

1. **Application**

- 1.1 These Terms and Conditions apply to the provision of IT Services by the Provider to the Customer.
- 1.2 In the event of conflict between these Terms and Conditions and any other terms and conditions (including but not limited to any order or purchase order (otherwise), the former shall prevail unless expressly otherwise stated by the Provider in writing.

2. **Definitions and Interpretation**

- 2.1 In these Terms and Conditions, unless the context otherwise requires, the following expressions shall have the following meanings:

“Agreement”

the Agreement / Purchase Order between the Customer and the Provider to which these Terms and Conditions apply;

“Business Day”

any day other than Saturday and Sunday) on which the Provider is open for [their full range of services in London]>>;

“Commencement Date”

the commencement date for these Terms and Conditions as set out in the Specification of Services and the Terms and Conditions;

“Confidential Information”

any technical, financial or other information disclosed by the Customer to the Provider in connection with the Agreement;

“Customer”

<<Customer>> a company registered in England or Wales under number <<Company Number>> whose registered office is at <<Address>>;

“Data Protection Legislation”

any legislation in force from time to time which is applicable to data protection and includes, but is not limited to, the UK GDPR (the General Data Protection Regulation (EU) 2016/679), as it forms part of the law of England and Wales, Scotland, and Northern Ireland by virtue of the European Union (Withdrawal) Act 2018 (and regulations made under that Act) and the Privacy and Electronic Communications Regulations 2003 as amended;

“Provider”

<<Provider>> a company registered in England or Wales under number <<Company Number>> whose registered office is at <<Address>>;

“Services”

the IT Services to be provided by the Provider to the Customer as set out in the Specification of Services and the Terms and Conditions;

“Equipment”

“Fees”

“Software”

“Working Hours”

- 2.2 Unless the context otherwise indicates, any reference in these Terms and Conditions to:
- 2.2.1 “writing”, and any other form of communication, includes a reference to any communication in electronic form or facsimile transmission or similar means;
 - 2.2.2 a statute or a regulation or a provision as amended or supplemented at the relevant time;
 - 2.2.3 “these Terms and Conditions” includes a reference to these Terms and Conditions as amended or supplemented at the relevant time;
 - 2.2.4 a Schedule is a reference to a Schedule of these Terms and Conditions;
 - 2.2.5 a Clause or paragraph of these Terms and Conditions (or a Schedule) or a paragraph of the relevant Schedule; and
 - 2.2.6 a “Party” or “Parties” means the parties to these Terms and Conditions.
- 2.3 The headings used in these Terms and Conditions are for convenience only and shall have no effect on the interpretation of these Terms and Conditions.
- 2.4 Words imparting the singular shall include the plural and vice versa.
- 2.5 References to any gender shall include the other gender.

3. **Provider’s Obligations**

- 3.1 With effect from the date of commencement of the Services, the Provider shall, in accordance with the terms of payment set out in the Specification of Services, provide the Services expressly identified in the Specification of Services agreed under these Terms and Conditions.
- 3.2 The Provider will use its best skill and care to perform the Services identified in the Specification of Services or otherwise agreed under these Terms and Conditions.
- 3.3 The Provider will, subject to the availability of resources, use reasonable endeavours to maintain the Services in a state of good repair and to ensure that they are installed or otherwise operative.

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on the Customer's Equipment may have been caused by hardware failure and to render the satisfactory operation of the Software.

to re-install any Software which has become unavailable due to hardware failure as may be necessary to secure the operation of the Software.

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3.4 Upon receipt of the Customer's request, the Provider shall (subject to the availability of such support or other resources) carry out all Services during Working Hours to the satisfaction of the Customer.

support or rectification of a defect, (subject to the Provider's commitments) normally begin work within the agreed time>> thereafter and shall complete the Specification of Services Schedule as soon as the work is completed to the reasonable satisfaction of the Customer.

3.5 The Provider will not be responsible for the performance of any Software which the Customer has undertaken to install.

performance of any Software which the Customer has undertaken to install. (b-Clause 3.3).

3.6 The Provider shall undertake its obligations under the Specification of Services Schedule. The Parties agree that time will be of the essence in the performance of these obligations.

avours to complete its obligations under the Specification of Services Schedule. The Parties agree that time will be of the essence in the performance of these obligations.

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4. Customer's Obligations

4.1 The Customer shall:

provide the Provider with all relevant Software for

4.1.1 allow the Provider to investigate and report on any defect or malfunction in the Equipment or Software.

4.1.2 provide adequate facilities for the Provider's staff; and

provide adequate facilities for the Provider's staff;

4.1.3 co-operate with the Provider in the investigation of any defect or malfunction in the Equipment or Software.

of any defect or malfunction in the Equipment or Software.

4.2 The Customer shall ensure that all Equipment, systems, peripherals and communications media are suitable for the Services and shall be maintained in good working order.

use of any Equipment, computer systems, peripherals and communications media necessary to enable it to provide the Services, including installing and maintaining all such Equipment and Software.

4.3 The Customer will not make any modifications to the Software or any modifications authorised by the Provider without such authorisation. The Provider reserves the right to review the Software and make adjustments accordingly.

modifications to the Software to be made by the Customer or modifications authorised by, the Provider. If such modifications are carried out without notification, the Provider reserves the right to review the Software and make adjustments accordingly.

4.4 The Customer will provide to the Provider all documentation associated with the Software, including installation media, computer hardware for the efficient operation of the Software.

to the Provider all documentation associated with the Software, including documents, original Software, installation media, computer hardware and any other relevant Equipment and the Software.

4.5 The Customer shall ensure that backups are made in such a manner as to minimise any potential loss of data and that these are made available to the Provider as required.

backups in such a manner as to ensure that these are made available to the Provider as required.

4.6 The Customer shall ensure the safety and health of the Provider's personnel at the Customer's premises.

precautions to ensure the safety and health of the Provider's personnel are at the Customer's premises.

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5. Price

- 5.1 The Customer agrees to pay the Provider in accordance with Clause 6 and the Specification of Services for the Services.
- 5.2 The Provider shall be reimbursed by the Customer from the Customer its reasonable and direct costs for third party goods and services supplied in connection with the Services.
- 5.3 The Customer shall pay the Provider for any additional services provided by the Provider that are not included in the Specification of Services Schedule in accordance with the applicable rate (e.g. hourly rate) in effect at the time of the performance of the Services, or as may be agreed. Any such charge for additional services shall be charged separately from any Fees due under the Specification of Services.
- 5.4 All sums payable by the Customer under these Terms and Conditions are exclusive of any value added tax and other taxes on profit, for which that Party shall be additionally liable.

6. Payment

- 6.1 All payments required by these Terms and Conditions by either Party shall be made within the number of days of the date of the relevant invoice, with no discount or withholding or deduction except such as may be required by law to deduct or withhold by law.
- 6.2 The time of payment shall be as specified in these terms and conditions. If the Customer fails to pay the sum due under these Terms and Conditions by the due date in respect of any sum due, the Provider shall have the right to charge the Customer interest on the amount outstanding at the rate of << >>% per annum from Bank PLC from the due date for the sum due until the date the sum is received.

7. Variation and Amendment

- 7.1 If the Customer wishes to vary the Specification of Services Schedule it must notify the Provider as soon as is reasonably practicable. The Provider shall make any required changes and the cost of such changes shall be invoiced to the Customer.
- 7.2 If, due to circumstances beyond the Provider's control, it has to make any change in the arrangement for the provision of the Services it shall notify the Customer as soon as is reasonably practicable and shall endeavour to keep such changes to a minimum. The Provider shall endeavour to keep such changes to a minimum and the cost of such changes shall be as close to the original arrangement as is reasonably possible in the circumstances.

8. Termination

- 8.1 The Provider may terminate the Services at any time without prejudice therewith if:
- 8.1.1 the Customer fails to fulfil its obligations hereunder;

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- 8.2 In the event of termination by either party, the Provider shall retain any sums already paid to it by the Client without prejudice to any other rights that either party may have.

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performance of its obligations under the Agreement.

- 9.5 Except as provided above, the Provider shall be liable for personal injury, death and damage to tangible property, and for fraudulent misrepresentation, the Provider's maximum liability shall be the sum of the additional cost of remedial services or otherwise from equivalent to the price paid up until the point of claim for the Services that are the subject of the Customer's claim, plus 25% of the same amount for any additional costs directly and necessarily incurred by the Customer in obtaining alternative services.
- 9.6 The Parties acknowledge that the limitations contained in this Clause 9 are reasonable in the circumstances.
- 9.7 These limitations shall apply regardless of the form of action, whether in contract or tort, including negligence, or any other form of action.
- 9.8 Nothing in these Terms shall be construed to or will exclude or limit the Provider's liability for personal injury caused by the Provider's negligent misrepresentation by the Provider.
- 9.9 For the purposes of this Clause, the term 'Provider' includes its employees, subcontractors and suppliers.
- 9.10 The employees, subcontractors and suppliers of the Provider shall all have the benefit of the limitations of liability set out above in terms of the Contracts (Rights of Third Parties) Act 1999.

10. [Confidentiality]

- 10.1 During the term of the Agreement and after its termination or termination of the Agreement for any reason for a period of three (3) years starting on <<date>>], the following obligations shall apply to the Disclosing Party to the Receiving Party ('the Disclosing Party').
- 10.2 Subject to sub-Clause 10.3, the Disclosing Party shall:
- 10.2.1 may not use a Disclosing Party for any purpose other than the performance of its obligations under the Agreement;
- 10.2.2 may not disclose Confidential Information to any person except as necessary in the performance of its obligations and
- 10.2.3 shall make all reasonable efforts to prevent the use or disclosure of the Confidential Information by the Disclosing Party.
- 10.3 The obligations of confidentiality shall not apply to any Confidential Information if:
- 10.3.1 is in the public domain or is published in the public domain before its receipt by the Receiving Party;
- 10.3.2 is or becomes non-confidential through no fault of the Receiving Party;
- 10.3.3 is required to be disclosed by applicable law or regulation;

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10.3.4 is received in
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upon the Receiving Party.

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10.4 Without prejudice to
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remedies the Disclosing Party may
agrees that in the event of breach
hout proof of special damage, be
medy for any threatened or actual
ddition to any damages or other

10.5 The obligations of th
the expiry or the term

visions of this clause shall survive
for whatever reason.]

11. [Data Protection

11.1 The Provider will o
the Provider's <<ins
<<insert location(s)>

personal information as set out in
<<g. Privacy Notice>> available from

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12. [Data Processing

12.1 In this Clause 12 a
controller", "data p
meaning defined in

personal data", "data subject", "data
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12.2 [All personal data to
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provider on behalf of the Customer,
and/or the Agreement, shall be
a Data Processing Agreement into
sonal data is processed.]

OR

12.2 [Both Parties shall
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the data protection requirements set
Neither this Clause 12 nor the
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move or replace any of those

12.3 For the purposes of
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12.4 The type(s) of pe
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ve, nature and purpose of the
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12.5 The Data Controlle
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AND/OR [the Agree

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nsfer of personal data to the Data
[these Terms and Conditions]
e to the Agreement].

12.6 The Data Processo
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y personal data processed by it in
ligations under [these Terms and

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Conditions] **AND/OR**

12.6.1 Process the personal data in accordance with the written instructions of the Data Controller unless it is otherwise required to process the personal data. The Data Processor shall promptly notify the Data Controller of any such requirement unless prohibited from doing so by law.

12.6.2 Ensure that appropriate technical and organisational measures (a) protect the personal data from unauthorised access, use, disclosure, damage or destruction; (b) ensure the integrity and confidentiality of the personal data; and (c) ensure the personal data is available for recovery in the event of a disaster. Those measures shall be proportionate to the risks to the rights and freedoms of the data subjects, taking into account the state of the art, the nature and scope of the processing and the cost of implementing the measures. The measures shall be agreed between the Data Controller and the Data Processor and set out in the Schedule to the Agreement.

12.6.3 Ensure that the Data Processor and its subcontractors are contractually obliged to keep the personal data confidential and to use it only for the purposes for which it is processed.

12.6.4 Not transfer the personal data outside of the UK without the prior written consent of the Data Controller and only if the following conditions are met:

12.6.4.1

12.6.4.2

12.6.4.3

12.6.4.4

12.6.5 Assist the Data Controller in responding to any and all requests from data subjects to any and all personal data and in ensuring its compliance with the Data Protection Legislation with respect to security, breach notifications, impact assessments, and consultations with supervisory authorities (including, but not limited to, the Information Commissioner's Office);

12.6.6 Notify the Data Controller of any breach of the personal data without undue delay of a personal data breach;

12.6.7 On the Data Controller's instruction, delete (or otherwise dispose of) the personal data and any and all copies thereof to the Data Controller's instruction unless it is required to retain the personal data by law; and

12.6.8 Maintain complete and accurate records of all processing activities and the measures implemented necessary to comply with this Clause 12] **AND/OR** [the

the written instructions of the Data Controller unless it is otherwise required to process the personal data. The Data Processor shall promptly notify the Data Controller of any such requirement unless prohibited from doing so by law.

appropriate technical and organisational measures (a) protect the personal data from unauthorised access, use, disclosure, damage or destruction; (b) ensure the integrity and confidentiality of the personal data; and (c) ensure the personal data is available for recovery in the event of a disaster. Those measures shall be proportionate to the risks to the rights and freedoms of the data subjects, taking into account the state of the art, the nature and scope of the processing and the cost of implementing the measures. The measures shall be agreed between the Data Controller and the Data Processor and set out in the Schedule to the Agreement.

access to the personal data (whether or not the Data Processor is contractually obliged to keep the personal data confidential and to use it only for the purposes for which it is processed).

outside of the UK without the prior written consent of the Data Controller and only if the following conditions are met:

the Data Processor has/have implemented appropriate safeguards for the transfer of personal data.

the Data Processor has/have implemented appropriate safeguards for the transfer of personal data and the data subjects have enforceable rights and remedies;

the Data Processor complies with its obligations under the Data Protection Legislation, providing an adequate level of protection for any and all personal data so transferred.

the Data Processor complies with all reasonable requirements advanced by the Data Controller with respect to the security of the personal data.

the Data Processor, at the Data Controller's cost, in responding to any and all requests from data subjects and in ensuring its compliance with the Data Protection Legislation with respect to security, breach notifications, impact assessments, and consultations with supervisory authorities (including, but not limited to, the Information Commissioner's Office);

the Data Processor notifies the Data Controller of any breach of the personal data without undue delay of a personal data breach;

on the Data Controller's instruction, delete (or otherwise dispose of) the personal data and any and all copies thereof to the Data Controller's instruction unless it is required to retain the personal data by law; and

the Data Processor maintains complete and accurate records of all processing activities and the measures implemented necessary to comply with this Clause 12] **AND/OR** [the

- Agreement] by the Data Controller and/or any party designee.
- 12.7 [The Data Processor shall be bound by any of its obligations with respect to the processing of personal data under [this Clause 12] **AND/OR** [the Agreement].]
- OR**
- 12.7 [The Data Processor shall not be bound by any of its obligations to a sub-contractor with respect to the processing of personal data under [this Clause 12] **AND/OR** [the Agreement] prior written consent of the Data Controller (such consent may be reasonably withheld). In the event that the Data Processor is required to engage a sub-contractor, the Data Processor shall:
- 12.7.1 Enter into a written agreement with the sub-contractor, which shall impose upon the sub-contractor the same obligations as are imposed upon the Data Processor under this Agreement] **AND/OR** [the Data Controller's written consent]; and
- 12.7.2 Ensure that the sub-contractor complies fully with its obligations under applicable data protection legislation.]
- 12.8 Either Party may, at least <<insert period, e.g. 30 calendar days'>> notice, all or part of the provisions of the Agreement, replacing them with other provisions or processing clauses or similar terms of a similar nature. Such terms shall apply when replaced by a new version of the Agreement.]
13. **Sub-Contracting and Assignment**
- 13.1 [Subject to the provisions of this Agreement, the Provider may sub-contract to third parties the carrying out of the services to be carried out under the Agreement.] **OR** [The] Provider may sub-contract to third parties the carrying out of the services to be carried out under the Agreement.]
- 13.2 The Customer shall not assign any or all of its rights or obligations under this Agreement without the prior written consent of the Provider.
14. **Force Majeure**
- Neither Party to the Agreement shall be liable for any failure or delay in performing its obligations where such failure or delay is caused by a force majeure event that is beyond the reasonable control of that Party. Force majeure events shall include, but are not limited to: power failure, Internet Service Provider failure, natural disasters, storms, earthquakes, acts of terrorism, war, governmental action or any other event that is beyond the control of the Parties.
15. **Waiver**
- 15.1 No waiver by the Provider of any breach of these Terms and Conditions by the Customer shall be deemed a waiver of any subsequent breach of the same or any other provision, term, provision or condition of these Terms and Conditions, unless such waiver is only if given in writing and signed by the Provider.

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by the waiving party and for the purpose for which any waiver is given.

ance and for the purpose for which

15.2 No failure or delay of the Party in exercising any right, power or privilege under these Terms and Conditions shall operate as a waiver of, nor shall any single or partial exercise of any right, power or privilege preclude the exercise of any other right, power or privilege.

in exercising any right, power or privilege shall operate as a waiver of, nor shall any single or partial exercise of any right, power or privilege preclude the exercise of any other right, power or privilege.

16. Severance

If any provision of these Terms and Conditions is held by any competent authority to be invalid or unenforceable, the validity of the other provisions of these Terms and Conditions shall not be affected thereby.

held by any competent authority to be invalid or unenforceable, the validity of the other provisions of these Terms and Conditions shall not be affected thereby.

17. Notices

17.1 All notices under these Terms and Conditions shall be in writing and be deemed duly given if signed by a duly authorised officer of the Party giving the notice.

shall be in writing and be deemed duly given if signed by a duly authorised officer of the Party giving the notice.

17.2 Notices shall be deemed to have been given:

given:

17.2.1 when delivered by hand to the recipient or recorded delivery service;

by hand to the recipient or recorded delivery service;

17.2.2 when sent, if by post, to the recipient's last known address or return receipt is obtained;

by post, to the recipient's last known address or return receipt is obtained;

17.2.3 on the fifth business day after mailing, if mailed by national ordinary post, postage paid;

on the fifth business day after mailing, if mailed by national ordinary post, postage paid;

17.2.4 on the tenth business day after mailing, if mailed by airmail, postage prepaid.

on the tenth business day after mailing, if mailed by airmail, postage prepaid.

in each case address or e-mail address notified to the other Party.

address or e-mail address notified to the other Party.

17.3 Service of any document or arising out of the dispute shall be deemed to have been given to the Party at its registered or principal office, or to such other address as the Party may notify in writing from time to time.

any legal proceedings concerning the dispute arising out of the dispute shall be deemed to have been given to the Party at its registered or principal office, or to such other address as the Party may notify in writing from time to time.

18. [Dispute Resolution (ADR)]

18.1 The parties shall attempt to resolve the dispute arising out of or relating to this Agreement through their appointed representatives who have the authority to bind the parties.

dispute arising out of or relating to this Agreement through their appointed representatives who have the authority to bind the parties.

18.2 If negotiations under this clause fail, the parties will attempt to resolve the dispute in good faith through the agreed Alternative Dispute Resolution ("ADR") procedure.

It shall be the duty of the parties to attempt to resolve the matter within 21 days of receipt of a written notice of dispute. If the parties will attempt to resolve the dispute in good faith through the agreed Alternative Dispute Resolution ("ADR") procedure.

18.3 If the ADR procedure fails to resolve the matter, the parties shall refer the matter to the Arbitration Tribunal.

If the ADR procedure fails to resolve the matter, the parties shall refer the matter to the Arbitration Tribunal.

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- within 28 days of the date of the dispute, or if either party will not participate in the Arbitration, the dispute may be referred to arbitration by either party.
- 18.4 The seat of the arbitration shall be England and Wales. The arbitration shall be governed by the Rules for Arbitration of the International Chamber of Commerce. If the parties are unable to agree on an arbitrator, either party may, upon the request of the President or Deputy President of the International Chamber of Arbitrators for the time being, request a decision on rules that shall apply to the arbitration.
- 18.5 Nothing in this Clause shall prevent either party or its affiliates from pursuing any legal action in any court of law.
- 18.6 The parties hereby agree that the outcome of the final method of dispute resolution under this Clause shall [not] be final and binding on both parties.]
19. **Law and Jurisdiction**
- 19.1 The Agreement shall be governed by the law of England and Wales.
- 19.2 [Any dispute between the parties arising out of or in connection with the Agreement shall fall within the exclusive jurisdiction of the courts of England and Wales.]

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Equipment Specification		tion
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Specification Schedule

Commencement Date: << >>

Description	Amount in Pounds Sterling	Completion and Invoice date

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