

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 Agreement;

“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 Agreement;

“Equipment”

“Fees”

“Software”

“Working Hours”

- 2.2 Unless the context indicates otherwise, 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 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 that Schedule or provision as amended or supplemented at the relevant time;
 - 2.2.5 a Clause or paragraph of these Terms and Conditions (or a Schedule; and
 - 2.2.6 a “Party” or a party means each of 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 the Provider shall, in accordance with the terms of payment specified 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 to perform the Services specified in the Specification of Services or otherwise agreed under these Terms and Conditions.
- 3.3 The Provider will, subject to the availability of resources, make reasonable endeavours to maintain the Services in a state of good repair and to be 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 normal working 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 in accordance with 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 documentation and all relevant Software for

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

investigation and diagnosis of 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; and

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

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

4.2 The Customer shall provide the Provider with all necessary systems, peripherals, and communications media for the provision of the Services and shall be responsible for the maintenance of such equipment.

use of any Equipment, computer systems, peripherals, and communications media necessary to enable it to provide the Services, and shall be responsible for the maintenance of such equipment, including installing and maintaining all such equipment.

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. The Provider reserves the right to review the Software and make adjustments accordingly.

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

provide the Provider all documentation associated with the Software, including documents, original Software, installation media, computer equipment and any other relevant documentation, and the Software.

4.5 The Customer shall take such precautions to ensure the safety and health of the Provider's personnel as may be necessary to ensure the safety and health of the Provider's personnel.

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

4.6 The Customer shall take such precautions to ensure the safety and health of the Provider's personnel as may be necessary to ensure the safety and health of the Provider's personnel.

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

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5. Price

- 5.1 The Customer agrees to pay for the Services in accordance with Clause 6 and the Specification of 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 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 << >> days of the date of the relevant invoice, with no withholding or deduction except such amount (if any) of tax as may be required 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 on the due date in respect of any sum due under these Terms and Conditions, 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 payment until the date when payment is received.

7. Variation and Amendment

- 7.1 If the Customer wishes to vary the Specification of Services Schedule it must notify the Provider in writing as soon as is reasonably possible. The Provider shall make any such changes in its reasonable endeavours to make any such changes and any charges therefor shall be separately 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 possible and shall endeavour to keep such changes to a minimum. The Provider shall endeavour to keep such changes to a minimum and the Customer arrangements as close to the original arrangements as is reasonably possible in the circumstances.

8. Termination

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

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8.1.2 the Customer shall not be deemed to have been put into liquidation (other than for the purposes of section 88 of the Insolvency Act 1986) whether compulsory or voluntary or by a court or creditors generally or has an administrator, receiver or receiver appointed over all or a substantial part of its assets;

8.1.3 the Customer shall not be deemed to have been put into liquidation or shall be deemed unable to pay its debts by virtue of the Insolvency Act 1986;

8.1.4 the Customer shall not be deemed to have ceased to carry on business; or

8.1.5 the Provider shall not be deemed to have failed to perform any of the obligations of the Provider's obligations under the Services by reason of any cause beyond the Provider's control, including any future disruption to the Services, where, having proper regard to the nature and extent of the disruption, the Provider cannot effectively provide, or any other cause beyond the Provider's control, the Provider no longer provides the Services.

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

9. Liability

9.1 The Customer shall be liable to the Provider against all damages, costs, claims and expenses suffered by the Provider arising from loss or damage to any equipment (including equipment owned by the Customer, or its agents or employees).

9.2 The Provider will indemnify the Customer for personal injury or death caused by the Provider's negligence in connection with the performance by the Service Provider of the Services.

9.3 The Provider will indemnify the Customer for direct damage to tangible property caused by the Provider's negligence in connection with the performance of the Services. The Provider's liability under this sub-Clause shall be limited to the extent of connected events.

9.4 In no event will the Provider be liable for any loss or damage arising from any breach by it of any of the terms of these Terms and Conditions, whether or not any implied warranty, condition or term of the Agreement is breached, or innocent misrepresentation, or for any:

9.4.1 loss of or damage to any equipment;

9.4.2 loss of use of any equipment;

9.4.3 loss of use of any equipment; or

9.4.4 interruption to the Services;

9.4.5 loss of income;

9.4.6 loss of profit, or loss of business opportunity, or goodwill;

9.4.7 loss of anticipated profits;

9.4.8 any indirect, special, or consequential loss, damage, costs, expenses or other claims, whether or not they were reasonably foreseeable or not, arising from any breach of the Agreement by the Provider in connection with the Services.

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- performance of its obligations under the Agreement.
- 9.5 Except as provided above, the Provider shall be liable for any personal injury, death and damage to tangible property, and for fraudulent misrepresentation, the Provider's maximum liability shall be the lesser of the amount under the Agreement or otherwise payable by the Provider, or the additional cost of remedial services or otherwise incurred by the Customer, up to a maximum equivalent to the price paid up to the point of claim. For Services that are the subject of the Customer's claim, the Provider shall be liable for up to 25% of the same amount for any additional costs directly and reasonably 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 and Conditions 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 five (5) 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's Confidential Information for any purpose other than the performance of its obligations under the Agreement;
- 10.2.2 may not disclose Disclosing Party's Confidential Information to any person except as necessary in the performance of its obligations and
- 10.2.3 shall make Disclosing Party's Confidential Information confidential to the use or disclosure of 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 public domain 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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sing Party in respect of it and who
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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
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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
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12.2 [Both Parties shall
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Neither this Clause 12 nor the
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12.3 For the purposes of
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12.4 The type(s) of pe
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[these Terms and Conditions]
e to the Agreement].

12.6 The Data Processo
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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 that those measures are proportionate to the risks to the rights and freedoms of the data subjects. Those 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 requests from data subjects to comply with its obligations under 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 that those measures are proportionate to the risks to the rights and freedoms of the data subjects. Those measures shall be agreed between the Data Controller and the Data Processor and set out in the Schedule to the Agreement.

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.

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

12.6.4.2 The Data Processor has/have implemented safeguards that have enforceable rights and remedies;

12.6.4.3 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;

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

12.6.5 Assist the Data Controller, at the Data Controller's cost, in responding to any and all requests from data subjects to any and all requests from data subjects to comply with its obligations under 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

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by the Data Controller and/or any
er.

- 12.7 [The Data Processor shall be bound by the terms of the Agreement to the processing of personal data under [this Clause 12] AND/OR [the Agreement].]

any of its obligations with respect
[this Clause 12] AND/OR [the

OR

- 12.7 [The Data Processor shall be bound by the terms of the Agreement to the processing of personal data under [this Clause 12] AND/OR [the Agreement] (such as the Data Processor shall be bound by the terms of the Agreement to the processing of personal data under [this Clause 12] AND/OR [the Agreement]).]

at any of its obligations to a sub-
personal data under [this Clause
prior written consent of the Data
nably withheld). In the event that
or, the Data Processor shall:

- 12.7.1 Enter into a sub-contractor with respect to the processing of personal data under [this Clause 12] AND/OR [the Agreement] (such as the Data Processor shall be bound by the terms of the Agreement to the processing of personal data under [this Clause 12] AND/OR [the Agreement]).]

on the sub-contractor, which shall
same obligations as are imposed
is [Clause 12] AND/OR [the
both the Data Processor and the
ations; and

- 12.7.2 Ensure that the sub-contractor shall be bound by the terms of the Agreement to the processing of personal data under [this Clause 12] AND/OR [the Agreement] (such as the Data Processor shall be bound by the terms of the Agreement to the processing of personal data under [this Clause 12] AND/OR [the Agreement]).]

lies fully with its obligations under
on Legislation.]

- 12.8 Either Party may, at any time, upon giving <<insert period, e.g. 30 calendar days'>> notice, all or part of the provisions of the Agreement, including the processing clauses or similar terms of the Agreement, shall apply to the processing of personal data under [this Clause 12] AND/OR [the Agreement].]

st <<insert period, e.g. 30 calendar
provisions of the Agreement,
processing clauses or similar terms
scheme. Such terms shall apply
ent.]

13. Sub-Contracting and Assignment

- 13.1 [Subject to the provisions of the Agreement, the Provider may subcontract to third parties the processing of personal data under [this Clause 12] AND/OR [the Agreement].]

he] OR [The] Provider may sub-
services to be carried out under the

- 13.2 The Customer shall be bound by the terms of the Agreement to the processing of personal data under [this Clause 12] AND/OR [the Agreement] (such as the Data Processor shall be bound by the terms of the Agreement to the processing of personal data under [this Clause 12] AND/OR [the Agreement]).]

party any or all of its rights or
the prior written consent of the

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 cause beyond the reasonable control of that Party, including but not limited to: power failure, Internet Service Provider failure, storms, earthquakes, acts of God, governmental action or any other event that is beyond the control of the Party.

any failure or delay in performing
from any cause that is beyond the
ude, but are not limited to: power
al action, civil unrest, fire, flood,
governmental action or any other
tion.

15. Waiver

- 15.1 No waiver by the Provider or the Customer shall be deemed to constitute a waiver of any subsequent breach of the same or any other provision of these Terms and Conditions.

these Terms and Conditions by the
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only if given in writing and signed

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

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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 use of the Alternative Dispute Resolution ("ADR") procedure.

the parties will attempt to resolve the dispute in good faith through the use of the Alternative Dispute Resolution ("ADR") procedure.

18.3 If the ADR procedure fails, the parties shall attempt to resolve the matter within 21 days of receipt of a written notice of the dispute in good faith through the use of the Alternative Dispute Resolution ("ADR") procedure.

18.2 does not resolve the matter within 21 days of receipt of a written notice of the dispute in good faith through the use of the Alternative Dispute Resolution ("ADR") procedure.

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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 the 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 seeking legal advice or taking any legal action.
- 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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Specification Schedule

Commencement Date: << >>

Description	Amount in Pounds Sterling	Completion and Invoice date

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