

Terms and conditions for the supply of services

Definitions and interpretation

In these Conditions the following definitions apply:

Affiliate	means any entity that directly or indirectly Controls, is Controlled by or is under common control with, another entity;
Applicable Law	means all applicable laws, legislation, statutory instruments, regulations and governmental guidance having binding force whether local or national[or

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international in any relevant jurisdiction];

Bribery Laws

means the Bribery Act 2010 and all Applicable Laws in connection with bribery or anti-corruption and associated guidance published by the Secretary of State for Justice under the Bribery Act 2010;

Business Day

means a day other than a Saturday, Sunday or bank or public holiday when banks generally are open for non-automated business *in England and Wales*;

Conditions

means the Supplier's terms and conditions of supply set out in this document;

Confidential Information

means any commercial, financial or technical information, information relating to the Services, plans, *[insert details of any specific confidential information]*, know-how or trade secrets which is obviously confidential in nature or has been identified as confidential, or which is developed by a party in performing its obligations under, or otherwise pursuant to the Contract;

Contract

means the agreement between the Supplier and the Customer for the supply and purchase of Services incorporating these Conditions and the Order and including all their respective schedules,

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attachments, annexures and statements of work;

Control

has the meaning given to it in section 1124 of the Corporation Tax Act 2010 OR means the beneficial ownership of more than 50% of the issued share capital of a company or the legal power to direct or cause the direction of the management of the company and Controls, Controlled and under common control shall be construed accordingly;

Controller

shall have the meaning given to it in applicable Data Protection Laws from time to time;

Customer

means the named party in the Contract which has agreed to purchase the Services from the Supplier and whose details are set out in the Order;

Data Protection Laws

means, as binding on either party or the Services:

- (a) the Data Protection Act 2018;
- (b) any laws which implement any such laws; and
- (c) any laws that replace, extend, re-enact, consolidate or amend any of the foregoing;

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Data Protection Supervisory Authority

means any regulator, authority or body responsible for administering Data Protection Laws;

Data Subject

shall have the meaning given to it in applicable Data Protection Laws from time to time;

Documentation

means any descriptions, instructions, manuals, literature, technical details or other related materials supplied in connection with the Services;

Force Majeure

means an event or sequence of events beyond a party's reasonable control (after exercise of reasonable care to put in place robust back-up and disaster recovery arrangements) preventing or delaying it from performing its obligations under the Contract including an act of God, fire, flood, lightning, earthquake or another natural disaster, war, riot or civil unrest, interruption or failure of supplies of power, fuel, water, transport, equipment or telecommunications service, or material required for the performance of the Contract, strike, lockout or boycott or other industrial action including those involving the Supplier's or its suppliers' workforce, but excluding the Customer's inability to pay or circumstances resulting in the Customer's inability to pay;

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DATA PROTECTION ACT 2018

means the Data Protection Act 2018 as enacted by the Parliament of the United Kingdom.

Intellectual Property Rights

means copyright, patents, know-how, trade secrets, trademarks, trade names, design rights, rights in get-up, rights in goodwill, rights in software, rights in Confidential Information, rights to invention, rights to sue for passing off, domain names and all other intellectual property rights and similar rights and, in each case:

- (a) whether registered or not;
- (b) including any applications to protect or register such rights;
- (c) including all renewals and extensions of such rights or applications;
- (d) whether vested, contingent or future;
- (e) to which the relevant party is or may be entitled, and
- (f) in whichever part of the world existing;

International Organisation

shall have the meaning given to it in applicable Data Protection Laws from time to time;

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IPR Claim	has the meaning given in clause 12.1;
Location	means the address or addresses for performance of the Services as set out in the Order or such other address or addresses as notified by the Supplier to the Customer at least <i>[insert number]</i> Business Days prior to <i>[insert description of event eg delivery, shipping, performance]</i> ;
Modern Slavery Policy	means the Supplier's anti-slavery and human trafficking policy in force and notified to the Customer from time to time and available to the Customer at <i>[insert web link]</i>];
MSA Offence	has the meaning given in clause 9.2.1;
Order	means the order for the Services from the Supplier placed by the Customer in substantially the same form as set out [in the Schedule overleaf OR in the Customer's order form]];
Personal Data	shall have the meaning given to it in applicable Data Protection Laws from time to time;
Personal Data Breach	shall have the meaning given to it in applicable Data Protection Laws from time to time;
Price	has the meaning set out in clause 3.1;

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processing	has the meaning given to it in applicable Data Protection Laws from time to time (and related expressions, including process, processing, processed, and processes shall be construed accordingly);
Processor	shall have the meaning given to it in applicable Data Protection Laws from time to time;
Protected Data	means Personal Data received from or on behalf of the Customer in connection with the performance of the Supplier's obligations under the Contract;
Services	means the Services set out in the Order and to be performed by the Supplier for the Customer in accordance with the Contract;
Specification	means the description or Documentation provided for the Services set out or referred to in the Contract;
Sub-Processor	means any agent, sub-contractor or other third party (excluding its employees) engaged by the Supplier for carrying out any processing activities on behalf of the Customer in respect of the Protected Data;
Supplier	means Real Response Media Limited a company incorporated and registered in England <i>and place of registration</i> with company number 07501286, whose registered address is at Sigma House,

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Hadley Park East, Hadley, Telford,
Shropshire, TF1 6QJ

Supplier Personnel

means all employees, officers, staff, other workers, agents and consultants of the Supplier, its Affiliates and any of their subcontractors who are engaged in the performance of the Services from time to time; and

VAT

means value added tax under the Value Added Taxes Act 1994 or any other similar sale or fiscal tax applying to the sale of the Services.

1.1 In these Conditions, unless the context requires otherwise:

- 1.1.1 a reference to the Contract includes these Conditions, the Order, and their respective schedules, appendices and annexes (if any);
- 1.1.2 any clause, schedule or other headings in these Conditions is included for convenience only and shall have no effect on the interpretation of the Conditions;
- 1.1.3 a reference to a 'party' includes that party's personal representatives, successors and permitted assigns;
- 1.1.4 a reference to a 'person' includes a natural person, corporate or unincorporated body (in each case whether or not having separate legal personality) and that person's personal representatives, successors and permitted assigns;
- 1.1.5 a reference to a 'company' includes any company, corporation or other body corporate, wherever and however incorporated or established;
- 1.1.6 a reference to a gender includes each other gender;

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- 1.1.7 words in the singular include the plural and vice versa;
- 1.1.8 any words that follow 'include', 'includes', 'including', 'in particular' or any similar words and expressions shall be construed as illustrative only and shall not limit the sense of any word, phrase, term, definition or description preceding those words;
- 1.1.9 a reference to 'writing' or 'written' includes any method of reproducing words in a legible and non-transitory form (excluding email);
- 1.1.10 without prejudice to the provisions of clause 14, a reference to legislation is a reference to that legislation as in force at the date of the Contract OR amended, extended, re-enacted or consolidated from time to time except to the extent that any such amendment, extension or re-enactment would increase or alter the liability of a party under the Contract;
- 1.1.11 without prejudice to the provisions of clause 14, a reference to legislation includes all subordinate legislation made as at the date of the Contract OR from time to time under that legislation; and
- 1.1.12 a reference to any English action, remedy, method of judicial proceeding, court, official, legal document, legal status, legal doctrine, legal concept or thing shall, in respect of any jurisdiction other than England, be deemed to include a reference to that which most nearly approximates to the English equivalent in that jurisdiction.

2 Application of these conditions

- 2.1 These Conditions apply to and form part of the contract between the Supplier and the Customer. They supersede any previously issued terms and conditions of purchase or supply.
- 2.2 No terms or conditions endorsed on, delivered with, or contained in the Customer's purchase conditions, order, confirmation of order, specification or other document shall form part of the Contract except to the extent that the Supplier otherwise agrees in writing.

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- 2.3 No variation of these Conditions or to an Order or to the Contract shall be binding unless expressly agreed in writing and executed by a duly authorised signatory on behalf of each of the Supplier and the Customer respectively.
- 2.4 Each Order by the Customer to the Supplier shall be an offer to purchase Services subject to the Contract including these Conditions.
- 2.5 If the Supplier is unable to accept an Order, it shall notify the Customer in writing as soon as reasonably practicable.
- 2.6 The offer constituted by an Order shall remain in effect and be capable of being accepted by the Supplier for 10 Business Days from the date on which the Customer submitted the Order, after which time it shall automatically lapse and be withdrawn.
- 2.7 The Supplier may accept or reject an Order at its discretion. An Order shall not be accepted, and no binding obligation to supply any Services shall arise, until the earlier of:
- 2.7.1 the Supplier's written acceptance of the Order; or
 - 2.7.2 the Supplier performing the Services or notifying the Customer that they are ready to be performed (as the case may be).
- 2.8 Rejection by the Supplier of an Order, including any communication that may accompany such rejection, shall not constitute a counter-offer capable of acceptance by the Customer.
- 2.9 The Supplier may issue quotations to the Customer from time to time. Quotations are invitations to treat only. They are not an offer to supply Services and are incapable of being accepted by the Customer.
- 2.10 Marketing and other promotional material relating to the Services are illustrative only and do not form part of the Contract.
- 2.11 The customer should regularly check the Supplier's website at www.realresponsemedia.co.uk/terms for any changes to to policies or terms and conditions.

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3 Price

- 3.1 The price for the Services shall be as set out in the invoice (the **Price**).
- 3.2 All Prices in each contract that the customer has with the Supplier are exclusive of:
- 3.2.1 *insurance, and all other related charges or taxes or describe relevant elements of the services which are not included in the standard price which shall be charged in addition at the Supplier's standard rates, and*
- 3.2.2 VAT (or equivalent sales tax).
- 3.3 The Customer shall pay any applicable VAT to the Supplier on receipt of a valid VAT invoice.
- 3.4 The Supplier may increase the Prices at any time by giving the Customer not less than **Seven Business Days'** notice in writing provided that the increase does not exceed 50% of the Prices in effect immediately prior to the increase. The Customer will have the option to cancel the order without surcharge or continue the order at the revised advertisement rates
- 3.5 Notwithstanding clause 3.4, the Supplier may increase the Prices with immediate effect by written notice to the Customer where there is an increase in the direct cost to the Supplier of supplying the relevant Services which exceeds [*insert percentage*] and which is due to any factor beyond the control of the Supplier.
- 3.6 All gross advertisement rates are subject to the current Advertising Standards Board of Finance surcharge payable by the Advertisers. When orders are placed by the Advertising Agents the Agency will be responsible for collecting this surcharge and paying it the Advertising Standards Board of Finance.
- 3.7 If, due to acts or defaults by the Customer or their agent, the Supplier becomes involved in production work additional to that originally agreed, and over and above normally clarification, further charges will be payable by the customer.
- 3.8 If the Customer fails to provide inserts approved and accepted by the Supplier at the agreed time and place for insertion the Supplier reserves the right to vary the rate

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agreed for insertion. No obligation shall rest on the Supplier to include the precise number of inserts in a specific publication date, region or position if the Customer fails to provide the required inserts at the time stipulated by the Supplier as being necessary for publication.

- 3.9 Where the Supplier provides a Reader Enquiry Service for the benefit of the readers, there shall be no contractual obligation for the Supplier to pass such enquiries to the Customer.
- 3.10 Cancellation or suspension of an insertion (defined as print, digital, email, social or content campaign) must be made in writing to the appropriate individual publication or brand(s). Periods for the acceptance of cancellations or suspensions without incurring penalties will be 120 days prior to the stated copy date or campaign initiation date. Cancellations or suspensions between 90 and 120 days will incur a 80% cancellation rate. Cancellations or suspensions between 60 and 90 days will incur an 90% cancellation rate. Cancellations or suspensions made less than 60 days prior to copy date will be payable at the full price. No cancellations or suspension will be accepted after the copy date.

4 Payment

- 4.1 The Supplier shall invoice the Customer for the Services, in full, following acceptance of the Order.
- 4.2 The Customer shall pay all invoices:
- 4.2.1 in full without deduction or set-off, in cleared funds within 30 days of the date of each invoice and prior to the event; and
- 4.2.2 to the bank account nominated by the Supplier.
- 4.3 Time of payment is of the essence. Where sums due under these Conditions are not paid in full by the due date:
- 4.3.1 The services to which the payment refers may be withdrawn by the supplier

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4.3.2 the Supplier may, without limiting its other rights, charge interest on such sums at 3% a year above the base rate of the Bank of England from time to time in force, and

4.3.3 interest shall accrue on a daily basis, and apply from the due date for payment until actual payment in full, whether before or after judgment.

4.4

The Supplier will NEVER contact the customer to provide, request or to confirm an amendment to our bank details by phone or email. These have been provided above and if the supplier does change banks in the future they will send notification by registered post. The Supplier will not accept any notice of changes to the Customer's bank details by email or phone. If the event of any suspicions about any interactions received, at any stage, the customer should contact the supplier immediately. Neither party shall use any numbers or email addresses contained in any suspect email. If the customer has any concerns before transferring any monies to the bank account, the should speak to the person dealing with the matter by telephone. Do not send any monies to any other account as the supplier will not accept responsibility in relation to this.

5 Credit limit

The Supplier may set and vary credit limits from time to time and withhold all further supplies if the Customer exceeds such credit limit.

6 Performance

6.1 The Services shall be performed by the Supplier as specified in the Order to its best endeavours and in line with agreements with the customer .

6.2 The Services shall be deemed performed on completion of the performance of the Services as specified in the Order.

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- 6.3 The Supplier may perform the Services in instalments. Any delay or defect in an instalment shall not entitle the Customer to cancel any other instalment.
- 6.4 Each performance of the Services shall be accompanied by a performance note stating:
- 6.4.1 the date of the Order;
 - 6.4.2 the relevant Customer and Supplier details;
 - 6.4.3 the category, type and quantity of Services performed; and
 - 6.4.4 any special instructions.
- 6.5 Copy must be supplied by the customer to the Supplier without application or reminder from the Supplier. If copy instructions are not received by the agreed 'copy date' the Supplier reserves the right to repeat the most appropriate copy or treat the booking as cancelled and the Customer will be charged in accordance with clause 3.10
- 6.6 The Supplier shall use its reasonable endeavours to meet estimated dates for performance, but any such dates are indicative only. In circumstances where the supplier is required to postpone an event and the customer is provided with an alternative date there shall be no refund to the Customer by the Supplier including circumstances where the postponed event may be rearranged on more than one occasion.
- 6.7 The Supplier shall not be liable for any delay in or failure of performance caused by:
- 6.7.1 the Customer's failure to provide the Supplier with adequate instructions for performance or otherwise relating to the Services;
 - 6.7.2 Force Majeure.

7 Warranty

- 7.1 The Supplier warrants that the Services shall:
- 7.1.1 conform in all material respects to their description and the Specification;

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- 7.1.2 be free from material defects;
 - 7.1.3 be supplied with reasonable care and skill within the meaning of the Supply of Goods and Services Act 1982, Part II s 13; and
 - 7.1.4 in the case of media on which the results of the Services are supplied, be [free from defects in material and workmanship and] of satisfactory quality within the meaning of the Sale of Goods Act 1979.
- 7.2 The Customer warrants that it has provided the Supplier with all relevant, full and accurate information as to the Customer's business and needs.
- 7.3 The provisions of these Conditions shall apply to any Services that are remedied or re-performed with effect from performance of the remedied or re-performed Services.
- 7.4 Except as set out in this clause 7:
- 7.4.1 the Supplier gives no warranties and makes no representations in relation to the Services; and
 - 7.4.2 shall have no liability for their failure to comply with the warranty in clause 7.1, and all warranties and conditions (including the conditions implied by ss 12–16 of the Supply of Goods and Services Act 1982), whether express or implied by statute, common law or otherwise are excluded to the extent permitted by law.

8 Anti-bribery

- 8.1 For the purposes of this clause 8 the expressions '**adequate procedures**' and '**associated with**' shall be construed in accordance with the Bribery Act 2010 and legislation or guidance published under it.
- 8.2 Each party shall comply with applicable Bribery Laws including ensuring that it has in place adequate procedures to prevent bribery and use all reasonable endeavours to ensure that:

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- 8.2.1 all of that party's personnel;
- 8.2.2 all others associated with that party; and
- 8.2.3 all of that party's sub-contractors;

involved in performing the Contract so comply.

- 8.3 Without limitation to clause 8.2, neither party shall make or receive any bribe (as defined in the Bribery Act 2010) or other improper payment, or allow any such to be made or received on its behalf, either in the United Kingdom or elsewhere, and shall implement and maintain adequate procedures to ensure that such bribes or payments are not made or received directly or indirectly on its behalf.
- 8.4 The Customer shall immediately notify the Supplier as soon as it becomes aware of a breach or possible breach by the Customer of any of the requirements in this clause 8.
- 8.5 Any breach of this clause 8 by the Customer shall be deemed a material breach of the Contract that is not remediable and shall entitle the Supplier to immediately terminate the Contract by notice under clause 16.2.

9 Anti-slavery

- 9.1 The Supplier shall comply with the Modern Slavery Act 2015 and the Modern Slavery Policy.
- 9.2 The Customer undertakes, warrants and represents OR confirms and agrees that:
 - 9.2.1 neither the Customer nor any of its officers, employees, agents or subcontractors has:
 - (a) committed an offence under the Modern Slavery Act 2015 (an **MSA Offence**); or
 - (b) been notified that it is subject to an investigation relating to an alleged MSA Offence or prosecution under the Modern Slavery Act 2015; or

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- (c) is aware of any circumstances within its supply chain that could give rise to an investigation relating to an alleged MSA Offence or prosecution under the Modern Slavery Act 2015;
- 9.2.2 it shall comply with the Modern Slavery Act 2015 and the Modern Slavery Policy;
- 9.2.3 it has implemented due diligence procedures to ensure compliance with the Modern Slavery Act 2015 and the Modern Slavery Policy in its business and supply chain, and those of its officers, employees, agents or subcontractors, which will be made available to the Supplier on request at any time throughout the Contract;
- 9.2.4 its responses to the Supplier's modern slavery and human trafficking due diligence questionnaire are complete and accurate; and
- 9.3 The Customer shall notify the Supplier immediately in writing if it becomes aware or has reason to believe that it, or any of its officers, employees, agents or subcontractors have breached or potentially breached any of the Customer's obligations under clause 9.2. Such notice to set out full details of the circumstances concerning the breach or potential breach of the Customer's obligations.
- 9.4 Any breach of clause 9.2 by the Customer shall be deemed a material breach of the Contract and shall entitle the Supplier to terminate the Contract with immediate effect.

10 Indemnity and insurance

- 10.1 The Customer shall indemnify, and keep indemnified, the Supplier from and against any losses, damages, liability, costs (including legal fees) and expenses incurred by the Supplier as a result of or in connection with the Customer's breach of any of the Customer's obligations under the Contract.
- 10.2 The Customer shall have in place contracts of insurance with reputable insurers incorporated in the United Kingdom or another country by agreement in writing with the Supplier to cover its obligations under these Conditions. On request, the Customer shall supply, so far as is reasonable, evidence of the maintenance of the

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insurance and all of its terms from time to time applicable. The Customer shall on request assign to the Supplier the benefit of such insurance.

11 Limitation of liability

- 11.1 The extent of the parties' liability under or in connection with the Contract (regardless of whether such liability arises in tort, contract or in any other way and whether or not caused by negligence or misrepresentation) shall be as set out in this clause 11.
- 11.2 Subject to clauses 11.5 and 11.6, the Supplier's total liability shall not exceed the sum of the value of the order.
- 11.3 Subject to clauses 11.5 and 11.6, the Supplier shall not be liable for consequential, indirect or special losses.
- 11.4 Subject to clauses 11.5 and 11.6, the Supplier shall not be liable for any of the following (whether direct or indirect):
- 11.4.1 loss of profit;
 - 11.4.2 loss or corruption of data;
 - 11.4.3 loss of use;
 - 11.4.4 loss of production;
 - 11.4.5 loss of contract;
 - 11.4.6 loss of opportunity;
 - 11.4.7 loss of savings, discount or rebate (whether actual or anticipated);
 - 11.4.8 harm to reputation or loss of goodwill.
- 11.5 The limitations of liability set out in clauses 11.2 to 11.4 shall not apply in respect of any indemnities given by the Customer under the Contract.

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11.6 Notwithstanding any other provision of the Contract, the liability of the parties shall not be limited in any way in respect of the following:

11.6.1 death or personal injury caused by negligence;

11.6.2 fraud or fraudulent misrepresentation;

11.6.3 any other losses which cannot be excluded or limited by Applicable Law;

11.6.4 any losses caused by wilful misconduct.

12 Intellectual property

12.1 The Supplier shall indemnify the Customer from and against any losses, damages, liability, costs and expenses (including reasonable professional fees) incurred by it as a result of any action, demand or claim that performance of benefit of the Services infringes the Intellectual Property Rights of any third party (**IPR Claim**), provided that the Supplier shall have no such liability if the Customer:

12.1.1 does not notify the Supplier in writing setting out full details of any IPR Claim of which it has notice as soon as is reasonably possible;

12.1.2 makes any admission of liability or agrees any settlement or compromise of the relevant IPR Claim without the prior written consent of the Supplier;

12.1.3 does not let the Supplier at its request and own expense have the conduct of or settle all negotiations and litigation arising from the IPR Claim at its sole discretion;

12.1.4 does not take all reasonable steps to minimise the losses that may be incurred by it or by any third party as a result of the IPR Claim;

12.1.5 does not, at the Supplier's request, provide the Supplier with all reasonable assistance in relation to the IPR Claim (at the Customer's expense) including the provision of prompt access to any relevant premises, officers, employees, contractors or agents of the Customer;

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- 12.1.6 uses the Services in combination with any other goods or services, which without such combination, no IPR Claim could or would have been made.
- 12.2 If any IPR Claim is made or is reasonably likely to be made, the Supplier may at its option:
- 12.2.1 procure for the Customer the right to continue receiving the benefit of the relevant Services; or
- 12.2.2 modify or replace the infringing part of the Services so as to avoid the infringement or alleged infringement, provided the Services remain in material conformance to their Specification.
- 12.3 The Supplier's obligations under clause 12.1 shall not apply to Services modified or used by
- 12.4 the Customer other than in accordance with the Contract or the Supplier's instructions. The Customer shall indemnify the Supplier against all losses, damages, liability, costs and expenses (including reasonable legal fees) incurred by the Supplier in connection with any claim arising from such modification or use.

13 Confidentiality and announcements

- 13.1 The Customer shall keep confidential all Confidential Information of the Supplier and of its Affiliates and shall only use the same as required to perform the Contract. The provisions of this clause shall not apply to:
- 13.1.1 any information which was in the public domain at the date of the Contract;
- 13.1.2 any information which comes into the public domain subsequently other than as a consequence of any breach of the Contract or any related agreement;
- 13.1.3 any information which is independently developed by the Customer without using information supplied by the Supplier or by any Affiliate of the Supplier;
or

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13.1.4 any disclosure required by law or a regulatory authority or otherwise by the provisions of the Contract

except that the provisions of clauses 13.1.1 to 13.1.3 shall not apply to information to which clause 13.4 relates.

13.2 This clause shall remain in force in perpetuity OR for a period of *Seven* years from the date of the Contract and, if longer, *three* years after termination of the Contract.

13.3 The Customer shall not make any public announcement or disclose any information regarding the Contract, except to the extent required by law or regulatory authority.

13.4 To the extent any Confidential Information is Protected Data (as defined in clause 14) such Confidential Information may be disclosed or used only to the extent such disclosure or use is in compliance with and does not conflict with any of the provisions of clause **Error! Reference source not found.**

14 Processing of personal data

14.1 Please see Data Processing Policy

15. Force majeure

Neither party shall have any liability under or be deemed to be in breach of the Contract for any delays or failures in performance of the Contract which result from Force Majeure. The party subject to the Force Majeure event shall promptly notify the other party in writing when such the event causes a delay or failure in performance and when it ceases to do so.

16 Termination

16.1 The Supplier may terminate the Contract or any other contract which it has with the Customer at any time by giving notice in writing to the Customer if:

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- 16.2 the Customer commits a material breach of Contract and such breach is not remediable;
- 16.2.1 the Customer commits a material breach of the Contract which is capable of being remedied and such breach is not remedied within [14] days of receiving written notice of such breach;
- 16.2.2 the Customer has failed to pay any amount due under the Contract on the due date and such amount remains unpaid within [30] days after the Supplier has given notification that the payment is overdue; or
- 16.2.3 any consent, licence or authorisation held by the Customer is revoked or modified such that the Customer is no longer able to comply with its obligations under the Contract or receive any benefit to which it is entitled.
- 16.3 The Supplier may terminate the Contract at any time by giving notice in writing to the Customer if the Customer:
- 16.3.1 stops carrying on all or a significant part of its business, or indicates in any way that it intends to do so;
- 16.3.2 is unable to pay its debts either within the meaning of section 123 of the Insolvency Act 1986 or if the Supplier reasonably believes that to be the case;
- 16.3.3 becomes the subject of a company voluntary arrangement under the Insolvency Act 1986;
- 16.3.4 becomes subject to a moratorium under Part A1 of the Insolvency Act 1986;
- 16.3.5 becomes subject to a restructuring plan under Part 26A of the Companies Act 2006;
- 16.3.6 becomes subject to a scheme of arrangement under Part 26 of the Companies Act 2006;
- 16.3.7 has a receiver, manager, administrator or administrative receiver appointed over all or any part of its undertaking, assets or income;

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- 16.3.8 has a resolution passed for its winding up;
- 16.3.9 has a petition presented to any court for its winding up or an application is made for an administration order, or any winding-up or administration order is made against it;
- 16.3.10 suspends or ceases, or threatens to suspend or cease, to carry on all or a substantial part of its business;
- 16.3.11 is subject to any procedure for the taking control of its goods that is not withdrawn or discharged within [*seven*] days of that procedure being commenced;
- 16.3.12 has a freezing order made against it;
- 16.3.13 is subject to any recovery or attempted recovery of items supplied to it by a supplier retaining title to those items; OR .
- 16.3.14 is subject to any events or circumstances analogous to those in clauses 16.3.1 to 16.3.13 in any jurisdiction; OR .
- 16.3.15 [takes any steps in anticipation of, or has no realistic prospect of avoiding, any of the events or procedures described in clauses 16.3.1 to 16.3.14 including giving notice for the convening of any meeting of creditors, issuing an application at court or filing any notice at court, receiving any demand for repayment of lending facilities, or passing any board resolution authorising any steps to be taken to enter into an insolvency process.
- 16.4 The Supplier may terminate the Contract any time by giving not less than [*four*] weeks' notice in writing to the Customer if the Customer undergoes a change of Control or if it is realistically anticipated that it shall undergo a change of Control within two months.
- 16.5 The right of the Supplier to terminate the Contract pursuant to clause 16.3 shall not apply to the extent that the relevant procedure is entered into for the

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purpose of amalgamation, reconstruction or merger (where applicable) where the amalgamated, reconstructed or merged party agrees to adhere to the Contract.

16.6 If the Customer becomes aware that any event has occurred, or circumstances exist, which may entitle the Supplier to terminate the Contract under this clause 16, it shall immediately notify the Supplier in writing.

16.7 Termination or expiry of the Contract shall not affect any accrued rights and liabilities of the Supplier at any time up to the date of termination.

17 Notices

17.1 Any notice or other communication given by a party under these Conditions shall:

17.1.1 be in writing and in English;

17.1.2 be signed by, or on behalf of, the party giving it (except for notices sent by email); and

17.1.3 be sent to the relevant party at the address set out in the Contract

17.2 Notices may be given, and are deemed received:

17.2.1 by hand: on receipt of a signature at the time of delivery;

17.2.2 by *Royal Mail Recorded Signed For* post: by 4:30 pm on the [*second*] Business Day after posting;

17.2.3 by Royal Mail International Tracked & Signed OR Royal Mail International Signed post: by 4:30 pm on the *fourth* Business Day after posting; and

17.2.4 by fax: on receipt of a transmission report from the correct number confirming uninterrupted and error-free transmission; and OR .

17.2.5 by email provided confirmation is sent by first class post: on receipt of a delivery OR read receipt email from the correct address.

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17.3 Any change to the contact details of a party as set out in the Contract shall be notified to the other party in accordance with clause 17.1 and shall be effective:

17.3.1 on the date specified in the notice as being the date of such change; or

17.3.2 if no date is so specified, 15 Business Days after the notice is deemed to be received.

17.4 All references to time are to the local time at the place of deemed receipt.

17.5 This clause does not apply to notices given in legal proceedings or arbitration.

17.6 A notice given under these Conditions is not validly served if sent by email.

18 Cumulative remedies

The rights and remedies provided in the Contract for the Supplier only are cumulative and not exclusive of any rights and remedies provided by law.

19 Time

Unless stated otherwise, time is of the essence of any date or period specified in the Contract in relation to the Customer's obligations only.

20 Further assurance

The Customer shall at the request of the Supplier, and at the Customer's own cost, do all acts and execute all documents which are necessary to give full effect to the Contract.

21 Entire agreement

21.1 The parties agree that the Contract and any documents entered into pursuant to it constitutes the entire agreement between them and supersedes all previous agreements, understandings and arrangements between them, whether in writing or oral in respect of its subject matter.

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21.2 Each party acknowledges that it has not entered into the Contract or any documents entered into pursuant to it in reliance on, and shall have no remedies in respect of, any representation or warranty that is not expressly set out in the Contract or any documents entered into pursuant to it. No party shall have any claim for innocent or negligent misrepresentation on the basis of any statement in the Contract.

21.3 Nothing in these Conditions purports to limit or exclude any liability for fraud.

22 Variation

No variation of the Contract shall be valid or effective unless it is in writing, refers to the Contract and these Conditions and is duly signed or executed by, or on behalf of, each party.

23 Assignment

23.1 The Customer may not assign, subcontract or encumber any right or obligation under the Contract, in whole or in part, without the Supplier's prior written consent, such consent not to be unreasonably withheld or delayed OR which it may withhold or delay at its absolute discretion.

23.2 Notwithstanding clause 23.1, the Customer may perform any of its obligations and exercise any of its rights granted under the Contract through any Affiliate provided that it gives the Supplier prior written notice of such subcontracting or assignment including the identity of the relevant Affiliate. The Customer acknowledges and agrees that any act or omission of its Affiliate in relation to the Customer's rights or obligations under the Contract shall be deemed to be an act or omission of the Customer itself.

24 Set off

24.1 The Supplier shall be entitled to set-off under the Contract any liability which it has or any sums which it owes to the Customer under the Contract or under any other contract which the Supplier has with the Customer.

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24.2 The Customer shall pay all sums that it owes to the Supplier under the Contract without any set-off, counterclaim, deduction or withholding of any kind, save as may be required by law.

25 No partnership or agency

The parties are independent persons and are not partners, principal and agent or employer and employee and the Contract does not establish any joint venture, trust, fiduciary or other relationship between them, other than the contractual relationship expressly provided for in it. None of the parties shall have, nor shall represent that they have, any authority to make any commitments on the other party's behalf.

26 Equitable relief

The Customer recognises that any breach or threatened breach of the Contract may cause the Supplier irreparable harm for which damages may not be an adequate remedy. Accordingly, in addition to any other remedies and damages available to the Supplier, the Customer acknowledges and agrees that the Supplier is entitled to the remedies of specific performance, injunction and other equitable relief without proof of special damages.

27 Severance

27.1 If any provision of the Contract (or part of any provision) is or becomes illegal, invalid or unenforceable, the legality, validity and enforceability of any other provision of the Contract shall not be affected.

27.2 If any provision of the Contract (or part of any provision) is or becomes illegal, invalid or unenforceable but would be legal, valid and enforceable if some part of it was deleted or modified, the provision or part-provision in question shall apply with the minimum such deletions or modifications as may be necessary to make the provision legal, valid and enforceable. In the event of such deletion or modification, the parties shall negotiate in good faith in order to agree the terms of a mutually acceptable alternative provision.

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28 Waiver

28.1 No failure, delay or omission by the Supplier in exercising any right, power or remedy provided by law or under the Contract shall operate as a waiver of that right, power or remedy, nor shall it preclude or restrict any future exercise of that or any other right, power or remedy.

28.2 No single or partial exercise of any right, power or remedy provided by law or under the Contract by the Supplier shall prevent any future exercise of it or the exercise of any other right, power or remedy by the Supplier.

28.3 A waiver of any term, provision, condition or breach of the Contract by the Supplier shall only be effective if given in writing and signed by the Supplier, and then only in the instance and for the purpose for which it is given.

29 Compliance with law

The Customer shall comply with Applicable Law and shall maintain such licences, authorisations and all other approvals, permits and authorities as are required from time to time to perform its obligations under or in connection with the Contract.

30 Conflicts within contract

If there is a conflict between the terms contained in the Conditions and the terms of the Order, schedules, appendices or annexes to the Contract, the terms of the Conditions and of Part B and Part C of the schedule shall prevail to the extent of the conflict.

31 Costs and expenses

The Customer shall pay its own costs and expenses incurred in connection with the negotiation, preparation, signature and performance of the Contract (and any documents referred to in it).

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32 Third party rights

32.1 Except as expressly provided for in clause 32.2, a person who is not a party to the Contract shall not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any of the provisions of the Contract.

32.2 Any Affiliate of the Supplier shall be entitled under the Contracts (Rights of Third Parties) Act 1999 to enforce any of the provisions of the Contract. The consent of any such Affiliate is not required in order to rescind or vary the Contract or any provision of it.

33 Dispute resolution

33.1 Any dispute arising between the parties out of or in connection with the Contract shall be dealt with in accordance with the provisions of this clause 33.

33.2 The dispute resolution process may be initiated at any time by either party serving a notice in writing on the other party that a dispute has arisen. The notice shall include reasonable information as to the nature of the dispute.

33.3 The parties shall use all reasonable endeavours to reach a negotiated resolution through the following procedure:

33.3.1 Within 5 Business Days of service of the notice, the *contract managers* of each of the parties shall meet to discuss the dispute and attempt to resolve it.

33.3.2 If the dispute has not been resolved within 30 Business Days of the first meeting of the *contract managers*, then the matter shall be referred to the *chief executives* (or persons of equivalent seniority) of each of the parties. The *chief executives* (or equivalent) shall meet within 5 Business Days to discuss the dispute and attempt to resolve it.

33.4 Either party may issue formal legal proceedings at any time whether or not the steps referred to in clause 33.3 have been completed. OR Until the parties have completed the steps referred to in clause 33.3, and have failed to resolve the dispute, neither party shall commence formal legal proceedings

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except that either party may at any time seek urgent interim relief from the courts.

34 Governing law

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

35 Jurisdiction

The parties irrevocably agree that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of, or in connection with, the Contract, its subject matter or formation (including non-contractual disputes or claims).

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THE SCHEDULE

Part A
Customer-specific provisions

Date:

Customer: *[insert the full registered company name and trading name (if any) and registered number, place of registration, VAT number, registered or supervisory body]*

Name:

Address: *[registered office address]*

Contact:

Supplier

Name: *[insert the full registered company name and trading name (if any) and registered number, place of registration]*

Address: *[registered office address]*

Contact:

Location:

Services

Reference	Services	Description	Price

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Performance dates/periods:

Part B

Data processing details

Processing of the Protected Data by the Supplier under the Contract shall be for the subject-matter, duration, nature and purposes and involve the types of Personal Data and categories of Data Subjects set out in this Part B of the schedule.

Please refer to our Data Retention Policy (if Required)

Part C

Technical and organisational security measures

- 1 The Supplier shall implement and maintain the following technical and organisational security measures to protect the Protected Data:
 - 1.1 In accordance with the Data Protection Laws, taking into account the state of the art, the costs of implementation and the nature, scope, context and purposes of the processing of the Protected Data to be carried out under or in connection with the Contract, as well as the risks of varying likelihood and severity for the rights and freedoms of natural persons and the risks that are presented by the processing, especially from accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to the Protected Data transmitted, stored or otherwise processed, the Supplier shall implement appropriate technical and organisational security measures appropriate to the risk, including as appropriate those matters mentioned in Articles 32(1)(a) to 32(1)(d) (inclusive) of the DATA PROTECTION ACT 2018.

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The terms and conditions which apply to and govern this Order are the Conditions. The parties agree that all other terms and conditions are expressly excluded.

The Customer has read and accepts the Order and Contract subject to the Conditions upon verifying their approval by means of a digital signature.

Legitimate Interests Assessment Test – Video Conferencing.

1. THE PURPOSE TEST

- 1.1 In the course of our primary business activity we will gather Personal Data due to the use of Video Conferencing applications.
- 1.2 We wish to use Video Conferencing applications to facilitate efficient and speedy communications between interested parties engaged upon or connected to our business activity. These parties are often in disparate locations which makes direct communication without using technology virtually impossible.
- 1.3 We derive a substantial benefit in terms of a reduction in time spent travelling using a video conferencing platform.
- 1.4 The video conferencing platform is a 3rd party proprietary application which is publicly available and confirms to the prevailing Privacy regulations in and of itself.
- 1.5 Our use of the Platform will be within the manufacturer's suggested operating procedures.

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- 1.6 If we did not process the data by video conferencing the alternative would be to use traditional telecommunications which has fewer features and is not satisfactory in terms of content delivery when visual images are required.
- 1.7 We are compliant with the UK Government's National Cyber Security Centre (NCSC) guidelines for Video Conferencing and we maintain a high level of data privacy standards including Data Processing agreements where necessary with our primary business partners.
- 1.8 We will not always record the video conference call but if we do, any Personal Data processed will not be of the kind to cause any ethical issues and will be dealt with in line with our robust and fully operational DATA PROTECTION ACT 2018 privacy policies and systems.

2. THE NECESSITY TEST

- 2.1 Video Conferencing and the use of images both of the participants and with reference to non Personal Data information such as charts, graphs, photographs etc is the only way to achieve the purpose and transmit the information necessary for the successful completion of the agenda of the call.
- 2.2 The use of Video Conference calling is a proportionate methodology to fulfil our communication needs.
- 2.3 Multiple location communication is not possible without some form of technology and the transmission of information, especially graphical and photographic information is not possible using traditional telecommunications.

3. THE BALANCING TEST

- 3.1 Receiving and processing Personal Data during Video Conference calling is a well established medium for the transference of data.
- 3.2 All participants on the call will have received notification that we will be processing their data.

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- 3.3 All participants in the call will have opted in to the 3rd party application provider's Terms and Conditions.
- 3.4 All participants in the call will be adults.
- 3.5 Video conferencing is not an unusual method of processing and We do not expect anyone to object to the processing of their data in this way.
- 3.6 We recognise that any data we retain from the video conference can form the basis of a Subject Access Request which can be made to us under our Policy in Section 9 of this document should a data subject have any concerns.

4. CONCLUSIONS

- 4.1 The Legitimate Interest Assessment Test determined the following:
 - 4.1.1 Following the assessment, it was decided that there was no infringement of the DATA PROTECTION ACT 2018 or the rights of the individual participants in our use of a Video Conferencing Application.
 - 4.1.2 The legal basis for the processing was established as being in our Legitimate Interests for the following purposes:
 - 4.1.3 To facilitate efficient business video and telecommunications.
 - 4.1.4 To protect the safety of our employees and participants on the call from unnecessary real-world travelling.
 - 4.1.5 To support our primary business objectives.

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