



Brigantia Master Services Agreement

1. DEFINITIONS

1.1 The following words and phrases shall, unless the context otherwise requires have the following meanings:

- (a) "**Acceptable Use Policy**" or "**AUP**" means Brigantia's acceptable use policy the current version of which is available from www.brigantia.com as amended from time to time;
- (b) "**Affiliates**" means, with respect to any entity, any other entity Controlled directly or indirectly, by the entity; any entity that Controls, directly or indirectly, the entity or any entity directly; or indirectly under common Control with the entity;
- (c) "**Agreement**" shall consist of the terms of this Master Services Agreement which is available for review by the Customer on the Brigantia Website, the Order, the applicable Service Description(s), the SOW and Letter of Engagement (as applicable).
- (d) "**Authorised Representative**" shall be a Company Director or other person duly authorised by the Board of the Company;
- (e) "**Brigantia**" means Brigantia Partners Limited (Company No. 09498907) of 14th Floor, 33 Cavendish Square, London WC1G 0PW, United Kingdom;
- (f) "**Brigantia Equipment**" means any hardware, cabling, peripherals, software or any other equipment that Brigantia shall provide to the Customer as part of the Services, whether owned by Brigantia or a third-party supplier, but specifically excludes any such equipment that has been sold to the Customer;
- (g) "**Brigantia Website**" means the website www.brigantia.com;
- (h) "**Commencement Date**" means the date on which this Master Services Agreement is executed by the parties or when Brigantia first commences performance of its obligations under the Agreement, whichever is the earlier;
- (i) "**Confidential Information**" means all confidential information disclosed by a party or its employees, officers, representatives, sub - contractors, suppliers, agents or advisers (together its "**Representatives**") to the other party or its Representatives including any information relating to the business, affairs, customers, clients and suppliers of the disclosing party (or of any Affiliate of the disclosing party) and any information relating to any services, products, know-how, designs, pricing, technology including technical specifications and configurations, trade secrets or software of the disclosing party;
- (j) "**Contract Year**" means each successive period of 12 calendar months which forms part of the Term commencing on the Commencement Date or any Renewal Date;
- (k) "**Control**" means the beneficial ownership of more than fifty per cent (50%) of the issued share capital or the legal power to direct or cause the direction of the general management or affairs of the company, partnership or other entity in question and "**Controls**", "**Controlled**" and "**Controlling**" shall be construed accordingly;
- (l) "**Credits**" means any sums that may be credited to the Customer by Brigantia under the terms of the Agreement, including the Service Credits;
- (m) "**Customer**" means any natural or legal entity, which receives the Services from Brigantia under the terms of the Agreement, or the natural or legal entity which is listed in an Order, SOW or Letter of Engagement (as applicable);
- (n) "**Customer Data**" means any data provided to Brigantia by the

Customer or on the Customer's behalf;

- (o) "**Customer's End-User**" means the ultimate consumer of the Service;
- (p) "**Customer Equipment**" means any hardware, cabling, peripherals, software or any other equipment other than the Brigantia Equipment;
- (q) "**Customer Laws**" means all applicable laws, rules, regulations, mandatory guidelines and codes which, in the case of the Customer and its Affiliates, impose legal or regulatory requirements on a recipient of the Services or any extension, amendment or re-enactment of such an act that may come about from time to time; for the avoidance of doubt including Modern Slavery Act 2015 (where applicable);
- (r) "**Customer Materials**" means the Customer Data, documents and any other tangible materials provided to Brigantia by the Customer or on the Customer's behalf under the Agreement;
- (s) "**Customer Personal Data**" shall mean personal data supplied to Brigantia by or on behalf of the Customer and which is processed by Brigantia in connection with Services;
- (t) "**Data Controller**" shall have the same meaning as defined in Data Privacy Laws;
- (u) "**Data Privacy Laws**" shall mean the following as amended, extended or re-enacted from time to time:
 - (i) EC Regulation 2016/679 ("the GDPR") on the protection of individuals with regard to the processing of personal data and on the free movement of such data;
 - (ii) EC Directive 2009/136/EC on Privacy and Electronic Communications;
 - (iii) Data Protection Act 2018 on the applicable national implementation of (i) and (ii) as it forms part of the United Kingdom's domestic law by virtue of Section 3 of the European Union (Withdrawal) Act 2018;
 - (iv) All local laws or regulations implementing or supplementing the EU legislation mentioned in (i)-(iii) above;
- (v) "**Data Processor**" shall have the same meaning as defined in Data Privacy Laws;
- (w) "**Data Subject**" shall have the same meaning as defined in Data Privacy Laws;
- (x) "**Discontinued Service**" means where Brigantia deem it necessary to discontinue a Service if part of a Service for reasons including but not limited to: product enhancement; upgrade or **End of Sale, End of Life or End of Support**.
- (y) "**End of Life**" occurs after End of Support and means where the manufacturer or provider of a product and/or service to Brigantia, or Brigantia, at its discretion, decides that a product and/or service is at the end of its useful life and the manufacturer or provider may cease all rework sustaining the product and/or service and removes all references to the product and/or service from their product portfolio;
- (z) "**End of Sale**" means where the manufacturer or provider of a product and/or service to Brigantia ceases any further sale of the relevant product and/or service;
- (aa) "**End of Support**" occurs after End of Sale and means where the manufacturer or provider of a product or service to Brigantia ceases to offer support in fixing any bugs, issues, problems or concerns in relation to a product or services ("**End of Support**")

Issues”);

(bb) **Engineer Fees** means any and all fees which may be incurred through the use of an engineer to facilitate the provision of Services to the Customer. Engineer Fees will be calculated on a time and materials basis at Brigantia’s standard rates in place from time to time for each visit, provided that Brigantia has notified the Customer of such rates in advance;

(cc) **"Fees"** means the fees and charges payable by the Customer for the Services as described in an Order, SOW or Letter of Engagement (as applicable);

(dd) **"Force Majeure Event"** means any circumstances beyond the reasonable control of either party to the Agreement including strikes, lock-outs or other industrial action (other than strikes, lock-outs or other industrial action of any contractors of the party seeking to rely on the Force Majeure Event); civil commotion, riot, invasion, war (whether declared or not) or threat of or preparation for war; fire, explosion, storm, flood, earthquake, subsidence, epidemic or other natural disaster; reduction or interruption of any utilities howsoever caused; reduction or interruption of the use of telecommunications, networks, the internet, railways, shipping, aircraft, motor transport or other means of public or private transport; virus and/or hacking attacks or other malicious acts of a third party not under the control of a party; and compliance with any law or governmental order, rule, regulation or direction;

(ee) **"Initial Term"** means in relation to a Service, the 12-month period beginning on the Service(s) Commencement Date, or such other period as set out in an Order or Letter of Engagement;

(ff) **"Installation Charges"** means any and all costs associated with the installation of materials to facilitate the provision of services to the Customer. These charges will be borne fully by the Customer and shall be mutually agreed by the Parties;

(gg) **"Laws"** means the **Supplier Laws (bbb)** and the **Customer Laws (q)**;

(hh) **"Letter of Engagement"** means a signed letter of agreement setting out, amongst other things, a description of the Services that Brigantia has agreed to supply to the Customer, or Brigantia's offer to vary the Services requested by the Customer under Clause 6.2;

(jj) **"Master Services Agreement"** or **"MSA"** means these terms and conditions;

(jj) **"Minimum Written Notice"** means, unless otherwise specified in an Order or Letter of Engagement, the period of 90 days;

(kk) **"Modern Slavery"** means **Brigantia's** anti-slavery and human trafficking policy as set out in Clause 16 and as updated by Brigantia from time to time;

(ll) **"Order"** means an order submitted by the Customer which lists the Services requested by the Customer and the Fees for such Services and which has been accepted by Brigantia in accordance with Clause 3.1(c) of the Agreement;

(mm) **"Parties"** means Brigantia and the Customer and "party" shall mean either of them;

(nn) **"Personal Data"** shall have the same meaning as defined in Data Privacy Laws;

(oo) **"Premises"** means the premises owned and/or operated by the Customer where the Services shall be performed or where any Brigantia Equipment shall be installed;

(pp) **"Processing"** shall have the same meaning as defined in Data Privacy Laws;

(qq) **"Processing Records"** shall have the meaning set out in Clause 14.5(i);

(rr) **"Professional Services"** means any services described in an SOW or a Letter of Engagement;

(ss) **"Renewal Term"** means the period of 12 months commencing on the expiry of the Initial Term and each successive period of 12 months thereafter (or such other period as is set out in an Order) in the event that Brigantia has not received Minimum Notice;

(tt) **"Sanctioned Party"** means any party or parties listed on any list of designated Sanctioned Parties, or other restricted parties maintained under Trade Restrictions, included but not limited to:

(i) HM Treasury's list of consolidated Financial Sanctions

Targets in the UK, as may be amended from time to time;

(ii) European Commission's list of consolidated persons, groups and entities subject to EU financial sanctions;

(iii) US Office of Foreign Assets Control's list of Specially Designated Nationals and Blocked Persons;

(uu) **"Services"** means the services to be provided by Brigantia as described in the Service Descriptions, Order, SOWs and/or Letters of Engagement, including any Professional Services, in each case, the provision of associated Service Deliverables;

(vv) **"Service Commencement Date"** means the date in respect of each Service on which that Service is made available for use to the Customer in accordance with the provisions of the Agreement;

(ww) **"Service Credits"** means where applicable the credit pre-agreed by the parties to be applicable and redeemable by the Customer against the Fees where the parties agree Brigantia is in default of the Service Levels in accordance with the terms of the Agreement;

(xx) **"Service Deliverables"** means any materials, equipment, software, deliverables, or other items of any type developed, created or supplied (whether alone or jointly) by Brigantia or any Brigantia Affiliate in the course of the provision of the Services, including any adaptation or modification of the Customer Materials;

(yy) **"Service Description"** means the document(s) setting out a description of the Services referred to in an Order;

(zz) **"Service Levels"** means the service levels for each Service (where applicable);

(aaa) **"Service Provider"** shall have the meaning of vendor, manufacturer, consultant or other third-party supplier;

(bbb) **"Service Term"** means, in relation to a Service, the period from the Service Commencement Date to the termination (for any reason) of such Service(s) pursuant to the Agreement;

(ccc) **"SOW"** means the Statement of Work provided by Brigantia, if applicable, to the Customer for the supply of Services;

(ddd) **"Supplier Laws"** means all applicable laws, rules and regulations codes that impose legal or regulatory requirements on Brigantia and its Affiliates;

(eee) **"Target Date"** means the date agreed between the parties for the installation or completion of a Service(s);

(fff) **"Term"** means the duration of the Agreement;

(ggg) **"Trade Restrictions"** means any applicable export controls, trade or economic sanctions, embargoes or similar laws, regulations, rules, licences, orders or requirements including, without limitations those of the UN, UK, US and the EU;

(hhh) **"VAT"** means value added tax, as defined by the Value Added Tax Act 1994, or any other tax imposed in substitution for it, and any equivalent or similar tax imposed outside the United Kingdom;

(iii) **"Working Day"** means 09.00 to 17.30, Monday to Friday in England and Wales excluding UK Public and Bank Holidays.

1.2 In the **Agreement**, unless the context otherwise requires

(a) Clause, schedule and paragraph headings shall not affect the interpretation of the **Agreement**;

- (b) a person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality);
- (c) words in the singular shall include the plural and vice versa;
- (d) a reference to one gender does not denote one specific gender, nor is it meant to specify, minimise or exclude any gender identity/identities;
- (e) a reference to a statute, statutory provision or subordinate legislation is a reference to it as it is in force from time to time taking account of any amendment or re-enactment;
- (f) a reference to "writing" or "written" includes mail, faxes and e-mail;
- (g) any reference to an English legal term for any action, remedy, method of judicial proceeding, legal document, legal status, court, official or any legal concept or thing shall, in respect of any jurisdiction other than England, be deemed to include a reference to what most nearly approximates to the English legal term in that jurisdiction; and
- (h) any phrase introduced by the terms "including", "include", "in particular" or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms.

2. THE AGREEMENT

- 2.1 The **Agreement** consists of the terms of this **Master Services Agreement** which is available for review by the **Customer** on the **Brigantia Website**, the **Order**, the applicable **Service Description(s)**, the **SOW** and **Letter of Engagement** (as applicable).
- 2.2 The **Agreement** shall take effect on the **Commencement Date** and shall continue unless and until terminated in accordance with the provisions of the **Agreement**.
- 2.3 Any conflict or inconsistency between any provisions of the documents referred to in Clause 2.1 shall be resolved in accordance with the following order of precedence:
 - (a) **Order**;
 - (b) **Letter of Engagement**;
 - (c) **Master Services Agreement**;
 - (d) **Statement of Work (SOW)**; and
 - (e) **Service Description**

3. ORDERING AND PROVISIONING OF SERVICES

- 3.1 The **Customer** may order services from **Brigantia** in accordance with one of the following procedures:
 - (a) the **Customer** shall complete and submit an **Order** or **Letter of Engagement** for **Services**;
 - (b) the **Customer** submits an order for **Professional Services** **Brigantia** shall prepare an **SOW** and/or **Letter of Engagement** setting out **Brigantia's** offer to supply **Professional Services** and shall submit the **SOW** or **Letter of Engagement** for the **Customer's** review and acceptance. Such offer shall remain open to acceptance by the **Customer** for a period of 7 calendar days from the date that the **SOW** or **Letter of Engagement** is submitted to the **Customer**. **Customer's** acceptance of an **SOW** or **Engagement Letter** shall form a binding contract between the parties to such **SOW** or **Engagement Letter**;
 - (c) the **Customer** submits an **Order** or **Letter of Engagement** for **Services**; such **Order** or **Letter of Engagement** shall constitute a written offer by the **Customer** to enter into a legally binding contract with **Brigantia** for the provision of the **Services** specified and such offer shall remain open to acceptance by **Brigantia** for a period of 14 calendar days from the date that the order is submitted to **Brigantia**; and

- (d) if **Brigantia** declines to accept an **Order** or **Letter of Engagement** for **Services** submitted by the **Customer**, it shall notify the **Customer** of its decision after receiving the order as soon as is reasonably practicable thereafter.

- 3.2 Where **Orders** or **Letters of Engagement** submitted under a procedure set out at Clause 3.1 are accepted by **Brigantia**, the **Customer** agrees that any **Brigantia Affiliate** may provide the **Services** set out therein and invoice **Customer** for the Fees.
- 3.3 If **Brigantia** notifies the **Customer** that a **Service** is ready for installation or implementation and the **Customer** is not ready to accept such installation or implementation for any reason whatsoever, **Brigantia** will invoice the **Customer** for the Fees for those affected **Service(s)**. Such fees shall be payable by the **Customer** in accordance with the payment terms set out in the **Agreement**. In the event that the **Customer** or the **Customer Affiliates** do not fulfil an obligation under the **Agreement**, without prejudice to **Brigantia's** other rights and remedies, **Brigantia** will be relieved of its obligations under the **Agreement** and **Brigantia** shall not be liable for any costs, charges, expenses, damages, liabilities or losses, arising directly or indirectly, however sustained by the **Customer**.
- 3.4 If the **Customer** agrees to enter into a **Trial Service**, notwithstanding any other term or provision of the **Agreement**, the **Customer** agrees that such **Services** shall be provided "as is" without warranty of any kind during the period of the **Trial Service**. **Brigantia** reserves the right to cancel all **Trial Services** upon 30 days-notice to the **Customer** without liability to the **Customer**. Upon termination of the **Trial Service**, all **Brigantia's** obligations and liabilities in relation to the **Trial Service** will cease.
- 3.5 **Brigantia** or its agents may enter the **Premises** at such times and dates as agreed between the parties to inspect any **Brigantia Equipment** that the **Customer** may have connected to the **Service**. This permission remains in force until **Brigantia**, or its agents have removed all **Brigantia Equipment** from the **Premises** or the **Customer** has returned the **Brigantia Equipment** notwithstanding termination of the **Agreement**.

4. CANCELLATION AND SUSPENSION OF THE SERVICES

- 4.1 In the event that the **Customer** terminates a **Service(s)** for convenience before its **Target Date**, the **Customer** shall be obligated to pay, within 30-days of invoice, all agreed costs directly and indirectly (including third party costs) incurred by **Brigantia** with respect to the cancelled **Service**. For the avoidance of doubt, this shall include all reasonable out of pocket expenses incurred by **Brigantia** and **Affiliates** both before and after cancellation.
- 4.2 From time to time, **Brigantia** may deem it necessary to discontinue a **Service** or part of a **Service** for reasons including but not limited to: product enhancement; upgrade; or **End of Sale, End of Life, End of Support: Discontinued Service**.
In the event of a **Discontinued Service** where possible and where applicable depending on notifications received from **Brigantia's** vendors, **Brigantia** will use reasonable endeavours to notify the **Customer**, in advance of the discontinuance, of important milestones during the discontinuance period including, where applicable; the last order date for the Service, any **relevant End of Sale, End of Life, End of Support** milestone dates, as well as other key information pertaining to the **Discontinued Service**.
- 4.3 Where in the event of a **Discontinued Service**, the parties do not agree on an alternative product or service, or in the opinion of **Brigantia** no other product or service will be agreed by the parties, **Brigantia** may terminate a **Discontinued Service** at any time and shall give not less than one (1) month prior written notice to the **Customer**.
- 4.4 Where a **Service** reaches **End of Support** or **End of Life**, the **Customer** may request that **Brigantia** continues to provide the Service on a limited basis "**End of Support Service**". **Brigantia** may object to this and

exercise its termination rights under 4.3 above, or **Brigantia** may agree to continue to provide the **End of Support Service** subject to the following:

- (a) the **Customer** agrees and acknowledges that **Brigantia** cannot and will not support the **End of Support Services** in a full, complete or comprehensive way;
- (b) the **Customer** agrees and acknowledges that third parties' support to **Brigantia's** efforts to resolve an **End of Support Issue** shall be limited or nil;
- (c) the **Customer** agrees and acknowledges that **Brigantia's** ability to resolve an **End of Support Issue** shall be limited or nil;
- (d) the **Customer** agrees and acknowledges that **Brigantia** has recommended to **Customer** that the **End of Support Services** should cease or where applicable move to a different platform;
- (e) the **Customer** agrees and acknowledges that where an **End of Support Issue** arises with respect to the **End of Support Services** which impacts the benefit of the **End of Support Issue** to the **Customer**, where in the ordinary course the **Customer** would have expected resolution by **Brigantia**, the **Customer** agrees and acknowledges that **Brigantia** shall make attempts to resolve the **End of Support Issue** that **Brigantia** deems commercially reasonable and that these attempts may not resolve the **End of Support Issue**;
- (f) the **Customer** agrees and acknowledges that where **Brigantia** does not resolve an **End of Support Issue**, notwithstanding the extent of a resulting impact or subsequent loss of **End of Support Services** to **Customer**, **Brigantia** shall have no liability to **Customer** whatsoever, whether, in contract, tort, breach of statutory duty or otherwise, from any loss, claim, damage, expense, liability, whether direct, indirect or consequential and howsoever arising or in connection to the impact upon **Customer**; and
- (g) the **Customer** agrees and acknowledges that **Brigantia** may increase or otherwise amend the **Fees** in relation to the provision of the **Service**.

4.5 Without prejudice to its other rights and remedies under the **Agreement**, **Brigantia** may suspend its provision of the **Services** in the following circumstances:

- (a) if, in the reasonable opinion of **Brigantia**, the **Customer** is in breach of the **Agreement**; or
- (b) **Brigantia** is required to do so by operation of law, or a governmental authority so requires; or
- (c) to protect the **Brigantia Equipment** or the **Services** that **Brigantia** provides to its other customers.

4.6 **Brigantia** shall provide the **Customer** with not less than 48 hours advance notice of its intention to suspend the **Services** under Clause 4.5, unless **Brigantia** has reasonable grounds not to do so.

5. CUSTOMER OBLIGATIONS

5.1 It is a condition of the **Agreement** that the **Customer** shall at all times use the **Services** in accordance with the **Acceptable Use Policy** available at www.brigantia.com as may be updated from time to time. The **Customer** acknowledges and agrees that **Brigantia** reserves the right, in accordance with law, to monitor and audit the **Customer's** use of the **Services** to ascertain the **Customer's** compliance with the **Acceptable Use Policy** and the **Agreement**. The **Customer** agrees and confirms that it has read and become familiar with the terms of the **Acceptable Use Policy** and that it shall keep up to date with any changes **Brigantia** makes to that policy, as set out on the **Brigantia Website**.

5.2 The **Customer** shall:

- (a) use appropriate security precautions in connection with its use of the **Services**;
- (b) comply with the **Customer Laws**;

(c) provide such **Customer Materials**, information, resources and assistance in a timely manner as **Brigantia** shall reasonably require to perform the **Services** at no charge to **Brigantia**; and

(d) provide **Brigantia** with reasonable assistance in investigating the cause of **Service** outages, security problems and any suspected breach of the **Agreement** by the **Customer** or its **Affiliates** at no charge to **Brigantia**.

5.3 If required by **Brigantia**, the **Customer** shall prepare the **Premises** in accordance with **Brigantia's** reasonable instructions.

5.4 Where it is reasonably necessary for **Brigantia**, its **Affiliates** or a **Service Provider** to attend the **Premises** in order to perform the **Services** the **Customer** shall, at no cost to the aforementioned parties:

- (a) provide them with reasonable access to the **Premises** at times to be agreed, such access not to be unreasonably delayed or withheld;
- (b) inform them of all health and safety rules and regulations and any other reasonable security requirements that apply at the **Premises**;
- (c) ensure that any **Customer Equipment** made available to them is in good working order, suitable to the purpose for which it is used, and conforms to all relevant standards;
- (d) ensure that the **Premises** are safe; and
- (e) if required by **Brigantia**, prepare the **Premises** in accordance with **Brigantia's** reasonable instructions.

5.5 In the event that **Brigantia** has ordered third party equipment and/or assistance on behalf of the **Customer** as a result of the **Services** ordered by the **Customer**, then the **Customer** will be responsible for the reasonable costs arising from the **Customer's** failure to provide access to the **Premises** on the dates and at the times agreed by the parties.

5.6 **Brigantia** may give directions about the use of the **Services** to the **Customer** which **Brigantia** thinks are reasonably necessary in the interests of safety, or the quality of service to **Brigantia's** other customers. The **Customer** shall comply with all such reasonable directions.

5.7 Subject to the provision of reasonable prior written notice to **Customer**, the **Customer** agrees that **Brigantia** shall be free to move **Brigantia Equipment** and/or **Customer Equipment** to another location and **Brigantia** shall use reasonable endeavours to minimise any adverse impact on the **Services** to the **Customer** associated with relocation. There shall be no additional monetary cost or **Fees** charged to the **Customer** arising from such relocation.

6. CHANGE PROCESS

6.1 **Brigantia** may make any changes to the **Agreement** (including to this **MSA**, **Acceptable Use Policy** or **Service Description** but excluding executed **Orders** and **Letters of Engagement**) as it deems necessary from time to time to take into account operational, legal, technical or commercial matters (including the terms on which its third-party providers provide **Brigantia** with services). **Brigantia's** rights under this Clause shall not extend to changes to the **Fees** which shall be governed by the remaining terms of the **Agreement**.

6.2 If the **Customer** wishes to change any **Services**, the parties shall observe the following process:

- (a) In response to a request by the **Customer** for a change to the **Services** where that proposed change is acceptable to **Brigantia**, **Brigantia** shall prepare a **Letter of Engagement**, **Order** or **SOW** and submit to the **Customer**. The **Letter of Engagement**, **Order** or **SOW** shall constitute **Brigantia's** offer to vary the **Services** and shall remain open for acceptance for a period of 30 calendar days from

the date of the **Letter of Engagement**.

(b) If the **Customer** wishes to accept **Brigantia's** offer, it shall sign the **Letter of Engagement, Order** or **SOW** and submit it to **Brigantia** and the **Services** affected shall be amended in accordance with the terms of the **Letter of Engagement, Order** or **SOW** and the **Agreement**.

6.3 Where **Brigantia** elects to make a change to the **Services** under Clause 6.1, **Brigantia** will ensure that any change(s) applied to the affected **Services** provide functionality and/or features equivalent to or exceeding the functionality and/or features for that **Service(s)** prior to the change(s).

6.4 **Changes** made pursuant to Clause 6.1 shall be notified to the **Customer** by posting the changes to the **Brigantia** Website and shall be deemed to be incorporated into this **Agreement** and be legally binding on the parties with effect from the date such posting is made. **Brigantia** will endeavour to give 30 days' notice of any such changes but any failure to give such notice shall not act to prevent such changes having full contractual effect.

6.5 Notwithstanding any other provision of the **Agreement**, in the event that **Service(s)** is/are changed due to:

- (a) the **Customer's** or **Brigantia's** decision to terminate a **Service(s)** in accordance with the **Agreement**;
- (b) **Brigantia's** suspension of a **Service(s)** under Clause 4.5;
- (c) an event where **Brigantia** is required to amend a **Service(s)** due to the act or omission of the **Customer**; or
- (d) any regrade, replacement order, renewal or any material change to the commercial and/or operational nature of the **Service** whatsoever, **Brigantia** shall no longer have any liability to the **Customer** in respect of any **Credits** that may have accrued to the **Customer** in respect of the affected **Service(s)**.

7. FEES FOR THE SERVICES

7.1 **Brigantia** shall provide a valid **VAT** invoice to the **Customer** for the **Fees**. Unless otherwise stated in an **Order, SOW** or **Letter of Engagement**, the **Customer** shall pay to **Brigantia** the undisputed **Fees** for the **Services** within 30 days of the date of sending of **Brigantia's** invoice. Where more than one **Service** is included in any **Order** or **Letter of Engagement**, **Brigantia** may invoice the **Fees** for each of the **Services** separately. All **Fees** are stated exclusive of **VAT** which shall be paid by the **Customer** at the rate prevailing from time to time.

7.2 The provision of the **Services** may be subject to the completion of an installation site survey by **Brigantia** subject to **Installation Charges**. **Brigantia** shall not be obliged to conduct a site survey until the **Installation Charges** have been agreed by the **Parties**.

7.3 **Brigantia** may alter the amount of, or the payment terms relating to the **Fees** at any time during the **Term** for the following reasons:

- (a) to take account of any increase in the costs incurred by **Brigantia** in the implementation or delivery of the **Services** (including any increase in the costs or charges of any third-party supplier or licensor to **Brigantia**); or
- (b) to pass on any increase in data centre and/or power charges imposed by any third-party supplier to **Brigantia**; or
- (c) to pass on any increase in charges imposed by any telecommunications supplier to **Brigantia**

Brigantia shall notify the **Customer** in writing of any such increase by providing not less than 30 days' prior written notice.

7.4 Without limiting Clause 7.3 **Fees** may also be increased by **Brigantia** once at any time in each **Contract Year** linked to the rate of increase in the Retail Prices Index during the preceding 12-month period, or 3% whichever is the higher.

7.5 The **Fees** paid by the **Customer** are non-refundable except where

expressly stated otherwise in the **Agreement**. If the **Customer** terminates the **Services**, **Brigantia** will not refund **Fees** paid in advance by the **Customer** save where the **Agreement** or a **Service** is terminated by the **Customer** pursuant to Clause 10.5 or Clause 10.6.

7.6 The **Customer** shall, promptly on request, provide **Brigantia** with such information as **Brigantia** may reasonably require for the purpose of complying with its obligations arising out of or in connection with the **Agreement** under the **Customer Laws**, including the **Customer's VAT** registration number.

7.7 If a **Customer** reports a **Service** issue which results in either **Brigantia** or a **Brigantia** third party engineer attending the **Premises**, where:

- (a) the **Customer** has not followed the **Brigantia** support team's procedure for trouble-shooting a **Service** issue as set out in the **Agreement** or otherwise notified to the **Customer** by **Brigantia** in advance in writing; and

- (b) **Brigantia** reasonably determine that the issue is due to an act or omission by the **Customer** or third-party acting on the **Customer's** behalf.

Brigantia may increase the **Fees** subject to any and all **Engineer Fees**.

7.8 If payment of the undisputed **Fees** is not made in full by the **Customer** by the due date for payment under Clause 7.1 and the terms of the **Agreement**, **Brigantia** may at its discretion and without prejudice to its other rights and remedies:

- (a) suspend provision of the **Services** to the **Customer** until such time as all overdue amounts are paid in full (including any and all accrued interest, charged on all overdue amounts, calculated from the date of the invoice to the date the amount is received in full.) This will be charged at a rate of 2% per annum above Barclays Bank plc base rate; and/or
- (b) set-off such sums against any sums due to the **Customer**.

7.9 **Brigantia** may charge the **Customer** a reasonable administration fee in respect of any cheques and direct debits returned unpaid by the **Customer's** bank and any credit card payments returned unpaid.

7.10 The **Customer** shall pay the **Fees** due under the **Agreement** in full without any deduction or withholding of, or in respect of, any tax unless required by law.

7.11 The **Customer** may raise to **Brigantia** concerns or queries in relation to any overcharging or inaccurate **Fees** within 30 days of the **Order** to which the query relates. Upon expiry of 30 days, the **Customer** is deemed to accept those charges and fees and waive any right to claim for such amounts.

8. CONFIDENTIALITY

8.1 During the **Term** and for a period of three (3) years thereafter, each party (the "**receiving party**") shall hold and keep confidential all Confidential Information of the other party (the "**disclosing party**") and shall not directly or indirectly disclose any such **Confidential Information** to any third-party without the express written permission of the disclosing party.

8.2 Clause 8 shall **not** prevent the receiving party from disclosing:

- (a) any **Confidential Information** of the disclosing party to any **Affiliate**, consultant, subcontractor, or other person provided that such disclosure is reasonably necessary for the purposes of the **Agreement** and that the receiving party has ensured that the recipients are made aware of and agree to provisions no less onerous than this Clause 8 in relation to such **Confidential Information**; or
- (b) any **Confidential Information** which is or becomes public knowledge, other than by a breach of Clause 8; and
- (c) any **Confidential Information** which must be disclosed to any

government or regulatory body, as required by law, regulation or order of relevant regulatory body. (In such cases, the receiving party shall notify the disclosing party of such disclosure in advance and shall follow such reasonable instructions of the disclosing party, where permitted to do so by law).

- 8.3** Each party acknowledges that any **Confidential Information** obtained from or relating to the other party or any of its **Affiliates** in the course of negotiating or in the performance of the **Agreement** is and shall remain the property of the other party or the relevant **Affiliate** as applicable.
- 8.4** Notwithstanding the provisions contained within Clause 8, **Brigantia** may refer to the **Customer** by company or trading name and to the existence of the **Agreement** in any marketing or promotional materials of **Brigantia** or any **Brigantia Affiliate** (including the **Brigantia Website**).

9. OWNERSHIP AND INTELLECTUAL PROPERTY RIGHTS

- 9.1** All right, title and interest to and all Intellectual Property Rights in the **Service Deliverables** shall remain vested in **Brigantia**, the **Brigantia Affiliates**, **Service Providers** and/or licensors as applicable.
- 9.2** Without prejudice to Clause 9.1, where in the course of the provision of the **Services**, **Brigantia** provides any **Service Deliverables** which are owned or licensed by any third party (which shall include any **Brigantia Affiliate**) or in which any Intellectual Property Rights are vested in a third party, the **Customer** shall comply in full with all licence or other agreements applicable to the use of such third party **Service Deliverables** (as may be amended from time to time) and as notified to **Customer**.
- 9.3** Subject to Clause 9.2, **Brigantia** licenses the **Customer** to use any open-source software and associated documentation files comprising the **Service Deliverables**, provided that the following notices shall be included in all copies or substantial portions of such software.
 "Permission is hereby granted, free of charge, to any person obtaining a copy of this software and associated documentation files (the "**Software**"), to deal in the Software without restriction, including without limitation the rights to use, copy, modify, merge, publish, distribute, sublicense, and/or sell copies of the Software, and to permit persons to whom the Software is furnished to do so, subject to the following conditions:
 THE SOFTWARE IS PROVIDED "AS IS", WITHOUT WARRANTY OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO THE WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NONINFRINGEMENT. IN NO EVENT SHALL THE AUTHORS OR COPYRIGHT HOLDERS BE LIABLE FOR ANY CLAIM, DAMAGES OR OTHER LIABILITY, WHETHER IN AN ACTION OF CONTRACT, TORT OR OTHERWISE, ARISING FROM, OUT OF OR IN CONNECTION WITH THE SOFTWARE OR THE USE OR OTHER DEALINGS IN THE SOFTWARE".
- 9.4** **Brigantia** acknowledges and agrees that all property and other Intellectual Property Rights wherever in the world enforceable, including all rights, title and interest in and to the **Customer Materials** and all documents, data and other materials or items relating thereto including all modifications and derivative works thereto, and any and all accrued rights of action therein shall immediately upon creation or performance vest in and shall be and remain the sole and exclusive property of the **Customer**.
- 9.5** The **Customer** grants to **Brigantia** a non-exclusive, world-wide, royalty-free, licence to use the **Customer Materials** for the duration of this **Agreement** for the purpose of exercising its rights and fulfilling its obligations under the **Agreement**.
- 9.6** The **Customer** acknowledges and agrees that it will not, whether

during the **Term** or at any time after termination of the **Agreement**, in any way question or dispute the legal and beneficial ownership by **Brigantia** of the Intellectual Property Rights in the **Services** or the **Service Deliverables** (or any part thereof). The **Customer** shall not, by action or omission, jeopardise, limit or interfere in any manner with **Brigantia's** rights (or the rights of its **Affiliates**, the **Service Providers** and/or licensors) in the **Service Deliverables**.

- 9.7** In the event that new inventions, designs, processes or Intellectual Property Rights are created by **Brigantia** during its provision of the **Services**, the **Customer** acknowledges and agrees that the same shall be the sole property of **Brigantia** absolutely.
- 9.8** Each party (at its own expense) shall ensure, through the use of all reasonable endeavours, that any other necessary third-party shall promptly execute such documents and perform such acts as may reasonably be required for the purpose of giving full effect to the **Agreement**.

10. TERM AND TERMINATION

- 10.1** Subject to this Clause 10, each of the **Services** will commence on the applicable **Service Commencement Date** and shall continue for the **Initial Term**. At the end of the **Initial Term**, each **Service** shall automatically renew for the **Renewal Term** and for consecutive **Renewal Terms** thereafter unless or until such **Services** are terminated pursuant to the **Agreement**. Upon any **Services** renewing for the **Renewal Term**, the **Customer**, may within twelve months raise a dispute or claim of any kind, relating to such **Services** in the previous **Term**. Upon failure to do so, the **Customer** agrees this as being an affirmation of any breach, or the waiver of any rights arising from the applicable **Services** against **Brigantia** or its **Affiliates**.
- 10.2** Either party may terminate the **Services**, in whole or in part, at the end of the **Initial Term** or any **Renewal Term** by providing not less than the **Minimum Written Notice** to the other party. The **Minimum Written Notice** must be served on the other party prior to the expiry of the **Initial Term** or the relevant **Renewal Term** (as the case may be). If **Minimum Notice** is not provided by the **Customer** to **Brigantia**, a **Renewal Term** will commence on expiry of the **Initial Term** or previous **Renewal Term**.
- 10.3** Where **Brigantia** is providing **Professional Services** to the **Customer**, the **Professional Services** shall commence on the date referred to in the applicable **SOW** or **Letter of Engagement** and shall, subject to the terms of the **Agreement**, continue unless terminated in accordance with the terms or period of notice specified in the **SOW** or **Letter of Engagement**.
- 10.4** **Brigantia** may terminate the **Agreement** and/or the provision of a **Service** at any time immediately upon written notice to the **Customer** if:
- the **Customer** is in material breach of the **Agreement** which is capable of remedy and has failed to remedy such breach within 30 days of a written request from **Brigantia** to do so.
 - Any failure by the **Customer** to pay any sum due under the **Agreement** by the due date for payment shall, without limitation, be a material breach of the **Agreement** which is capable of remedy for the purposes of this Clause;
 - the **Customer** is in material breach of the **Agreement** which is incapable of remedy. A breach of Clauses 5.1, 5.2, 8 or 9.6 by the **Customer** shall, without limitation, be a material breach of the **Agreement** which is incapable of remedy for the purposes of this Clause;
 - it becomes unlawful for **Brigantia** (or any other third party used by **Brigantia** to continue as **Service Provider** or **Brigantia** or a

Service Provider is required to cease the **Services** by a competent regulatory authority; or

(e) a **Service Provider** ceases to provide its services to **Brigantia** or otherwise materially changes the terms on which it provides its services to **Brigantia** beyond the reasonable control of **Brigantia**.

- 10.5** The **Customer** may terminate the **Agreement** immediately upon written notice to **Brigantia** where:
- (a) **Brigantia** is in material breach of the **Agreement** which is capable of remedy, and has failed to take steps to remedy said breach within 30 days of a written request from the **Customer** to do so; or
- (b) **Brigantia** is in material breach of the **Agreement** which is incapable of remedy.
- 10.6** Notwithstanding the provisions of Clauses 10.4 and 10.5, either party may terminate the **Agreement** and/or the provision of **Services** immediately upon written notice to the other in the event of:
- (a) the other party becoming insolvent, entering into liquidation, whether voluntary or compulsory, passing a resolution for its winding up, having a receiver or administrator appointed over the whole or any part of its assets, making any composition or arrangement with its creditors or taking or suffering any similar action in consequence of its debt; or
- (b) Clause 16.2.
- 10.7** **Termination** of a **Service** shall not affect other contracted **Services** which shall continue subject to the remaining terms of the **Agreement**.
- 10.8** Subject to earlier termination in accordance with its terms, the **Agreement** shall continue in force so long as the **Services** remain in force.
- 10.9** Upon termination of the **Agreement** or any of the **Services**:
- (a) the **Customer** shall immediately stop using the affected **Services** and the **Customer's** right to use the affected **Services** shall immediately cease;
- (b) any licences granted by **Brigantia** under the **Agreement** in respect of the affected **Services** shall terminate;
- (c) the **Customer** shall remain liable for all outstanding undisputed **Fees** for **Services** duly performed including any termination or cancellation fees referred to in the **Agreement**;
- (d) the **Customer** shall return any and all **Brigantia Equipment** used by the **Customer** in respect of the affected **Services**. If any item of **Brigantia Equipment** is not returned to **Brigantia** within 5 Working Days after the date of termination of the **Agreement** and/or the applicable **Service(s)**, **Brigantia** may invoice the **Customer** for the full market replacement value of the **Brigantia Equipment** and the **Customer** shall pay on demand such charges; and
- (e) upon request **Brigantia** may choose to provide reasonable assistance to facilitate the migration of the **Services** to the **Customer** or a replacement supplier. Such assistance shall be subject to:
- (i) the **Customer's** full and complete payment of all prevailing charges for such applicable assistance, as provided by **Brigantia**; and
- (ii) full co-operation from the **Customer** and/or the new supplier; and
- (iii) agreement between the **Parties** subject to a fully scoped and mutually agreed written migration plan.
- (f) On **Customer's** request, **Brigantia** will deliver to the **Customer** all **Customer Data** and **Materials** in **Brigantia's** (or any of its subcontractors) possession, save that this shall not include any of the **Customer Data** in backup systems.
- 10.10** The following Clauses shall survive the termination or expiry of the **Agreement**: 1, 2.3. 4, 5, 7, 8, 9, 10.9, 11, 12, 13, 17 and 18.

11. WARRANTIES

- 11.1** Each party warrants and represents that it has full capacity and authority, all necessary licences, permits and consents to enter into and perform its obligations under the **Agreement**.
- 11.2** By entering into the **Agreement**, the **Customer** warrants and represents that it does so in the course of its business, and not as a consumer.
- 11.3** **Brigantia** warrants that:
- (a) it shall provide the **Customer** with the **Services** using reasonable care and skill in accordance with the prevailing industry standards for similar **Services**;
- (b) the **Services** shall be provided in compliance with the **Supplier Laws**.
- 11.4** **Brigantia** does not warrant that the **Customer's** use of the **Services** will be uninterrupted or error-free; or that the **Services** and/or the information obtained by the **Customer** through the **Services** will meet the **Customer's** requirements.
- 11.5** Save as expressly set out in the **Agreement**, all conditions, warranties, representations, express or implied, statutory or otherwise (including the fitness of the **Services** for a particular purpose) are hereby excluded to the fullest extent permissible by law.
- 11.6** **Customers** shall not make any representations, warranties, conditions, promises or claims about the **Services**, or use thereof, to its Users or any person except those expressly authorised by **Brigantia** in writing. For the avoidance of doubt, the **Customers End-Users** are not third-party beneficiaries to this **Agreement**. All warranties provided by **Brigantia** are for the exclusive benefit of the **Customer** and are non-transferable.

12. LIABILITY

- 12.1** Each party hereby agrees to indemnify, keep indemnified and hold harmless in relation to or in connection with any and all alleged or actual costs, claims, damages, losses, liabilities, proceedings and expenses (including legal fees) whether arising directly or indirectly, brought or threatened against either party or a **Service Provider** by any person, legal entity, or organisation in connection with any breach of the **Agreement** by either party.
- 12.2** Subject to Clause 12.1, **Brigantia** shall:
- (a) notify the **Customer** in writing of any claim or potential claim brought by a third party falling within the scope of the indemnity (a "**Claim**");
- (b) make no admission of liability or settlement in respect of the **Claim** without the **Customer's** prior written consent, such consent not to be unreasonably withheld or delayed;
- (c) provide the **Customer** with all information and assistance that the **Customer** may reasonably require in relation to the **Claim** (at the **Customer's** sole expense);
- (d) allow the **Customer** control over the litigation and settlement of the **Claim** provided such conditions are met:
- (i) the **Customer** keeps **Brigantia** fully and regularly informed as to the progress of the **Claim**; and
- (ii) the **Customer** conducts such **Claim** with all due attention and skill.
- If, at any time, **Brigantia** is not satisfied with the **Customer's** fulfilment of the aforementioned conditions (d(i) and d(ii)), or with the **Customer's** conduct of the claim, **Brigantia** may take over the conduct of the claim and may settle or defend any such claim as **Brigantia** thinks fit.
- 12.3** Nothing in the **Agreement** shall exclude or limit either party's liability for:

- (a) death or personal injury resulting from its negligence or that of its employees, agents, or subcontractors;
- (b) fraud or fraudulent misrepresentation;
- (c) wilful or deliberate default; or
- (d) any other matter for which liability cannot be excluded or limited as a matter of law.

12.4 Subject to the exceptions contained within Clause 12.3 and the express terms of the **Agreement**, **Brigantia** shall not have any liability in contract or tort (including negligence) arising out of or in connection with the **Agreement** (including any collateral contract) for any indirect, special, incidental or consequential loss or damage or for any of the following, in each case direct or indirect:

- (a) loss of profits;
- (b) business interruption;
- (c) loss of business opportunities;
- (d) loss of revenue;
- (e) loss of anticipated savings;
- (f) wasted expenditure;
- (g) loss of goodwill;
- (h) loss of reputation;
- (i) economic loss or
- (j) any loss or corruption or destruction of data.

12.5 Subject to Clause 12.3, upon breach of the relevant **Service Level**, a **Customer** has the exclusive remedy of **Service Credits**, payable by **Brigantia** for said breach.

Where there is no applicable **Service Credit**, **Brigantia's** liability is limited to an amount equal to the **Fees** paid for the affected **Services** for the period of the interruption or delay, as determined by **Brigantia**.

12.6 Subject to Clauses 12.3, 12.4, 12.5 and 12.9

(a) each **Parties** liability in contract, tort (including negligence), or otherwise howsoever arising out of, or in connection with the **Agreement** (including any collateral contract) shall in respect of any one incident or connecting incidents, not exceed the total **Fees** payable by the **Customer** in the calendar year in which the incident giving rise to liability occurred (or the first incident in the series of connecting incidents), or £500,000, whichever is the lower sum.

(b) Notwithstanding Clause 12.6, but subject to Clauses 12.3, 12.4 and 12.5, each party's total aggregate liability in contract, tort (including negligence), or otherwise howsoever arising out of, or in connection with the **Agreement** shall not under any circumstances, exceed £500,000.

12.7 Subject to Clause 12.3, **Brigantia** is not responsible for any delays, delivery failures, any other loss, or damage resulting from the transfer of data over communications networks and facilities including the internet not under the control of **Brigantia** or its **Service Providers**. The **Customer** acknowledges that the **Services** may be subject to limitations, delays and other problems inherent in the use of such communications facilities.

12.8 The **Customer** accepts:

- (a) **Brigantia** has no control over the information transmitted to, or from the **Services**;
- (b) **Brigantia** does not ordinarily examine **Customer's** use of the **Services**, or the nature of the information they are sending whilst using the **Services**.

Pursuant to Clause 12.8 (a) and 12.8 (b) the **Customer** agrees that **Brigantia's** role is a mere conduit in accordance with section.17 the Electronic Commerce (EC Directive) Regulations (2002). **Brigantia** therefore excludes all liability of any kind arising from the transmission, or reception of information of whatever nature through the **Services**, to the fullest extent permissible by law.

12.9 Clause 12.6 shall not apply in relation to the **Customer's** liability under

any indemnity given by the **Customer** in the **Agreement**.

13. DISPUTES

13.1 Each party irrevocably agrees that any dispute of claim that arises out of, in connection with the **Agreement**, its subject matter or formation, shall be under the jurisdiction of, and governed by the courts of England and Wales.

13.2 The dispute management strategy is as follows:

All disputes between **Parties** arising out of, or relating to, the **Agreement**, the relevant breach, termination, or validity thereof will be referred, by either party, in writing, first to each parties **Authorised Representative**. The **Authorised Representatives'** will meet in good faith and attempt to settle the dispute within a period of 30 working days of the date of the referral of the dispute to them.

13.3 Where both **Authorised Representatives** agree a resolution between the parties is not possible through negotiation, the **Authorised Representatives** shall refer their respective parties to mediation.

13.4 An independent mediator shall be mutually agreed upon by both Parties. Upon failure to appoint a mediator within 30 working days, Brigantia shall appoint a mediator of their choosing without reference to the other party.

13.5 Mediation shall be conducted subject to the specific procedure of the chosen mediator/mediation organisation.

13.6 To initiate mediation, a party must give notice in writing to the other party to the dispute, requesting mediation. Unless otherwise stated, the mediation will start no later than 30 days after the date of the mediation notice served to the receiving party.

13.7 If the dispute is not settled by mediation within 45 days of commencement of the mediation, or within such further period as the **Parties** mutually agree, the dispute shall be referred to litigation proceedings.

13.8 By signing this document, the **Customer** agrees to the aforementioned dispute management strategy for all dispute proceedings.

13.9 Failure to comply with such strategy shall mean that the **Customer** is liable for any and all costs reasonably incurred by **Brigantia** in this process.

14. INTERNATIONAL TRADE COMPLIANCE

14.1 The **Customer** shall hereby acknowledge and agree that the supply of **Services** and/or **Services Deliverables** may be subject to **Trade Restrictions**.

14.2 **Brigantia** reserves the right to carry out screening and background checks on the **Customer** prior to the supply of the **Services** and/or **Service Deliverables** and at any time during the performance of the **Agreement**. The **Customer** shall provide all assistance to **Brigantia** that they may reasonably require in relation to such checks.

14.3 The **Customer** is solely responsible for complying with all such **Trade Restrictions**, and shall not, by action or omission, cause **Brigantia** to be in breach of such **Trade Restrictions**.

In particular, the **Customer** warrants and represents that:

- (a) it is not owned or controlled by a **Sanctioned Party**;
- (b) it will not use, sell, resell, export, re-export, transfer, distribute, dispose of, disclose or otherwise deal with the **Services** and/or **Services Deliverables**, directly or indirectly, to:

- i. any country, territory or destination with which **Brigantia**, as a matter of policy does not conduct business, including but not limited

- to Iran, Syria, Sudan, Crimea & Sevastopol, North Korea, Belarus and Russia; or
- ii. any other territory to which the supply of the **Services** and/or **Service Deliverables** would be restricted or prohibited under **Trade Restrictions** (subject to the **Customer** obtaining any and all licences and/or approvals required to make such supply); or
- iii. any **Sanctioned Party** (or any subsidiary party, owned or controlled by a **Sanctioned Party**;

15. ANTI BRIBERY AND CORRUPTION

- 15.1 Both **Parties** shall not permit any of its subsidiaries, **Affiliates**, any of its/their respective directors, officers, managers, employees, independent contractors, or representatives, to promise, authorise, pay or arrange for any payment, or giving of a bribe, or otherwise contribute any item of value to, directly or indirectly to any public official, government official, individual entity or private party in exchange for an improper advantage. In each case, in violation of:
- (a) the United Kingdom Bribery Act 2010;
 - (b) the U.S Foreign Corrupt Practices Act 1977;
 - (c) any other applicable anti-bribery or anti-corruption law, regulation or Directive applicable in the jurisdictions where either party or its/their Representatives conduct business.

16. MODERN ANTI-SLAVERY AND HUMAN TRAFICKING

- 16.1 For the complete duration of this **Agreement**, the customer shall:
- (a) comply with all applicable anti-slavery and human trafficking law, statutes, regulations and codes from time to time in force, including but not limited to the Modern Slavery Act 2015;
 - (b) have and maintain throughout the term(s) of this **Agreement** its own policies and procedures to ensure its compliance;
 - (c) not engage in any activity, practice or conduct, that would constitute an offence under sections 1, 2 or 4 of the Modern Slavery Act 2015, or any other International laws implementing or supplementing the aforementioned legislation.
- 16.2 Each Party agrees it carries out regular, meaningful and comprehensive due diligence procedures and has substantive internal policies in place to address any suspected human rights abuse where relevant or applicable. Brigantia's Anti-bribery and corruption and Anti-slavery and human trafficking policies are available to view at the Brigantia website.

17. CUSTOMER DATA AND PROTECTION

- 17.1 In the event that Clause 14 infringes or conflicts with any other provision of this **Agreement**, the provisions within Clause 14 shall prevail to the extent of said infringement or conflict.
- 17.2 The parties confirm that:
- (a) in cases where **Services** comprise the processing of the **Customer Personal Data**, in respect of such processing, **Brigantia** shall be the **Data Processor** and the **Customer** shall be the **Data Controller**; and
 - (b) if, during the **Agreement's** lifetime, a party considers that the intention of the parties to the **Agreement**, fails to correspond to the terms stated in Clause 14.2 (a), then it shall notify the other party and the **Parties** shall discuss and agree in good faith such steps that may be required to confirm the **Parties'** intended intention.
- 17.3 Without prejudice to the remaining provisions of this Clause 14, each party shall comply with the obligations imposed on it by applicable **Data Privacy Laws** with regard to the **Customer Personal Data** processed by it in connection with **Services**, including, where applicable,

appointing a data protection officer.

- 17.4 Where **Services** require the processing of the **Customer Personal Data**, each party shall ensure the description of **Services** includes the following information:
- (a) the subject matter and duration of such **Services**;
 - (b) the nature and purpose of the processing of the **Customer Personal Data** required by such **Services**;
 - (c) a description of the type(s) of the **Customer Personal Data** processed in connection with such **Services**; and
 - (d) a description of the categories of the data subjects comprised within the **Customer Personal Data** referred to in Clause 14.
- 17.5 **Brigantia** shall:
- (a) process the **Customer Personal Data** strictly in accordance with the documented instructions of the Customer including transfers of the **Customer Personal Data** outside the UK / EEA;
 - (b) ensure that any persons authorised by **Brigantia** to process the **Customer Personal Data** are subject to an obligation of confidentiality;
 - (c) implement appropriate technical and organisational measures to ensure that the **Customer Personal Data** is subject to a level of security appropriate to the risks arising from its processing by **Brigantia**, taking into account the factors stated in Article 32 of the GDPR;
 - (d) notify the **Customer** without undue delay of a personal data breach after becoming aware of it;
 - (e) Insofar as it is possible, and acknowledging the nature of **Data Processing**, **Brigantia** shall assist the **Customer** by using appropriate technical and organisational measure, for the fulfilment of the **Customer's** obligation to respond to requests for exercising a data subject's rights under the Data Protection Act 2018;
 - (f) taking into account the nature of the processing and the information available to **Brigantia**, assist the **Customer** with regard to the **Customer's** compliance with its obligations under the following Articles of the GDPR;
 - (i) Article 32 (Security of processing);
 - (ii) Articles 33 and 34 (Notification and communication of a personal data breach);
 - (iii) Article 35 (Data protection impact assessment); and
 - (iv) Article 36 (Prior consultation by the Customer with the supervisory authority)
 - (g) upon termination of **Services** that required the processing of the **Customer Personal Data** (in whole or in part), at the election of the **Customer**, deliver up or destroy such **Customer Personal Data** which is in the possession of, or under the control of, **Brigantia**;
 - (h) at the request of the **Customer**, provide the **Customer** with all information necessary to demonstrate **Brigantia's** compliance with its obligations under Clause 14, including allowing for and contributing to audits and inspections conducted by or on behalf of the **Customer**;
 - (i) maintain written records of its processing of the **Customer Personal Data** (the "**Processing Records**") as follows:
 - (i) the name and contact details of;
 - (ii) **Brigantia** and its sub-processors;
 - (iii) the **Customer**;
 - (iv) where applicable, the representatives of the **Customer**, **Brigantia** and its sub-processors, and **Brigantia's** data protection officer;
 - (v) the categories of processing of the **Customer Personal Data** carried out on behalf of the **Customer**;
 - (vi) transfers of the **Customer Personal Data** to a third country or an international organisation, including the identification of that third country or international organisation

and, where applicable, details of the suitable safeguards in place; and

(vii) where possible, a general description of the technical and organisational security measures taken by **Brigantia**, its sub-processors and the **Customer**.

17.6 **Brigantia** and its sub-processors and, where applicable, their representatives, shall make the **Processing Records** available to a supervisory authority on request;

17.7 Where, by operation of Clause 14.5 **Brigantia** is obliged to provide assistance to the **Customer**, or to third parties at the request of the **Customer** (including submission to an audit or inspection and/or the provision of information), such assistance shall be provided at the sole cost and expense of the **Customer**, save where such assistance directly arises from **Brigantia's** breach of its obligations under this **Agreement**, in which event the costs of such assistance shall be borne by **Brigantia**.

17.8 Notwithstanding any other provision of this **Agreement**, **Brigantia** shall be entitled to sub-contract any part of **Services** requiring the processing of the **Customer Personal Data**, subject to the following conditions:

(a) **Brigantia** shall notify the **Customer** in writing of its intention to engage such sub-contractor. This notice will detail the identity of such sub-contractor and the services to be supplied by it.

If, the **Customer** does not serve notice, in writing, to **Brigantia** objecting to such appointment within 7 days of the date that the notice is deemed to be received by the **Customer** (pursuant to Clause 14), this will serve as the **Customer's** approval to the engagement of such sub-contractor.

17.9 The **Parties** agree that subject to 14.10 and the provisions Article 82(3) of the GDPR:

(a) where a party is liable for losses paid to a third-party which directly arise from a party's breach of its obligations under the GDPR (the "**defaulting party**"), the defaulting party shall indemnify the other party for such losses;

(b) where the **Customer** is liable for losses paid to a third party which directly arise as a consequence of **Brigantia** acting outside or contrary to the lawful instructions of the **Customer** with regard to that part of the **Services** comprising of the processing of the **Customer Personal Data**, **Brigantia** shall indemnify the **Customer** for such losses.

17.10 Where, in accordance with the provisions Article 82(3) of the GDPR, both parties are responsible for the act, or omission to act, giving rise to the payment of losses under clauses 13.9(a) or 13.9(b), then a party shall only be liable to indemnify the other party for that part of such losses which are in proportion to their respective responsibility.

18. NOTICES

18.1 Subject to Clause 15, section 15.3, any notice required to be given under, or in connection with the **Agreement**, by the **Customer** to **Brigantia**, shall be in writing and subject to the following Delivery options:

(a) Delivered personally, or by pre-paid first-class post; recorded delivery or registered post to: Legal Department, Brigantia Partners Limited, Unit 7, College Business Park, Kearsley Road, Ripon, North Yorkshire HG4 2RN

(b) Email: legal@brigantia.com

And by **Brigantia** to the **Customer**: to the address, and/or email address set out on the **Order** (or to such other address as either party may have notified to the other party in accordance with Clause 15.1)

18.2 A notice shall be deemed to have been received:

- (a) if delivered personally at the time of delivery;
- (b) if delivered by post, 3 Working Days from the date of posting;
- (c) if sent by email, the same Working Day of sending.

18.3 In the event that, a **Customer** wishes to cancel a **Service** or **Services**, the **Customer** shall email partnersupport@brigantia.com.

19 FORCE MAJEURE

19.1 Neither party to the **Agreement** shall be liable to the other for any delay or non-performance of its obligations under the **Agreement** to the extent that such delay or non-performance is due to a **Force Majeure Event**. The **Customer** may not rely on a **Force Majeure Event** for any delay or non- performance of any obligation to pay **Brigantia** the **Fees** under the **Agreement**.

19.2 Either party may, during the continuance of any **Force Majeure Event**, terminate the **Agreement** by written notice to the other party if a **Force Majeure Event** occurs that affects all or a substantial part of the **Services** and which continues for a continuous period of more than 30 Working Days.

20. NON-SOLICITATION

20.1 Each party agrees during the term of the **Agreement** and for a period of 1 year following its termination not to solicit or induce any officer, employee, agent or contractor of the other party involved with the provision of the **Services** or the management of the **Agreement** or any significant part thereof to terminate their employment or engagement with the other provided that this Clause shall not apply to any offer of employment made to any employee or officer of the other party as a result of or in connection with a bona fide general employment advertisement not targeted specifically at the officers or employees of the other party placed in the ordinary course of business.

20.2 If a party is found to be in breach of the above mentioned non-solicitation clause, then that party agrees to compensate the other with a one-off payment of whichever is the lesser of (a) £100,000 or (b) the gross annual salary of the officer, employee, agent or contractor of the other party so solicited or induced.

21. GENERAL

21.1 The terms of the **Agreement** constitute the entire agreement and understanding between the parties in respect of the matters set out in the **Agreement** and supersedes any previous agreement between the parties in relation to such matters.

21.2 The **Customer** acknowledges that, in entering into the **Agreement**, it does not rely on, and shall have no remedy in respect of, any statement, representation, warranty or undertaking (whether negligently or innocently made) except as expressly provided in the **Agreement**. The only remedy available to the **Customer** in respect of any such statement, representation, warranty or undertaking shall be for breach of contract under the terms of the **Agreement**. Nothing in this Clause 21.2 shall operate to exclude any liability for fraud.

21.3 **Brigantia** may at any time assign, transfer, charge, subcontract or deal in any other manner with all or any of its rights under the **Agreement** and may subcontract or delegate in any manner any or all of its obligations under the **Agreement** to any third party. The **Customer** shall not, without the prior written consent of **Brigantia**, assign, transfer, charge, subcontract or deal in any other manner with all or any of its rights or obligations under the **Agreement**.

21.4 A person who is not party to the **Agreement** shall have no right under the Contracts (Rights of Third Parties) Act (1999) to enforce any term of the **Agreement**. This Clause does not affect any right or remedy of any person which exists or is available otherwise than pursuant to that Act.

21.5 Except as expressly set out herein, a waiver of any right under the **Agreement** is only effective if it is in writing and signed by the waiving party, and it applies only to the person to whom the waiver is

addressed and the circumstances for which it is given.

- 21.6** The relationship of the parties is that of independent contractors dealing at arm's length. Except as otherwise stated in the **Agreement**, nothing in the **Agreement** shall constitute the parties as partners, joint venturers or co-owners, or constitute either party as the agent, employee or representative of the other, or empower either party to act for, bind or otherwise create or assume any obligation on behalf of the other, and neither party shall hold itself out as having authority to do the same.

- 21.7** Subject to Clause 6.4, no modification or variation of the **Agreement** (or any document entered into pursuant to or in connection with the **Agreement**) made by the **Customer** shall be valid unless it is in writing and signed by or on behalf of each of the parties to the **Agreement**. Unless expressly set out herein, no modification or variation of the **Agreement** shall: (i) constitute or be construed as a general waiver of any provisions of the **Agreement**; and (ii) affect any rights, obligations or liabilities under the **Agreement** which have already accrued up to the date of such modification or waiver and are still valid and enforceable under the terms of the **Agreement**. The rights and obligations of the parties under the **Agreement** shall remain in full force and effect, except and only to the extent that they are so modified or varied.
- 21.8** Publicity. Each party agrees that no public or private announcements, media releases, press conferences or similar publicity relating to any aspect of this **Agreement** and/or **Services** shall be made without the prior written consent of the other party.
- 21.9** Errors. **Customer** shall promptly give notice to **Brigantia** of all suspected and known errors, bugs, or other problems associated with **Services** of which **Customer** becomes aware of.
- 21.10** Conflict of interest. **Customer** agrees to avoid situations which could cause a conflict of interest or even the appearance of a conflict of interest. In the event such situation arises or **Customer** gains knowledge of such a situation, **Customer** shall immediately disclose this to **Brigantia** in writing to legal@brigantia.com

