the Client's provision of such assistance as agreed by the parties, the Supplier may adjust any agreed timetable or delivery schedule as reasonably necessary; and
- (f) obtain and shall maintain all necessary licences, consents, and permissions necessary for the Supplier, its contractors and agents to perform their obligations under this Agreement, including without limitation the Software.

4. Compliance with Applicable Laws

- 4.1 In performing their obligations under this Agreement, each party shall comply with all laws, statutes, regulations and codes in force from time to time in respect of that party's activities under this Agreement ("**Applicable Laws**").
- 4.2 Changes to the Services and/or this Agreement required as a result of changes to the Applicable Laws shall be agreed via the change control procedure set out in Condition 5 (*Change Control*).

5. Change Control

- 5.1 Either party may propose changes to the scope or execution of the Services but no proposed changes shall come into effect until a Change Order has been signed by both parties.
- 5.2 If the Supplier wishes to make a change to the Services it shall provide a draft Change Order to the Client.
- 5.3 If the Client wishes to make a change to the Services:
 - (a) it shall notify the Supplier and provide as much detail as the Supplier reasonably requires of the proposed changes, including the timing of the proposed changes; and
 - (b) the Supplier shall, as soon as reasonably practicable after receiving the information at Condition (a), provide a draft Change Order to the Client.
- 5.4 If the parties:
 - (a) agree to a Change Order, they shall sign it and that Change Order shall amend this Agreement; or
 - (b) are unable to agree a Change Order, either party may require the disagreement to be dealt with in accordance with the dispute resolution procedure in Condition 15 (*Dispute Resolution*).
- 5.5 The Supplier may charge for the time it spends on preparing and negotiating Change Orders which implement changes proposed by the Client pursuant to Condition 5.3 on a time and materials basis at the Supplier's daily rates specified in the Letter of Engagement or otherwise notified by the Supplier to the Client from time to time.

6. Charges and Payment

- 6.1 In return for the provision of the Services by the Supplier, the Client shall pay the Services Fees to the Supplier in accordance with this Condition 6 and the Letter of Engagement.
- 6.2 Where the Services Fees are calculated on a time and materials basis:

- (a) the Supplier's daily fee rates are calculated for each individual person by their job role as set out in the Letter of Engagement and on the basis of a seven-hour day, worked during Normal Working Hours;
 - (b) the Supplier shall be entitled to charge an overtime rate of 100% of the daily fee rate set out in the Letter of Engagement on a pro rata basis for any time worked by individuals whom it engages on the Services outside Normal Business Hours; and
 - (c) the Supplier shall ensure that every individual whom it engages on the Services completes time sheets to record time spent on the Services, and the Supplier shall indicate the time spent per individual in its invoices.
- 6.3 Where the Services Fees are calculated on a fixed price basis, the amount of those Services Fees shall be as set out in the Letter of Engagement.
- 6.4 The Services Fees exclude the following which shall be payable by the Client, following submission of an appropriate invoice:
 - (a) the cost of hotel, subsistence, travelling and any other ancillary expenses reasonably incurred by the individuals whom the Supplier engages in connection with the Services, provided always that such costs shall be incurred in compliance with the Supplier's Employee Expenses Policy (details of which shall be provided to the Client on request); and
 - (b) the cost to the Supplier of any materials or services procured by the Supplier from third parties for the provision of the Services as such items and their cost are approved by the Client in advance from time to time.
- 6.5 The Supplier shall invoice the Client for the Services Fees at the intervals specified in the Letter of Engagement. If no intervals are so specified the Supplier shall invoice the Client at the end of each month for Services performed during that month.
- 6.6 The Client shall pay each invoice submitted to it by the Supplier within 14 days of receipt, or such other time period specified in the Letter of Engagement, to a bank account nominated in writing by the Supplier from time to time.
- 6.7 If the payment of any amount referred to in this Condition 6 is disputed then any undisputed element of that amount shall be paid and the disputed element may be withheld by the Client until the dispute has been resolved or agreement has been reached or if agreement cannot be reached within fifteen (15) Business Days, until the dispute has been resolved pursuant to Condition 13 (*Dispute Resolution*).
- 6.8 If the Supplier has not received payment of any undisputed sums within 30 days after the due date, and without prejudice to any other rights and remedies of the Supplier:
 - (a) the Supplier may, without liability to the Client, suspend the provision of all Services and the Supplier shall be under no obligation to provide any or all of the Services while the invoice(s) concerned remain unpaid; and
 - (b) interest shall accrue on a daily basis on such due amounts at an annual rate equal to 4% over the then current base lending rate of The Royal Bank of Scotland plc from time to time, commencing on the due date and continuing until fully paid, whether before or after judgment.
- 6.9 All amounts and fees stated or referred to in this Agreement:
 - (a) shall be payable in the currency as stated in the Letter of Engagement;
 - (b) are exclusive of value added tax or other sales tax, which, if applicable in the territory in which the Client operates and/or receives the Services under this Agreement, shall be added to the sum in question;
 - (c) shall be paid in full without any deductions (including deductions in respect of items such as income, corporation, or other taxes, charges and/or duties). The Client hereby acknowledges responsibility for payment of all tax which might accrue or become payable by them as is required by the law applicable in the territory in which

the Client operates and/or receives the Services under this Agreement, and agrees to indemnify (and keep indemnified) the Supplier against all and or any tax claims made in respect of sums payable to the Supplier. In the unlikely event of the Client being required by law, applicable only in the territory in which the Client operates and/or receives the Services under this Agreement, to deduct withholding tax from sums payable to the Supplier. If the Client is required by law to deduct withholding tax, then the Client and the Supplier shall co-operate in all respects and take all reasonable steps necessary to:

- (i) lawfully avoid making any such deductions; or
- (ii) enable the Supplier to obtain a tax credit in respect of the amount withheld.

- 6.10 The Supplier shall be entitled to increase the Services Fees annually with effect from each anniversary of the Effective Date upon 90 days' prior notice to the Client and the Letter of Engagement shall be deemed to have been amended accordingly.

7. Proprietary Rights

- 7.1 The intellectual property rights in any and all materials and deliverables provided to or developed for the Client are the property of the Supplier ("**Supplier IPR**") and shall at all times remain vested in the Supplier except where specifically agreed otherwise in writing by the Supplier.
- 7.2 The Supplier hereby grants to the Client a non-exclusive, non-transferable right, without the right to grant sub-licences, to use the Supplier IPR solely for the Client's internal business operations.
- 7.3 The Supplier confirms that it has all the rights in relation to the Supplier IPR that are necessary to grant all the rights it purports to grant under, and in accordance with, the terms of this Agreement.
- 7.4 The Supplier acknowledges that all Input Material is the property of the Client and the Client reserves all intellectual property rights which may subsist in the Input Material.
- 7.5 The Client hereby grants to the Supplier a non-exclusive, royalty free license to use the Input Materials for the Term for the purpose of providing the Services only.
- 7.6 The Client confirms that it has all the rights in relation to the Input Material that are necessary to grant all the rights it purports to grant under, and in accordance with, the terms of this Agreement.

8. Confidentiality

- 8.1 Each party undertakes that it shall not at any time disclose to any person any Confidential Information, except as permitted by Condition 8.2. 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; or
 - (d) is independently developed by the receiving party, which independent development can be shown by written evidence.
- 8.2 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 Condition 7.1; and

- (b) as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.

8.3 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.

9. Limitation of Liability and Insurance

9.1 Nothing in this Agreement shall limit or exclude the liability of either Party for:

- (a) death or personal injury caused by breach of duty of that Party or its employees, agents or subcontractors (as applicable);
- (b) fraud or fraudulent misrepresentation; or
- (c) any matter in respect of which it would be unlawful to exclude or restrict liability

9.2 Subject to Condition 9.1:

- (a) the Supplier shall not be liable whether in delict (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 this Agreement; and
- (b) the Supplier's total aggregate liability in contract, delict (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise, arising in connection with the performance or contemplated performance of this Agreement shall be limited to the total Services Fees paid by the Client to the Supplier during the 12 months immediately preceding the date on which the claim arose.

9.3 The Supplier shall maintain in force for the Term the following insurance policies with reputable insurance companies with sufficient coverage to cover its potential liabilities in connection with this Agreement and, where relevant, to comply with applicable laws:

- (a) employer's liability insurance;
- (b) professional indemnity insurance; and
- (c) third party legal liability insurance (with bodily injury and property damage coverage).

10. Termination

10.1 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 fails to pay any amount due under this Agreement 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 of this Agreement 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 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 its creditors 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;

- (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 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;
 - (g) the holder of a qualifying floating charge over the assets of that other party has become entitled to appoint or has appointed an administrative receiver;
 - (h) a person becomes entitled to appoint a receiver over the assets of the other party or a receiver is appointed over 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 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 Condition 10.1(c) to Condition 10.1(i) (inclusive);
 - (k) the other party suspends or ceases, or threatens to suspend or cease, carrying on all or a substantial part of its business.
- 10.2 Without affecting any other right or remedy available to it, either party may terminate this Agreement at any time without cause by giving the other party not less than 30 days prior written notice. However within the Initial Term as noted in the Letter of Engagement the Client may not terminate this agreement without cause.

11. Consequences of Termination

- 11.1 On termination of this Agreement for any reason:
- (a) each party shall return and make no further use of any equipment, property, documentation and other items (and all copies of them) belonging to the other party; and
 - (b) Conditions which expressly or by implication have effect after termination shall continue in full force and effect, including Condition 8 (*Confidentiality*), Condition 9 (*Limitation of Liability*) and Conditions 11 (*Consequences of Termination*) to Condition 27 (*Definitions and Interpretation*) (inclusive).
- 11.2 On termination of this Agreement for any reason, the Supplier shall be entitled to issue an invoice for Services Fees in respect of Services delivered prior to the date of termination and all unpaid invoices shall become immediately due and payable. In addition, where this Agreement is terminated by the Client pursuant to Condition 10.2 during any minimum term specified in the Letter of Engagement, the Client shall be liable to pay to the Supplier any unpaid or un-invoiced Services Fees which would have become due during the remainder of the minimum term.
- 11.3 Termination of this Agreement shall not affect 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 the Agreement which existed at or before the date of termination.

12. Force Majeure

The Supplier shall have no liability to the Client under this Agreement if it is prevented from or delayed in performing its obligations under this Agreement, or from carrying on its business, by acts, events, omissions or accidents beyond its reasonable control, including, without limitation, strikes, lock-outs or other industrial disputes (whether involving the workforce of the Supplier 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 sub-contractors, provided that the Client is notified of such an event and its expected duration.

13. Announcements

Neither party shall make, or permit any person to make, any public announcement concerning the existence, subject matter or terms of this Agreement, the wider transactions contemplated by it, or the relationship between the parties, without the prior written consent of the other party (such consent not to be unreasonably withheld or delayed), except as required by law, any governmental or regulatory authority, any court or other authority of competent jurisdiction.

14. Non-solicitation

- 14.1 Neither party shall (except with the prior written consent of the other party) directly or indirectly solicit or entice away (or attempt to solicit or entice away) from the employment of the other party any person employed or engaged by such other party in the provision of the Services or (in the case of the Client) in the receipt of the Services at any time during the Term or for a further period of 6 months after the termination of this Agreement other than by means of a national advertising campaign open to all comers and not specifically targeted at any of the staff of the other party.
- 14.2 If either the Supplier or the Client commits any breach of Condition 14.1 the breaching party shall, on demand, pay to the claiming party a sum equal to one year's basic salary or the annual fee that was payable by the claiming party to that employee, worker or independent contractor plus the recruitment costs incurred by the claiming party in replacing such person.

15. Dispute Resolution

- 15.1 All disputes between the parties arising out of or relating to this Agreement shall be referred for resolution, by each party, to the representative nominated by each party and intimated to the other party to resolve disputes that arise between the parties (the "**Nominated Representatives**").
- 15.2 If any dispute cannot be resolved by the Nominated Representatives within a maximum of ten days after it has been referred under Condition 15.1, that dispute shall be referred for resolution, by each party, to the senior representative nominated by each party and intimated to the other party as the senior representative (the "**Senior Representatives**").
- 15.3 If the dispute cannot be resolved by the parties' Senior Representatives nominated under Condition 15.2 within a maximum of ten days after it has been referred under Condition 15.2 then Condition 26 (*Governing Law and Jurisdiction*) shall apply.
- 15.4 Nothing in this Condition 13 shall restrict either party's freedom to commence legal proceedings to preserve any legal right or remedy or protect and proprietary or trade secret right or other injunctive relief.

16. Conflict

If there is an inconsistency between any of the provisions of the Letter of Engagement and these Services Terms and Conditions, the provisions of the Letter of Engagement shall prevail in preference to these Services Terms and Conditions.

17. No partnership or agency

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

18. Entire Agreement

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, provided that nothing in this Condition 18 shall have effect to exclude liability of either party for fraud or fraudulent misrepresentation.

19. Variation

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

20. Assignment and other dealings

- 20.1 The Client shall not, without the prior written consent of the Supplier, assign, transfer, charge, sub-contract or deal in any other manner with all or any of its rights or obligations under this Agreement.
- 20.2 The Supplier may at any time assign, transfer, charge, sub-contract or deal in any other manner with all or any of its rights or obligations under this Agreement.

21. Waiver

No failure or delay by a party to exercise any right or remedy provided under this Agreement 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.

22. Severance

- 22.1 If any provision or part-provision of this Agreement is or becomes invalid, illegal or unenforceable, it shall be deemed deleted, but that shall not affect the validity and enforceability of the rest of this Agreement.
- 22.2 If any provision or part-provision of this Agreement is deemed deleted under Condition 22.1 the parties shall negotiate in good faith to agree a replacement provision that, to the greatest extent possible, achieves the intended commercial result of the original provision.

23. Rights and remedies

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

24. Notices

- 24.1 Any notice, demand or communication in connection with this Agreement shall be in writing and delivered personally or sent by pre-paid first class post (or airmail if overseas) to the recipient's address as set out in the Letter of Engagement or to any other address which the recipient has notified in writing to the sender not less than 7 Business Days before the notice is despatched.
- 24.2 The notice, demand or communication is deemed given:
 - (a) if delivered personally, at the time of delivery to the address provided for in this Agreement;
 - (b) if sent by pre-paid first class post, on the second Business Day after posting it; or

(c) if sent by airmail, on the fifth Business Day after posting it, provided that, if it is delivered personally on a day which is not a Business Day or after 4pm on any Business Day, it shall instead be deemed to have been given or made on the next Business Day.

- 24.3 This Condition does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution. For the purposes of this Condition, "writing" shall not include e-mail.

25. Third party rights

No one other than a party to this Agreement shall have any right to enforce any of its terms.

26. Governing Law and Jurisdiction

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

27. Definitions and Interpretation

- 27.1 In these Services Terms and Conditions, unless the context requires otherwise, capitalised terms shall have the meanings given to them in the Letter of Engagement and/or the following words and phrases shall have the meanings set opposite them:

"Agreement"	means the Letter of Engagement and these Services Terms and Conditions entered into by the parties;
"Business Day"	means a day other than a Saturday, Sunday or public holiday in Scotland when banks in Edinburgh are open for business;
"Change Order"	means a document setting out the proposed changes and the effect that those changes will have on: <ul style="list-style-type: none"> (a) the Services; (b) the Supplier's existing Services Fees; (c) the timetable of the Services; and (d) any of the terms of this Agreement;
"Confidential Information"	means all information designated as such by a party in writing together with all other information which relates to the business, financial affairs, products, developments, trade secrets, know-how, personnel, customers and suppliers of either Party or information which may reasonably be regarded as the confidential information of the party disclosing it;
"Client Data"	means the data inputted by the Client, Authorised Users for the purpose of using the Software or facilitating the Client's use of the Software;
"Data Protection Laws"	means all applicable legislation and regulations relating to the processing of personal data and privacy including (without limitation) the Data Protection Act 2018 and any regulations or instruments enacted under that Act, the European Union General Data Protection Regulation, the Privacy and Electronic Communications (EC Directive) Regulations 2003

	and the Data Protection (Processing of Sensitive Personal Data) Order 2000 or any amendments and/or re-enactments of any of the foregoing and all other industry guidelines (whether statutory or non-statutory) or codes of practice issued in each case by the relevant supervisory authority for data protection in the United Kingdom from time to time relating to the processing of personal data or privacy, or any amendments and/or re-enactments thereof;
"Effective Date"	means the last date of signing of the Letter of Engagement;
"Input Material"	means all documents, information and materials provided by or on behalf of the Client to the Supplier relating to the Services, including without limitation any data, reports and specifications;
"Letter of Engagement"	means the letter signed by the parties setting out the details of the agreement between the parties in relation to the Services, including the details of the Services Fees;
"Normal Working Hours"	means 9.00 am to 5.00 pm local UK time, each Business Day;
"Services Terms and Conditions"	means Conditions 1 (<i>Commencement and Duration</i>) to 27 (<i>Definitions and Interpretation</i>) of these terms and conditions;
"Services"	means the consultancy and/or other services to be provided by the Supplier to the Client, as set out in the Letter of Engagement; and
"Term"	has the meaning given in Condition 1 (<i>Commencement and Duration</i>).

27.2 In this Agreement:

- (a) the singular includes the plural and vice versa;
- (b) references to gender include references to all genders;
- (c) unless otherwise stated, references to sub-Conditions, Conditions and to the Schedules are to sub-Conditions, Conditions and the Schedules to this Agreement;
- (d) the Condition headings are for reference only and shall not affect the construction or interpretation of this Agreement;
- (e) the Schedule annexed hereto is incorporated into and forms part of this Agreement; and
- (f) references to statutes, any statutory instrument, regulation or order shall be construed as a reference to such statute, statutory instrument, regulation or order as amended or re-enacted from time to time.

27.3 In this Agreement, except where the context otherwise requires, any reference to:

- (a) another agreement or any deed or other instrument or document shall be construed as a reference to that other agreement, deed or other instrument or document as the same may have been, or may from time to time be, amended, varied, supplemented or novated;
- (b) a "day" means a period of 24 hours (or such other number of hours as may be relevant in the case of changes for daylight saving) ending at 12.00 midnight in the United Kingdom;
- (c) the words "include" or "including" are to be construed as meaning without limitation;
- (d) a "month" means a calendar month;

- (e) a "person" includes any individual, partnership, firm, company, corporation, joint venture, trust, association, organisation or other entity, in each case whether or not having a separate legal personality; and
- (f) a "year" means a calendar year.

**THIS IS THE SCHEDULE REFERRED TO IN THE FOREGOING PROFESSIONAL
SERVICES TERMS AND CONDITIONS BETWEEN THE SUPPLIER AND THE
CUSTOMER**

**SCHEDULE PART 1
DATA PROCESSING ADDENDUM**

In this Addendum, capitalised terms not defined herein shall have the same meaning as given to them in the Agreement. The following additional terms used in this Addendum shall have the following meanings:

"Client Personal Data" means the personal data provided by or on behalf of the Client or otherwise obtained or generated by the Supplier pursuant to the Services for processing by the Supplier under this Addendum;

"controller", "processor", "data subject", "personal data", "processing" and "personal data breach" shall have the meanings given to them in the UK GDPR;

"Restricted Transfer" means any transfer of Client Personal Data to a Third Country in respect of which, at the time of such transfer, there is no applicable adequacy decision by an applicable data protection authority under the Data Protection Laws;

"Services" means the services, systems, any deliverables and other activities supplied by or on behalf of the Supplier to the Client pursuant to the Agreement or otherwise.

"Subprocessor" means any third party appointed by the Supplier to process Client Personal Data on the Supplier's behalf pursuant to Section 5.2 of this Addendum; and

"Third Country" means any country or territory outside the UK or EEA from time to time.

1. Data Protection Laws

The Supplier shall comply at all times with the obligations of a processor under the Data Protection Laws in processing the Client Personal Data under this Addendum.

2. Annex

The Annex to this Addendum sets out the type of personal data and categories of data subjects which the Supplier shall process under this Addendum, as well as the permitted nature, purpose and duration of that processing, all as required by the Data Protection Laws.

3. General Processing Obligations

- 3.1 The Supplier shall only process the Client Personal Data for the purpose, and in the course, of providing the Services and in accordance with the documented instructions of the Client (unless required to do otherwise by applicable law and in such circumstances the Supplier shall inform the Client of such requirement unless prohibited by applicable law on important grounds of public interest).

- 3.2 The Supplier shall take reasonable steps to ensure the reliability of any persons authorised by it to process Client Personal Data and shall ensure that any such persons are bound by appropriate confidentiality obligations in relation thereto.

4. Security

- 4.1 Taking into account the state of the art, the costs of implementation and the nature, scope, context and purposes of processing as well as the severity of the risk to the rights and freedoms of natural persons, the Supplier shall implement and maintain appropriate technical and organisational measures in relation to the Client Personal Data to ensure a level of security appropriate to the level of risk (and in assessing the appropriate level of security shall take account, in particular, of the risks that are presented by processing, in particular, from accidental or unlawful destruction, loss, alteration, unauthorised disclosure of or access to the Client Personal Data).

5. Subprocessors

- 5.1 The Supplier shall not appoint or engage or authorise any other third party to process any Client Personal Data without the prior written consent of the Client.
- 5.2 The Supplier shall enter into a contract with each Subprocessor which imposes the same data protection obligations on that Subprocessor as are imposed on the Supplier under this Addendum.
- 5.3 The Supplier shall be fully responsible to the Client for all acts and omissions of each Subprocessor as though they were its own.

6. Transfers

The Supplier shall not make any Restricted Transfers (including to any Subprocessors) unless the prior written consent of the Client has been obtained and the Supplier has implemented appropriate safeguards in relation to the transfer in accordance with the requirements of Article 46 of the GDPR, together with such supplemental measures and effective mechanisms to ensure a level of protection which is equivalent to that afforded to personal data under the Data Protection Laws.

7. Assistance

- 7.1 The Supplier shall, when requested by the Client, assist the Client in fulfilling the Client's obligations under the Data Protection Laws, including assisting the Client in (i) ensuring compliance with its obligations relating to data security, personal data breaches and data protection impact assessments and related consultations with applicable data protection authorities under applicable Data Protection Laws (which include, as at the date of the Addendum, its obligations under Articles 32 to 36 of the GDPR), and (ii) responding to requests from data subjects in relation to the exercise of data subject rights with respect to personal data under the Data Protection Laws. Without prejudice to the generality of the foregoing, the Supplier shall:

7.1.1 promptly notify Client if it or any Subprocessor receives a request from a data subject under the Data Protection Laws in respect of Client Personal Data; and

7.1.2 not, and shall ensure that each Subprocessor shall not, respond to that request except on the documented instructions of the Client or as required by applicable laws to which it or the Subprocessor is subject, in which case the Supplier shall, to the extent permitted by applicable law, inform Client of that legal requirement before it responds to the request.

7.2 Supplier shall notify the Client without undue delay upon (and in any event within 48 hours of) Supplier or any Subprocessor becoming aware of a personal data breach affecting Client Personal Data, providing the Client with sufficient information to allow the Client to meet any obligations to report or inform data subjects of the personal data breach under the Data Protection Laws. Such notification shall, at a minimum describe the nature of the personal data breach, the categories and numbers of data subjects concerned and the categories and numbers of personal data records concerned; communicate the name and contact details of Supplier's data protection officer or other relevant contact from whom more information may be obtained; describe the likely consequences of the personal data breach; and describe the measures taken or proposed to be taken to address the personal data breach.

7.3 The Supplier shall co-operate with the Client and take such reasonable commercial steps as are directed by the Client to assist in the investigation, mitigation and remediation of each such personal data breach.

8. Return or deletion of Client Personal Data

At the end of the provision of Services involving the processing of Client Personal Data under this Addendum, the Supplier shall promptly delete or return to the Client (as requested by the Client) all copies of the Client Personal Data in its and its Subprocessors' possession or control (except to the extent that applicable laws requires storage of that Client Personal Data by the Supplier), and shall, on the Client's request, certify in writing to the Client that it, and its Subprocessors, have done so.

9. Information and Audit

9.1 The Supplier shall:

9.1.1 prepare, keep, and make available to the Client on its request all such documentation and information as is necessary to demonstrate its, and its Subprocessors', compliance with their obligations under the Data Protection Laws and this Addendum and allow for and contribute to audits (including inspections) conducted by the Client, or another auditor mandated by the Client, relating to it and all its Subprocessors; and

9.1.2 immediately inform the Client if, in its opinion, an instruction from the Client infringes the Data Protection Laws.

10. Indemnity

Notwithstanding any other provisions of the Agreement, the Supplier agrees to indemnify the Client against all liabilities, costs, expenses, damages and losses suffered or incurred by the Client arising out of or in connection with any breach by the Supplier or any Subprocessor of any provision of this Addendum and/or the Data Protection Laws.

Annex 1 - DETAILS OF PROCESSING

Subject Matter and Duration of processing	The subject matter of the processing of Client Personal Data is set out in the Agreement. The processing may continue for the term of the Agreement.
Nature and purpose of processing	To perform its obligations under the Agreement.
Categories of data subjects	The Client's clients and employees.
Types of personal data	<u>Clients of the Client</u> Names, addresses, contact details <u>Employees of the Client</u> Names, addresses, contact details, job title, existence of medical certificates <u>Contractors of the Client</u> Names, addresses, contact details, existence of medical certificates
The obligations and rights of the Client	The obligations and rights of the Client are as set out in the Agreement and this Addendum.