Cybit General Terms and Conditions

GENERAL TERMS AND CONDITIONS

This Contract applies to and governs all supply of FlexCare Services, Project Services and Resold Products and Services by the Supplier to the Client, to the exclusion of all other terms, save to the extent expressly varied by an Order Form, SOW or applicable Schedule in accordance with Clause 2 below.

1. Definitions and Interpretation

In this Contract the following words have the following meanings:

"Affiliate" means any direct or indirect Holding Company or Subsidiary Company of the relevant entity. A Company is a "Subsidiary" of another Company if the latter ("Holding Company"): (a) holds a majority of the voting rights in it; or (b) is a member of it and has the right to appoint or remove a majority of its board of directors; or (c) is a member of it and controls alone, pursuant to an agreement with other shareholders or members, a majority of the voting rights in it. "Company" includes any body corporate or any legal entity capable under law of making a contract.

"Client" means the 'Client' specified in the Order Form.

"Client Infrastructure" means the Client's systems and technical infrastructure, including those systems that directly or indirectly interface and/or are interoperable with, and/or impact on, the Services, and which are not under the Supplier's management and control, but excluding the Connectivity Infrastructure.

"Connectivity Infrastructure" means the internet, telecommunications links, broadband and/or third party software and systems which are neither owned nor supplied by the Supplier or the Client and which connect the Services to wide area networks.

"Contract" means these General Terms and Conditions ("General T&Cs"), the Order Form, the applicable Schedule(s) and any SOW(s), together with any documents expressly incorporated into any of the foregoing.

"Costs" means costs, liabilities, penalties, expenses and charges.

"Deliverables" means the output/deliverables in respect of the Services, excluding any Materials.

"Effective Date" means the contract date specified in the Order Form.

"Fees" means the fees and charges specified in the Order Form, the applicable Schedule(s) and/or the SOW(s).

"FlexCare Initial Term" means the period starting on the Live Date and lasting for the Minimum Term.

"FlexCare Schedule" means the Cybit FlexCare Service Schedule referenced in the Order Form, describing the FlexCare Service Categories, Service Lines and Service Levels applicable to the FlexCare Services.

"FlexCare Services" means the Cybit 'FlexCare' managed services described in the Order Form and provided pursuant to the FlexCare Schedule.

"General T&Cs" means these General Terms and Conditions.

"Intellectual Property Rights" means all copyrights (including copyright in computer software), database rights, rights in inventions, patent applications, patents, trade marks, trade names, know-how, service marks, design rights (whether registered or unregistered), trade secrets, rights in confidential information and all other industrial or intellectual property rights of whatever nature, for the full duration of such rights, including any extensions or renewals.

"Internal Use" means internal use only in the ordinary course of the Client's business and for the use(s) envisaged in the Supplier's published marketing materials relating to the FlexCare Services and/or Project Services (as applicable).

"Law" means any applicable laws, regulations, regulatory constraints, obligations, proclamations, rules (including binding codes of practice and statements of principle incorporated and contained in such rules), or applicable judgment of a relevant court of law which is a binding precedent, in each case in force in any jurisdiction that is or may be applicable to this Contract.

"Live Date" means the date from which delivery of the FlexCare Services by the Supplier shall commence, which date shall be notified to the Client by the Supplier and shall fall after completion of any associated and preparatory Project Services (such as migration services).

"Materials" means any tangible materials delivered by the Supplier to the Client under this Contract or any SOW(s).

"Minimum Term" means the initial minimum period specified in relation to the FlexCare Services, as set out in the Order Form.

"One-Off Resell Schedule" means the Cybit One-Off Resell Schedule referenced in the Order Form, setting out terms applicable to the supply of Resold Products and Services on a one-off basis (for example hardware and perpetual software licences).

"Order Form" means an order form signed by the Supplier and the Client and referring to these General T&Cs.

"Pass-Through Terms" means the end user licence agreement, customer agreement, terms of service and/or other contractual terms of a Vendor applicable to any Resold

Products and Services, as notified to the Client by the Supplier or the relevant Vendor from time to time.

“Privacy Policy” means the Supplier’s privacy policy published at www.cybit.com/privacy-policy from time to time, describing (among other things) the Supplier’s processing of personal data as a Data Controller in its own right.

“Project Services” means professional services to be delivered by the Supplier as set out in the Order Form and/or any SOW, including for example any migration services set out in such documents.

“Renewal Term” means a one-year period beginning on (i) the first day immediately following the end of the FlexCare Initial Term, or (ii) any anniversary thereof.

“Resold Products and Services” means hardware, software, licences and/or services made available to the Client where the underlying product or service is provided by, and the Client must separately contract with and/or accept the Pass-Through Terms of, a Vendor, as specified in the Order Form – whether supplied (a) on a one-off basis under the One-Off Resell Schedule, or (b) on a subscription or term basis under the Term-Based Resell Schedule.

“Schedules” means the FlexCare Schedule, the One-Off Resell Schedule, the Term-Based Resell Schedule and/or Schedule 1 (Data Protection) to these General T&Cs, in each case to the extent referenced as applicable on the Order Form.

“Services” means the FlexCare Services and the Project Services delivered by the Supplier under this Contract, excluding the Resold Products and Services.

“SLA” means the service level agreement set out in the FlexCare Schedule.

“SOW” or “Statement of Work” means a statement of work specifying one-off or fixed-term Project Services to be delivered by the Supplier, as set out in the Order Form and/or any freestanding statement of work signed by, or otherwise agreed between, the parties from time to time.

“Sub-Processor Statement” means the document (however described) issued by the Supplier to the Client, setting out the Supplier’s then-current approved sub-processors and the scope of Services to which each relates, provided and updated in accordance with Schedule 1.

“Supplier” means the Cybit group entity specified as ‘Supplier’ in the Order Form. **“Cybit”** means Cybit Limited, registered in England and Wales under number 02650067, registered office Equinox House, Silver Fox Way, Cobalt Business Park, Newcastle Upon Tyne, United Kingdom, NE27 0QJ.

“System Access” means the local and wide area access to the Client Infrastructure required by the Supplier in order to provide the Services pursuant to this Contract.

"Term-Based Resell Schedule" means the Cybit Term-Based Resell Schedule referenced in the Order Form, setting out terms applicable to the supply of Resold Products and Services on a subscription or term basis.

"User Data" means any information, materials or data provided to the Supplier by (or on behalf of) the Client or its users in relation to the Services.

"Vendor(s)" means any third party manufacturer, licensor and/or supplier of Resold Products and Services in relation to which the Supplier acts as an authorised reseller, distributor or partner.

1.2 In this Contract: (a) words denoting the singular include the plural and vice versa; (b) words denoting any gender include all genders; (c) reference to any person includes a reference to companies and all other legal entities; (d) any reference to a statute, statutory provision, subordinate legislation or code of practice is a reference to the same as amended, modified or re-enacted from time to time; (e) any use of the words "include" or "including" shall be deemed followed by the words "without limitation"; and (f) headings are for ease of reference only and do not affect interpretation.

2. Contract Structure and Order of Precedence

2.1 This Contract comprises these General T&Cs, the Order Form, the applicable Schedule(s) and any SOW(s). Each Order Form, once signed by both parties, forms a separate Contract between the parties.

2.2 To the extent there is any inconsistency between the documents comprising this Contract, the following order of precedence shall apply (ranked from highest to lowest):

(a) the Order Form;

(b) the SOW(s) (in respect of the scope, Fees and any special terms of the relevant Project Services only);

(c) the applicable Schedule(s);

(d) these General T&Cs.

2.3 For the avoidance of doubt, the Pass-Through Terms applicable to any Resold Products and Services do not form part of, and sit outside, the order of precedence in Clause 2.2. The Pass-Through Terms constitute a separate, direct contractual relationship between the Client and the relevant Vendor, governing the underlying Resold Products and Services, as further described in Clause 6.

2.4 No addition to, variation of, or exclusion of any term of this Contract shall be binding on either party unless agreed in the manner set out in Clause 17 (Changes).

3. FlexCare Services

3.1 FlexCare Services will be provided by the Supplier to the Client pursuant to this Contract if, and to the extent that, such services are specified in the Order Form. The remainder of this Clause 3 is expressly subject to the foregoing.

3.2 From the Live Date, the Supplier shall:

(a) provide the FlexCare Services substantially in accordance with the FlexCare Schedule, with reasonable skill and care in accordance with good industry practice, subject to the terms of this Contract, and shall use reasonable endeavours to meet the timescales specified in the SLA; and

(b) grant to the Client a non-exclusive, non-transferable licence: (i) for the duration of this Contract, to permit its authorised users to receive and use the FlexCare Services for the Permitted Purpose and at all times in compliance with the Law, subject to the commercial parameters set out in the Order Form; and (ii) to use the Materials and Deliverables for Internal Use.

3.3 The Supplier shall not be responsible for any failure to provide the FlexCare Services as a result of: (a) a failure by the Client to comply with its responsibilities under this Contract; (b) errors in or corruption of the Client Infrastructure, Connectivity Infrastructure, and/or the Client's data; and/or (c) the occurrence of a Suspension Event.

3.4 The Supplier reserves the right, at its sole discretion, to suspend any Services in the event of a material breach by the Client of the terms of this Contract (including a failure to pay the Fees in accordance with Clause 7) (a "Suspension Event").

3.5 In the event of a failure by the Supplier to provide the FlexCare Services in accordance with this Contract, the Supplier will, at its expense, use all reasonable commercial efforts to correct any such failure promptly in accordance with the SLA. Subject to any service level payment or service level termination rights arising under the express terms of the SLA, the Supplier's provision of corrective services in accordance with this Clause 3.5 shall constitute the Client's exclusive remedy for any breach of Clause 3.2(a). Nothing in this Clause 3.5 limits the Supplier's liability for any failure to comply with this Clause 3.5 (for which the provisions of Clause 14 (Liability) shall apply).

3.6 If the Client exceeds the commercial parameters in the Order Form relating to the FlexCare Services (for example, where the number of supported users exceeds the number stipulated in the Order Form), the Supplier may charge the Client for such excess use in accordance with the rates specified in the Order Form or FlexCare Schedule. On payment of such Fees, such excess usage shall be deemed permitted usage for the purposes of this Clause 3.

4. Client Responsibilities

4.1 The Client shall: (a) undertake all reasonable enquiries to satisfy itself that the Services are suitable for its needs before entering into this Contract; (b) adopt such processes and make such changes to its working practices as are necessary to make effective use of the Services; (c) have in place appropriate Client Infrastructure and Connectivity Infrastructure necessary for the provision of the Services; (d) maintain and upgrade the Client Infrastructure and Connectivity Infrastructure in accordance with good industry practice and the Supplier's reasonable instructions; (e) carry out all of its responsibilities under this Contract in a timely and efficient manner and, in particular, not act (or fail to act) in a manner that will delay or otherwise adversely impact the Supplier's (or its subcontractors') performance of the Services; (f) provide the Supplier with all necessary information, co-operation and assistance reasonably required by the Supplier to provide the Services; (g) comply with the Law with respect to its activities under this Contract; (h) provide the Supplier with such technical support, information and access to systems and/or data as the Supplier reasonably requires to maintain System Access for the duration of this Contract; and (i) reasonably determine whether it is appropriate, as a matter of good industry practice, to implement any form of additional back-up of User Data.

4.2 The Client recognises that the availability of the Services is, in part, dependent on the stability of the Connectivity Infrastructure, and that changes to the Connectivity Infrastructure may result in the loss of availability of, or material degradation of, the Services. The Client shall not make changes to those elements of the Connectivity Infrastructure within its control without the Supplier's authorisation. The parties agree that changes to Connectivity Infrastructure outside of both parties' control (and the consequences of such changes) are not the responsibility of either party, save that both parties shall use reasonable endeavours to mitigate the adverse impact of such changes on the Services.

4.3 The Client shall permit the Supplier, on reasonable notice, to test the Client Infrastructure. Where the Supplier reasonably considers that the Client Infrastructure is inadequate and/or is (or may be) responsible for performance or functionality failures or degradation, the Client shall make such changes to the Client Infrastructure (whether configuration or upgrades) as the Supplier may reasonably recommend.

4.4 The Client's obligations set out in this Clause 4 in relation to the Services shall apply, to the extent technically relevant, also in relation to any Resold Products and Services.

4.5 Without prejudice to the Supplier's obligations under the applicable Schedule and Schedule 1 (Data Protection), the Supplier shall have no responsibility for: (a) the security configuration, patching, or management of any Client-owned applications, code, or databases not provided by the Supplier; (b) the encryption of Client Data at rest or in transit, except to the extent expressly set out in the applicable Schedule; (c) the administration or management of the Client's end-user access rights and credentials; or (d) the integrity, completeness, or recoverability of any back-up of User Data, except to the extent the Supplier has expressly agreed to provide back-up services under the applicable Schedule.

5. Professional Services

5.1 Project Services will be provided by the Supplier to the Client pursuant to this Contract if, and to the extent that, such services are specified in the Order Form and/or any SOW. This Contract operates as a framework under which Project Services may be provided where the parties agree any SOW(s), whether referenced in the Order Form or by completing a separate SOW pro forma. The standard contractual terms governing the delivery of Project Services are set out in this Clause 5 and elsewhere in these General T&Cs; the SOW itself is intended only to define the scope of delivery, the applicable Fees and any special terms specific to that engagement.

5.2 Any written communication is capable of constituting an SOW provided that it is clearly identified as an order for Project Services. An SOW is deemed completed and binding on the parties if: (a) it is signed or otherwise agreed by both parties; or (b) it is raised by the Supplier in accordance with Clause 5.3. Each completed SOW is a separate contract for Project Services. A completed SOW incorporates all of the terms of this Contract that directly or indirectly relate to it.

5.3 Where Project Services are undertaken by the Supplier at the Client's written request and it is not reasonably practicable to populate and execute an SOW prior to such services commencing, the Supplier shall, as soon as reasonably practicable thereafter, raise a retrospective SOW capturing the Project Services ordered, with Fees calculated either on a time and materials basis or as a fixed price as specified in the SOW. Such an SOW will not require the Client's signature in order to be binding on the parties.

5.4 The Supplier shall provide Project Services using reasonable care and skill and in accordance with good industry practice. Both parties shall use reasonable endeavours to meet the timescales specified in the relevant SOW(s). The Supplier shall not be responsible for any failure to achieve deadlines or milestones in an SOW to the extent that the failure has been caused by any delay or default on the part of the Client. Time shall not be of the essence in relation to the Supplier's performance of Project Services.

5.5 For the avoidance of doubt, the Supplier's right to suspend Services under Clause 3.4 applies equally to Project Services.

5.6 Neither party shall unreasonably withhold its consent to the other's request to re-schedule the date or time of performance of any Project Services. However, given that it will not be practical for the Supplier to re-schedule resources on short notice, the parties agree that: (a) if the Client gives the Supplier less than two (2) clear days' notice of such a request, the Client must pay the Supplier the full value of the booked Project Services; and (b) if the Client gives the Supplier between two (2) and seven (7) clear days' notice of such a request, the Client must pay the Supplier fifty per cent (50%) of the full value of the booked Project Services. For the purposes of this Clause 5.6, a "day" excludes Saturdays, Sundays and public holidays.

6. Resold Products and Services

6.1 Resold Products and Services are supplied to the Client if, and to the extent that, they are specified in the Order Form, either: (a) on a one-off basis, in which case the provisions of the One-Off Resell Schedule shall apply; and/or (b) on a subscription or term basis, in which case the provisions of the Term-Based Resell Schedule shall apply.

6.2 The Supplier is an authorised reseller, distributor or partner of the relevant Vendor(s) in respect of the Resold Products and Services. The Supplier contracts with the Client as principal in respect of the commercial transaction relating to the Resold Products and Services (including ordering, invoicing and payment), but the Client acknowledges and agrees that liability for the performance, quality, functionality and fitness for purpose of the underlying Resold Products and Services rests with the relevant Vendor, and not with the Supplier, save as expressly set out in this Clause 6 or the applicable Schedule.

6.3 In addition to this Contract, the Client must separately accept the Pass-Through Terms applicable to each Resold Product or Service, as notified to it by the Supplier or the relevant Vendor from time to time. The Client is deemed to accept the applicable Pass-Through Terms by: (a) signing the Order Form referencing the relevant Resold Product or Service; or (b) placing an order for, or making use of, the relevant Resold Product or Service – whichever occurs first. The Client shall regularly check for updates to the Pass-Through Terms, and acknowledges that its failure to do so will not diminish the binding nature of any such updates upon it.

6.4 Save as otherwise expressly stated in the applicable Schedule, the Supplier gives no warranty, and excludes all liability, in respect of the Resold Products and Services themselves, beyond passing through to the Client (to the extent the Supplier is able to do so) the benefit of any warranties given by the relevant Vendor.

6.5 The Client shall comply with the Pass-Through Terms and shall indemnify and hold harmless the Supplier against all Costs arising from any breach by the Client of this Clause 6 or the Pass-Through Terms, including all Costs associated with handling a Vendor complaint or allegation which, if substantiated, would constitute such a breach.

6.6 The commencement, duration, termination and renewal of each Resold Product or Service is subject to the terms of the relevant Pass-Through Terms, the Order Form and the applicable Schedule. Termination or non-renewal of any Pass-Through Terms or Resold Product or Service (other than as a result of the Supplier's breach of this Clause 6) shall not entitle the Client to terminate this Contract or to receive any refund under this Contract, save as otherwise set out in the applicable Schedule.

6.7 If the Client has a winding up petition presented or enters into liquidation (whether compulsorily or voluntarily, other than for the purposes of solvent amalgamation or reconstruction), makes an arrangement with its creditors, petitions for an administration order, or has a receiver, administrator or manager appointed over any of its assets, or a court or arbiter with authority to so determine, determines that the Client is unable to pay its debts, then, without prejudice to Clause 6.5, the Supplier's obligations to remit payment to Vendors under this Clause 6 shall cease, and the Supplier shall have no further responsibility to the Client in relation to the relevant Resold Products and Services, save as otherwise required for compliance with (a) the Pass-Through Terms; (b) the Supplier's agreements with the relevant Vendor(s) or their resellers; or (c) the Law.

6.8 Where a Resold Product or Service involves the processing of Client personal data by a Vendor, the Client acknowledges that the relevant Vendor acts as a processor or sub-processor of the Client directly, and not as a sub-processor of the Supplier.

7. Payment

7.1 The Client shall pay the Fees: (a) as and when they fall due, as specified in the Order Form, the applicable Schedule and/or any SOW; and (b) in the manner specified in the Order Form or otherwise fixed under the applicable Schedule or an SOW.

7.2 The Supplier shall be entitled to raise invoices for Fees as and when they fall due in accordance with the Order Form, the applicable Schedule and any SOW(s). Save as otherwise stated in the Order Form or the applicable Schedule:

(a) FlexCare Services will be invoiced monthly in advance;

(b) Project Services will be invoiced monthly in arrears, on a time and materials basis, based on the pricing stipulated in the relevant SOW(s) (or, where no such pricing is stipulated, the Supplier's then-prevailing rate card shall apply); and

(c) Resold Products and Services will be invoiced in accordance with the Order Form and the applicable Schedule.

7.3 The Client shall pay the Supplier's invoices within twenty-eight (28) days of the date of the invoice (or such shorter period as specified in the Order Form), or by direct debit or standing order where applicable and specified in the Order Form.

7.4 The Client may not withhold payment of any amount due to the Supplier by reason of any set-off, counterclaim, abatement or other similar deduction.

7.5 All Fees payable by the Client under this Contract are payable in Pounds Sterling (unless another currency is specified in the Order Form) and are exclusive of any tax, levy or similar governmental charge, including value added or sales tax, that may be assessed by any jurisdiction, except for taxes on the Supplier's income, net worth or franchise.

7.6 If any sum payable under this Contract is not paid within ten (10) days of its due date, then, without prejudice to the Supplier's other rights and remedies, the Supplier may charge interest on the overdue amount, accruing daily at a rate of five per cent (5%) per annum above the Bank of England base rate in effect from time to time, from the due date until the date of actual payment (whether before or after judgment), provided that the Client shall not be required to pay interest at a rate exceeding that permitted by applicable law.

7.7 Any indexation, escalation or other adjustment mechanism applicable to the Fees for a particular Service or Resold Product or Service (including, for example, annual indexed increases applicable to FlexCare Services, or adjustments reflecting Vendor pricing changes applicable to Resold Products and Services) is set out in the applicable Schedule and not in these General T&Cs.

8. Intellectual Property

8.1 Title to the Materials is, and shall at all times remain, with the Supplier unless otherwise specified in the Order Form or an SOW. The Supplier and its licensors own, and shall continue to own, all Intellectual Property Rights in the Services and any Deliverables. Full and unencumbered title (with full title guarantee) in all Deliverables and Services shall vest in the Supplier absolutely upon creation. The Client undertakes, at the Supplier's request and at all times from the date of this Contract, to do (and to procure that any of its sub-contractors or other third parties involved in any SOW shall do) all acts and execute all documents reasonably necessary or desirable to give effect to this Clause 8.1.

8.2 The Vendors and their licensors continue to own all Intellectual Property Rights in the Resold Products and Services, as further provided in the relevant Pass-Through Terms and Clause 6.

8.3 The Supplier warrants that the Client's receipt and use, in accordance with this Contract, of the Services and any Deliverables (excluding, for the avoidance of doubt, any Resold Products and Services, which are addressed exclusively under Clause 6) shall not infringe the Intellectual Property Rights of any third party. Subject to Clause 8.4, the Supplier shall indemnify the Client against all Costs awarded against, or agreed to be paid by, the Client arising out of a claim that the Client's receipt or use of the Services or Deliverables infringes the Intellectual Property Rights of a third party.

8.4 The indemnity in Clause 8.3 shall apply only if the Client: (a) notifies the Supplier in writing as soon as reasonably practicable of any such claim or potential claim; (b) makes no admission as to liability without the Supplier's prior written consent; (c) allows the Supplier (at the Supplier's cost) sole conduct and control of the defence and/or settlement of the claim; and (d) provides the Supplier with such assistance as it may reasonably request in connection with the claim. The indemnity in Clause 8.3 shall not apply to the extent a claim arises from: (i) the Client's own specifications or materials; (ii) any modification of the Deliverables not authorised by the Supplier; or (iii) the combination of the Deliverables with anything not supplied by the Supplier. Liability under the indemnity in Clause 8.3 counts towards, and is not in addition to, the Supplier's Contractual Liability cap under Clause 14.5.

9. Term and Termination

9.1 This Contract. This Contract is formed (and becomes legally binding) when the parties complete and sign the Order Form. This Contract shall commence on the Effective Date and shall continue unless and until all FlexCare Services, Project Services and Resold Products and Services are terminated in accordance with this Clause 9.

9.2 FlexCare Services. The FlexCare Services commence on the Live Date and shall continue for the FlexCare Initial Term and thereafter for subsequent Renewal Terms.

(a) Either party shall be entitled to terminate the FlexCare Services on expiry of the FlexCare Initial Term or any Renewal Term by giving the other party not less than ninety (90) days' prior written notice.

(b) Either party shall be entitled to terminate the FlexCare Services immediately if the other party commits any material breach of its obligations in relation to the FlexCare Services and fails to remedy that breach within thirty (30) days of written notice of that breach (the thirty (30) day period applying only where the breach is capable of remedy; otherwise the FlexCare Services may be terminated by written notice immediately).

(c) The Client may terminate the FlexCare Services immediately by written notice to the Supplier following the occurrence of any service level termination threshold expressly defined in the FlexCare Schedule, subject always to any stipulations within that Schedule as to the manner and timing of exercise of any such right.

9.3 SOW(s). Each SOW shall commence in accordance with Clause 5.2 and shall terminate on completion of the relevant Project Services or in accordance with this Clause 9.3.

(a) Either party shall be entitled to terminate any SOW by giving the other party not less than ninety (90) days' prior written notice.

(b) Either party shall be entitled to terminate any SOW immediately by written notice if the other party commits a material breach of that SOW that is incapable of remedy (or, where the breach is capable of remedy, if the other party fails to remedy it within thirty (30) days of written notice).

9.4 Resold Products and Services. Each Resold Product or Service shall commence and continue in accordance with the relevant Pass-Through Terms, the Order Form and the applicable Schedule, as further described in Clause 6.

9.5 Insolvency. Either party shall be entitled to terminate the FlexCare Services and/or any SOW(s) immediately by written notice to the other party if that other party has a winding up petition presented or enters into liquidation (whether compulsorily or voluntarily, otherwise than for the purposes of a solvent amalgamation or reconstruction), makes an arrangement with its creditors, petitions for an administration order, or has a receiver, administrator or manager appointed over any of its assets, or a court or arbiter with authority to so determine, determines that the debtor is unable to pay its debts.

10. TUPE

10.1 In this Clause 10, "TUPE" means the Transfer of Undertakings (Protection of Employment) Regulations 2006 (as amended), and "Transferring Employee" means any employee or worker whose contract transfers, or is alleged to transfer, by operation of TUPE as a result of the commencement, termination or expiry of the Services (or any part of them).

10.2 Commencement. Where TUPE operates so that employees of the Client (or of the Client's outgoing supplier) become Transferring Employees of the Supplier on commencement of the Services, the Client shall, promptly and in any event at least 20 Business Days before the Live Date, provide the Supplier with accurate employee liability information in respect of each such Transferring Employee. The Client shall indemnify the Supplier against all Costs arising from (a) any act or omission of the Client or its outgoing supplier in respect of any Transferring Employee before the transfer, and (b) any failure by the Client to comply with its information or consultation obligations under TUPE.

10.3 Exit. Where TUPE operates so that employees of the Supplier (or its sub-contractors) become Transferring Employees of the Client or a replacement supplier on termination or expiry of the Services, the Supplier shall, promptly on request during the exit period, provide the employee liability information reasonably required. The Supplier shall indemnify the Client against all Costs arising from any act or omission of the Supplier in respect of any such Transferring Employee before the transfer.

10.4 If any person's contract is alleged to transfer under TUPE contrary to the parties' intention, the party to whom that person transferred (or is alleged to have transferred) may, within a reasonable period, take steps to end that person's engagement, and the other party shall indemnify it against the Costs of doing so, provided such steps are taken promptly.

11. Consequences of Termination

11.1 On termination of this Contract: (a) the rights and duties created under Clauses 7, 8, 10, 11.4, 11.5, 12, 13, 14, 15, 19 and 20 shall survive; (b) the Supplier's rights under Clause 6 shall survive; and (c) the rights of either party which arose on or before termination shall be unaffected.

11.2 On termination of the FlexCare Services howsoever caused: (a) any SOW(s) shall be unaffected; (b) any Resold Products and Services shall be unaffected; (c) each party shall return, in good condition, the tangible property of the other party (if any) made available under the FlexCare Services, in accordance with that party's reasonable instructions; and (d) all licences granted in relation to the FlexCare Services shall terminate.

11.3 On termination of any SOW howsoever caused: (a) other SOW(s) shall be unaffected; (b) the FlexCare Services shall be unaffected; (c) any Resold Products and Services shall be unaffected; (d) each party shall return, in good condition, the tangible property of the other party (if any) made available under the terminated SOW, in accordance with that party's reasonable instructions; (e) the Supplier shall make such partial delivery of the relevant Materials and Deliverables to the Client as is reasonably practicable, on an “as is” basis; and (f) the Supplier shall be entitled to payment for work done and Costs incurred under the SOW up to the date of termination (and, where a fixed price had been agreed, the Supplier may, at its discretion, reduce that fixed price by an amount reasonably reflecting both the value of the Project Services provided and the Supplier’s cost of providing them).

11.4 Exit Assistance. Save where the Supplier has terminated for the Client's material breach or insolvency, the Supplier shall, on the Client's written request following termination or expiry of the FlexCare Services, provide reasonable co-operation to transition the Services to the Client or a replacement supplier, including handover of documentation and service-specific credentials reasonably required for that transition ("Exit Assistance"). Exit Assistance shall be provided free of charge for a period of up to thirty (30) days following termination or expiry, and thereafter, if requested, on a time and materials basis at the Supplier's then-current rates for a further period of up to ninety (90) days. The Supplier's obligation to provide Exit Assistance is conditional on the Client having paid all undisputed Fees then due, and does not extend to any transition activity that an upstream Vendor's terms do not permit.

11.5 Return of Data. Reasonably promptly following termination or expiry of the FlexCare Services, and in any event on the Client's written request, the Supplier shall make available to the Client one electronic copy of the Client's data then held by the Supplier in connection with the FlexCare Services, in the format in which it is then held and on an "as-is" basis. Thereafter the Supplier may delete such data in the ordinary course, save (a) as required by the return-or-deletion provisions of Schedule 1 in respect of Personal Data, and (b) for copies retained in routine backups or as required by Law, which shall remain subject to Clause 12 (Confidentiality).

12. Confidentiality

12.1 Each party that receives (“Receiving Party”) non-public business or financial information (“Confidential Information”) from the other party (or its Affiliates) (“Disclosing Party”), whether before or after the date of this Contract, shall: (a) keep the Confidential Information confidential; (b) not disclose it to any other person other than with the Disclosing Party’s prior written consent or in accordance with Clauses 12.2 or 12.3; and (c) not use it for any purpose other than the performance of its obligations or enjoyment of its rights under this Contract (the “Permitted Purpose”).

12.2 The Receiving Party may disclose Confidential Information to its own, or any of its Affiliates’, officers, directors, employees, agents and advisers who reasonably need to know it for the Permitted Purpose (each a “Permitted Third Party”), provided that the Receiving Party remains liable to the Disclosing Party for the acts, omissions and compliance of such Permitted Third Party as if it were the Receiving Party (and a party to this Contract), and shall ensure that each Permitted Third Party is made aware of, and complies with, the obligations of confidentiality in this Clause 12.

12.3 If required by Law, the Receiving Party may disclose Confidential Information to a court, regulatory authority or agency, provided that it shall (if legally permissible) give reasonable advance notice to the Disclosing Party and co-operate with any attempt by the Disclosing Party to obtain an order protecting the confidentiality of that information.

12.4 The parties agree that any breach of this Clause 12 may cause irreparable harm to the innocent party, who shall be entitled to injunctive relief without the need to prove damages or the inadequacy of money damages, or to post any bond or other security, in addition to all other legal or equitable remedies.

12.5 Confidential Information does not include information which: (a) is in the public domain otherwise than through breach of this Clause 12; (b) was created by the Receiving Party without reference to the Disclosing Party's information; or (c) was already in the Receiving Party's rightful possession, free of any obligation of confidentiality, prior to disclosure by the Disclosing Party.

13. Data Protection

13.1 The parties agree to the provisions of Schedule 1 (Data Protection) to these General T&Cs, including the provisions therein concerning the Supplier's Sub-Processor Statement and Privacy Policy.

14. Liability

14.1 Neither party shall exclude or limit its liability for: (a) death or personal injury caused by its negligence; (b) fraud or fraudulent misrepresentation; and/or (c) any liability that cannot be excluded or limited by Law.

14.2 Subject to Clause 14.1, neither party shall be liable, whether in contract, tort (including negligence), breach of statutory duty or otherwise, for any: (a) loss of profit; (b) loss of revenue; (c) loss of anticipated savings; (d) loss of goodwill or reputation; (e) loss of business or business opportunity; or (f) indirect or consequential loss, in each case whether direct or indirect and even if foreseeable or the party was advised of the possibility of such loss.

14.3 Subject to Clause 14.1, and save to the extent expressly agreed in the applicable Schedule (for example where the Supplier provides backup or recovery services), the Supplier shall not be liable for any loss of, or corruption or damage to, Client data or User Data, to the extent such loss, corruption or damage does not arise from the Supplier's breach of this Contract or its obligations under Schedule 1.

14.4 The Client agrees that it shall have no remedy in respect of any untrue statement or representation made to it upon which it relied in entering into this Contract, and that its only remedies shall be for breach of contract (unless the statement was made fraudulently).

14.5 The Supplier's Contractual Liability to the Client shall not exceed one hundred and twenty-five per cent (125%) of the Fees paid (plus any unpaid Fees that are payable) under this Contract for the Services or Resold Products and Services giving rise to the liability (but excluding any SOW) in the twelve (12) month period prior to the date on which the claim (or series of connected claims) arose. "Contractual Liability" means liability howsoever arising under or in relation to the subject matter of this Contract (including any liability in relation to the Resold Products and Services and any indemnity under Clause 8.3) that is not: (a) unlimited by virtue of Clause 14.1; or (b) excluded pursuant to Clause 14.2, Clause 14.3, Clause 14.4, Clause 6 or the applicable Schedule.

14.6 The Supplier's SOW Liability to the Client shall not exceed the Fees paid (plus any unpaid Fees that are payable) under the SOW under which the claim (or series of connected claims) arose. "SOW Liability" means liability howsoever arising under or in relation to the subject matter of the relevant SOW that is not: (a) unlimited by virtue of Clause 14.1; or (b) excluded pursuant to Clause 14.2, 14.3, 14.4 or 14.5.

14.7 Except as expressly provided in this Contract, the Supplier excludes any implied condition or warranty concerning the merchantability, quality or fitness for purpose of its Services, whether implied by statute or common law.

14.8 The parties agree that the limitations and exclusions of liability in this Clause 14 are reasonable, having regard to the parties' respective commercial positions, the Fees payable, the allocation of risk between them, and each party's ability to insure against the relevant risks.

15. Insurance

15.1 The Supplier shall, during the term of this Contract and for a period of one (1) year thereafter, effect and maintain insurance cover with reputable insurer(s) in respect of the following risks:

(a) Employers' Liability – not less than ten million pounds Sterling (£10,000,000) for each and every claim and any one occurrence;

(b) Public Liability – not less than ten million pounds Sterling (£10,000,000) for each and every claim;

(c) Professional Indemnity – not less than five million pounds Sterling (£5,000,000) in the aggregate; and

(d) Cyber and Data Liability – not less than two million pounds Sterling (£2,000,000) in the aggregate.

16. Force Majeure

16.1 Neither party shall be liable for any delay or failure in performing its obligations under this Contract (other than the Client's obligation to pay the Fees) to the extent that such delay or failure is caused by an Event of Force Majeure.

16.2 "Event of Force Majeure" means any circumstance beyond a party's reasonable control, including without limitation: (a) act of God, explosion, flood, tempest, fire or accident; (b) unusual atmospheric conditions and unusual conditions in outer space which may affect signals to and from, and the workings of, satellites; (c) war or threat of war, sabotage, insurrection, civil disturbance or requisition; (d) import or export regulations or embargoes; (e) any change in Law that impacts the parties' rights and/or responsibilities under this Contract; (f) any breach by a third party of the Computer Misuse Act 1990 or the Communications Act 2003 that has the object or effect of directly or indirectly interfering with or damaging the Client Infrastructure and/or the Supplier's hardware, software and/or network infrastructure; and (g) any government guidance or instruction applicable to either party or its suppliers arising as a result of any epidemic, pandemic or outbreak of disease.

16.3 A party affected by an Event of Force Majeure shall notify the other party promptly, and shall use reasonable endeavours to mitigate its effects and resume performance as soon as reasonably possible. If an Event of Force Majeure prevents the Supplier from providing the FlexCare Services for a continuous period in excess of sixty (60) days, the Client shall be entitled to terminate the affected FlexCare Services by written notice to the Supplier, without liability to either party (save in respect of rights and obligations accrued prior to the date of termination).

17. Assignment

17.1 Neither party shall assign or otherwise transfer this Contract, or any of its rights or duties under it, without the other party's prior written consent (not to be unreasonably withheld or delayed), provided that the Supplier shall be entitled (and the Client hereby irrevocably consents) to assign in whole or in part, or to novate the entirety of, this Contract to any Affiliate as part of a bona fide corporate restructuring, by giving the Client not less than seven (7) days' prior written notice.

17.2 The rights and liabilities of the parties are binding upon, and shall inure to the benefit of, the parties and their respective successors and permitted assigns.

18. Changes

18.1 Subject to Clause 21.11 (Publication and Amendment of these General T&Cs) and Clause 18.3, no changes to this Contract or any SOW shall be valid unless made in writing and signed by the authorised representatives of both parties.

18.2 Either party may, from time to time, request a change to the scope of the Services (a "Change"). Neither party shall be entitled to charge for considering or negotiating a Change unless such consideration requires the Supplier to undertake detailed scoping work, in which case the Supplier shall be entitled to charge for that work pursuant to an SOW. A Change shall be effective once documented in writing on the Supplier's standard change control form.

18.3 Where a Schedule provides for a right of either party to give notice of, and/or to terminate in connection with, a material change to the relevant Service (for example, a Material Change under the FlexCare Schedule), the provisions of that Schedule shall apply in addition to this Clause 18.

19. Non-Solicitation

19.1 For the duration of this Contract and a period of twelve (12) months thereafter, each party shall not, and shall ensure that its Affiliates do not, without the other party's prior written consent, solicit, entice away or actively initiate the recruitment (whether directly or indirectly) of any employee of the other party who performed (or is performing) a material function for that party (excluding administrative and secretarial functions).

19.2 If a party breaches Clause 19.1, it shall pay the other party an amount equal to the last three (3) months' salary of the relevant individual, in recognition of the value of that individual and the cost of recruiting and training a replacement. The parties agree that this sum is a genuine pre-estimate of the likely loss and not a penalty.

20. Disputes

20.1 The parties shall attempt to resolve any dispute arising out of or relating to this Contract (including any dispute relating to non-contractual obligations arising out of or in connection with it) (a "Dispute") through discussions between board-level representatives.

20.2 Where a Dispute is not resolved within forty (40) days of the start of discussions under Clause 20.1, the parties shall attempt to resolve it in good faith through an Alternative Dispute Resolution ("ADR") procedure as recommended by the Centre for Effective Dispute Resolution.

20.3 If a Dispute has not been resolved by an ADR procedure within forty (40) days of its initiation, or if either party will not participate in an ADR procedure, either party may refer the Dispute to the High Court of England and Wales, to whose exclusive jurisdiction the parties submit for that purpose.

20.4 Clauses 20.1 to 20.3 shall not restrict either party's ability to commence court proceedings in respect of any: (a) matter relating to its Confidential Information or Intellectual Property Rights; and/or (b) unpaid invoice.

21. General Provisions

21.1 Publicity. The Client irrevocably consents to the Supplier referring to the Client as a client of the Supplier in its sales and marketing literature (including its website).

21.2 Third Party Rights. The parties exclude, to the fullest extent permitted by Law, any rights of third parties to enforce or rely upon any provision of this Contract.

21.3 Relationship. Nothing in this Contract shall render the Client a partner or agent of the Supplier, and the Client shall not purport to undertake any obligation on the Supplier's behalf, nor expose the Supplier to any liability, nor pledge or purport to pledge the Supplier's credit.

21.4 Entire Agreement. This Contract supersedes any prior contracts, arrangements and undertakings between the parties relating to its subject matter and constitutes the entire agreement between the parties relating to that subject matter.

21.5 Severance. If any part of this Contract is held unlawful or unenforceable, that part shall be struck out and the remainder shall continue in effect.

21.6 No Waiver. No delay, neglect or forbearance by either party in enforcing its rights under this Contract shall constitute a waiver of, or prejudice, those rights.

21.7 No Bribery. Each party warrants to the other that it: (a) has not and will not commit an offence under the Bribery Act 2010 in relation to this Contract or any other contract between the parties; and (b) has adequate procedures (as defined in section 7(2) of that Act) in place to prevent its associated persons from committing such an offence.

21.8 Sanctions and Export Compliance. Each party warrants that it will comply with all applicable trade sanctions, export control and anti-money laundering Laws in connection with this Contract. The Client warrants that it will not export, re-export, transfer or otherwise make available any Resold Products and Services, or any Deliverables, in any manner that would breach applicable UK, EU or US export control or sanctions Laws, including in relation to any comprehensively sanctioned country or region.

21.9 Counterparts. This Contract may be executed in any number of counterparts, each of which when executed and delivered shall be an original, and all of which together shall constitute one agreement.

21.10 Notices. All notices (including invoices and correspondence) under this Contract shall be in writing and sent to the recipient's address set out in this Contract, or such other address as notified from time to time. Notices may be delivered personally, by reputable courier, by first-class post, or by email, and shall be deemed served: if by hand, when delivered; if by courier or first-class post, forty-eight (48) hours after dispatch; or if by email, immediately.

21.11 Publication and Amendment of these General T&Cs.

(a) These General T&Cs are published by the Supplier at www.cybit.com/terms (or such other URL as the Supplier may notify), and the version published there from time to time shall govern this Contract. The Supplier may amend these General T&Cs from time to time in accordance with this Clause 21.11.

(b) The Supplier may make the following amendments on not less than thirty (30) days' notice (given by publication together with notice to the Client's nominated contact, by email, or by other reasonable means), and the Client shall have no right to object to or terminate in respect of them: (i) amendments required to comply with, or to reflect a change in, the Law or the requirements of a regulatory authority; (ii) amendments to reflect a change in the terms or pricing imposed on the Supplier by a Vendor in respect of Resold Products and Services; (iii) amendments that are administrative or clarificatory in nature, or that correct a manifest error; (iv) amendments that introduce a new service, or that are neutral or beneficial to the Client; and (v) adjustments to the Fees made in accordance with the indexation or escalation mechanisms set out in the applicable Schedule.

(c) The Supplier may make any other amendment (a "Material Amendment") on not less than thirty (30) days' notice given as set out above. Where a Material Amendment would have a material adverse effect on the Client, the Client may, within thirty (30) days of the notice, object in writing. The parties shall discuss the objection in good faith. Where the Supplier, acting reasonably, is unable to accommodate the objection, the Client may terminate the affected FlexCare Service (or, where the amendment affects the Contract as a whole, this Contract) on not less than thirty (30) days' written notice, without further liability to either party save for Fees accrued to the date of termination. Pending resolution or the effective date of any such termination, the terms in force immediately before the Material Amendment shall continue to apply to the Client.

(d) This Clause 21.11 does not apply to the Sub-Processor Statement, which is dealt with exclusively under Schedule 1.

21.12 Law and Jurisdiction. This Contract is governed by the laws of England, and the parties submit to the exclusive jurisdiction of the courts of England and Wales, subject to Clause 20 (Disputes).

Schedule 1 – Data Protection

1. Defined Terms

For the purposes of this Schedule 1:

"Data Controller", "**Data Subject**", "**Personal Data**", "**Data Processor**", and "**Process**" shall have the meanings specified in the Data Protection Legislation;

"Data Protection Legislation" means the UK GDPR, the Data Protection Act 2018, the Privacy and Electronic Communications Regulations 2003 and any related act or regulation in the UK, including any statutory modification or re-enactment of the same;

"GDPR" means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and repealing Directive 95/46/EC; and

"UK GDPR" means the GDPR as incorporated into UK domestic law by the European Union (Withdrawal Agreement) Act 2018 (as amended), and as further amended by the Data Protection, Privacy and Electronic Communications (Amendments etc.) (EU Exit) Regulations 2019 (as amended).

2. Data Processing Terms

2.1 This Schedule 1 applies to Personal Data encompassed in the User Data provided by (or on behalf of) the Client to the Supplier in relation to delivery of the Services, and the term "Personal Data" shall be so interpreted throughout this Schedule 1. In relation to the Processing of any such Personal Data, the parties agree that the Client is the Data Controller and the Supplier is the Data Processor.

2.2 This Schedule 1 sets out the subject matter, duration, nature and purpose of the processing by the Supplier, the types and categories of Personal Data, and the obligations and rights of the Client.

2.3 The Supplier shall, in respect of such Personal Data:

(a) process that Personal Data during the term of this Contract only on the documented written instructions of the Client (which include this Contract), unless required by Law to otherwise process that Personal Data, in which case the Supplier shall promptly notify the Client before performing such processing, unless prohibited from doing so by Law;

(b) ensure that it has in place appropriate technical and organisational measures to protect against unauthorised or unlawful processing of Personal Data and against accidental loss or destruction of, or damage to, Personal Data, appropriate to the harm that might result and the nature of the Personal Data, having regard to the state of technological development and the cost of implementing any measures;

(c) ensure that all personnel with access to and/or who process Personal Data are obliged to keep it confidential;

(d) not transfer any Personal Data outside of the UK and/or European Economic Area unless appropriate safeguards (such as the UK International Data Transfer Addendum or the Standard Contractual Clauses) are in place, and the Client has been notified of the relevant sub-processor in accordance with Clause 4.4 below;

(e) assist the Client, at the Client's cost, in responding to any request from a Data Subject and in ensuring compliance with its obligations under the Data Protection Legislation with respect to security, breach notification, impact assessments and consultations with supervisory authorities or regulators;

(f) notify the Client without undue delay on becoming aware of a Personal Data breach;

(g) ensure that provisions equivalent to those in this Clause 2.3 are imposed on any sub-processor engaged by the Supplier (acknowledging that the Supplier shall remain primarily liable to the Client for that sub-processor's compliance);

(h) inform the Client of any intended addition to or replacement of the Supplier's sub-processors;

(i) at the Client's written direction, delete or return Personal Data and copies thereof to the Client on termination of the Contract, unless required by Law to retain it; and

(j) maintain complete and accurate records to demonstrate its compliance with this Schedule 1, and, no more than once in any twelve (12) month period (save where an audit is reasonably required following a Personal Data breach, or is requested by a supervisory authority), allow the Client to audit such records and the Supplier's relevant policies and procedures, on no less than thirty (30) days' prior written notice, during normal business hours, at the Client's own cost, and in a manner that does not unreasonably disrupt the Supplier's business operations. This audit right shall survive termination or expiry of the Contract for a period of twelve (12) months, and shall not, of itself, transfer to the Client any primary liability for the Supplier's instructions being unlawful. The Supplier shall immediately inform the Client if, in the Supplier's opinion, an instruction infringes the Data Protection Legislation.

3. Particulars of Processing

3.1 Subject matter and duration. The subject matter and duration of the processing of Personal Data is as set out in this Schedule, and is further detailed in the Supplier's privacy policy (available on request).

3.2 Nature and purpose. Such processing, in accordance with the Client's instructions, as is necessary to provide the Services pursuant to the Contract, which may include the collection, recording, organisation, storage, alteration, retrieval, consultation, use, disclosure to permitted third parties, combination and/or erasure of Personal Data.

3.3 Types of Personal Data. The Client may submit Personal Data in the course of using the Services, the extent of which is determined by the Client in its sole discretion, which may include name, personal and professional contact details, IP addresses and login credentials.

3.4 Categories of Data Subject. The Client may submit Personal Data relating to its customers, employees, business partners and suppliers, the extent of which is determined by the Client in its sole discretion.

3.5 Obligations and rights of the Client. The obligations and rights of the Client are set out in this Schedule and further detailed in the Supplier's privacy policy.

4. Client Responsibilities

4.1 The Client agrees that, in its role as Data Controller, it:

(a) shall ensure that only lawful instructions are issued to the Supplier in respect of the processing of Personal Data;

(b) shall obtain and maintain, throughout the term of the Contract, all necessary permissions, consents and authorisations to enable the Supplier to process the Personal Data in accordance with this Contract;

(c) has reviewed and approved the Supplier's technical and organisational measures as suitable for the Client's purposes before entering into the Contract;

(d) has granted the Supplier general authorisation to sub-contract its processing of Personal Data to third parties on the terms set out in Clause 4.2 below;

(e) acknowledges that the addition or replacement of a sub-processor is dealt with under Clause 4.4, and that its right to object to any such change is as set out in that Clause; and

(f) shall promptly issue its instructions in writing to the Supplier regarding the return or deletion of Personal Data upon termination or expiry of the Contract.

4.2 The Client consents to the Supplier appointing the third parties set out in Clause 4.3 below as sub-processors of Personal Data provided by the Client. The Supplier confirms that it has entered into, or will enter into, a written agreement with each such sub-processor substantially on that sub-processor's standard terms of business. As between the Supplier and the Client, the Supplier shall remain fully liable for the acts and omissions of any sub-processor it appoints under this Clause 4.2.

4.3 The Supplier's current approved sub-processors, and the scope of Services to which each relates, are set out in the Supplier's Sub-Processor Statement. The Supplier shall provide the Sub-Processor Statement to the Client at the commencement of the Contract, and shall not publish it. The Sub-Processor Statement is updated only in accordance with Clause 4.4 below.

4.4 Notice of New Sub-Processors.

(a) Where the Supplier intends to appoint a new sub-processor, or to replace an existing sub-processor, it shall give the Client written notice not less than thirty (30) days before that sub-processor begins processing Personal Data (the "Sub-Processor Notice Period"), identifying the scope of Services to which the new sub-processor relates. The Supplier may specify an intended commencement date later than thirty (30) days from the date of notice, in which case the Client's objection period runs for thirty (30) days from the date of notice but the appointment shall not take effect before the specified commencement date.

(b) If the Client does not object in writing within the Sub-Processor Notice Period, the Client shall be deemed to have consented to the new sub-processor, which shall take effect on expiry of that period.

(c) If the Client objects in writing within the Sub-Processor Notice Period, the Supplier shall consider that objection in good faith and discuss it with the Client, which discussion may result in the Supplier identifying an alternative arrangement, or the parties agreeing special terms.

(d) Where the Supplier, acting reasonably, is unable to accommodate the Client's objection, either party may terminate: (i) where the relevant sub-processor's scope (as designated in the Sub-Processor Statement) is limited to a specific Service, that Service; or (ii) where the relevant sub-processor's scope extends across all Services under the Contract, this Contract in its entirety – in either case on no less than thirty (30) days' written notice, without further liability to either party (save for payment of Fees accrued up to the date of termination, pro-rated where appropriate).

5. Supplier as Controller

5.1 In addition to its role as Data Processor under this Schedule, the Supplier processes Personal Data as Data Controller in its own right for the purposes of, among other things: (a) account and contract administration, billing and invoicing; (b) credit checks; and (c) marketing communications (where the Client or its contacts have not opted out). The Supplier's processing as Data Controller is governed by the Privacy Policy, and not by this Schedule 1. For the avoidance of doubt, the notice and objection mechanism in Clause 4.4 above applies only to the Supplier's sub-processors engaged in its capacity as Data Processor, and not to the Supplier's processing as Data Controller, which is addressed through the standard mechanisms described in the Privacy Policy (including marketing opt-outs and data subject rights requests).