

SCHEDULE D TERMS AND CONDITIONS

1 Interpretation

1.1 In these Conditions:

"Client" means the entity named on the Contract for whom the Contractor has agreed to provide the Service in accordance with these Terms;

"Contractor" means SITOC Limited (company number 5278300);

"Contract" means the document setting out full details of the Services the Client will receive from the Contractor;

"Service" means the service (or services) to be provided by the Supplier for the Client and referred to in the Contract.

1.2 The headings in these Terms are for convenience only and shall not affect their interpretation.

1.3 Any such expressions as appear herein shall be deemed to include the masculine, feminine or plural thereof where the context so admits.

2 Engagement

2.1 The Client hereby engages the Contractor and the Contractor hereby accepts such engagement to perform the Services for the Client as specified in the Contract to which these terms and Conditions are attached. The Contractor shall not assign, sub-contract or sub-licence any of its rights or obligations under this Agreement without the Client's prior written consent.

3 Term

3.1 Subject to clause 14, the Contractor shall commence the specified services on the date specified in the Contract, and continue to provide the Services until the date specified in the Contract.

3.1.1 MTS Retained Support and HTS Services

These services shall continue and continue until the dates specified in the Contract and shall continue thereafter until or unless this Agreement is earlier terminated by either party giving to the other not less than 90 days prior written notice.

3.1.2 Project Services

The Contractor shall provide a project plan which will be mutually agreed in writing between the Contractor and Client. This contract will be completed when the authorised project services are all delivered.

3.2 All orders are accepted and Services supplied subject to these express Terms and Conditions only. No employee or agent of the Contractor has authority to vary these Terms and Conditions orally, and no variation of these Terms and Conditions shall be effective or binding on the Contractor unless confirmed in writing on or after the date hereof by the Contractor's authorised representative.

3.3 It is agreed that these Terms and Conditions prevail over the Client's terms and conditions of purchase unless the former terms and conditions are accepted by the Contractor in writing and signed by the Contractor's authorised representative.

3.4 The Client's purchase orders shall constitute offers to buy only and the contract between the Contractor and the Client shall come into effect upon the Contractor's acceptance, whether upon the Contractor's formal acknowledgements of the order or otherwise, of the Client's order.

4. Delivery of Project Services

4.1 The Contractor shall use all reasonable endeavours to deliver the Project Services by the date quoted for completion but such date is to be treated as an estimate only and completion may be postponed because of conditions beyond the Contractor's reasonable control. In no event shall the Contractor be liable for any loss or damage whatsoever arising directly or indirectly from any failure to effect completion on or by such date or otherwise howsoever caused.

4.2 Delivery of the Project Services shall be complete when the Contractor has demonstrated to the Client that the work satisfies the Acceptance Criteria specified in the Contract and any attached schedules.

5 Variation and Amendments

5.1 The Client must submit any requests for changes, additions or other variations to the Service in writing to the Contractor. The Contractor will issue a Change Notice specifying any additional work, additional costs and impact on delivery schedules and completion dates. Once issued such Change Notice must be authorised by the Client before the Contractor accepts the change.

6 Duty of the Contractor

6.1 The Contractor agrees to advise and assist the Client as properly required with respect to all aspects of the Service which are more particularly set out on the Contract.

6.2 In the performance of such duties the Contractor shall comply with all reasonable requests and directions of the Client including complying with all reasonable health, safety and security policies and regulations advised to the Contractor by the Client while the Contractor is working on the Client's premises.

6.3 The Contractor warrants that all Services will be performed:

(i) in such a way as not to cause any fault or malfunction in the supported software or the system of the Client;

(ii) in such a way as not to cause any interruption to the business processes of the Client (other than any agreed and unavoidable interruption which is required in order to perform the Services in a proper and efficient manner);

(iii) in accordance with all applicable laws and regulations;

(iv) with that degree of skill, diligence, prudence and foresight which would reasonably be expected from a skilled and experienced provider of services similar to the Services seeking in good faith to comply with its contractual obligations and applicable laws.

7 Duties of the Client

7.1 The Client shall, while this Agreement is in force provide (where applicable) access to the necessary personnel and premises of the Client and to the Client's systems and software and provide such other assistance as may be necessary for the completion of the Services.

7.2 The Client agrees to advise the Contractor of any material changes in circumstances that it considers may affect the performance of the Services in any material way.

7.3 The Client shall cooperate with the Contractor in respect of the Services and use reasonable endeavours to supply, at its expense, all agreed documents or other materials, and all necessary data or other information relating to the Service (and ensure the accuracy of the same), within a reasonable time.

8 Payment

8.1 The Contractor reserves the right to invoice for goods and services provided, or in advance if provided for in the contract.

8.2 The Client shall pay the Contractor for

8.2.1 MTS Retained Support and HTS Services

by Direct Debit mandate, for MTS Retained Services and HTS Services costs and on invoices, payable 30 days from invoice date, for any service set-up and additional billing that might occur over and above the retained contract costs.

8.2.2 Project Services

The Client shall pay the Contractor on invoices, payable 30 days from invoice date, for Project Services.

8.3 All travel and related expenses will be invoiced as accrued at cost and approved in advance by the Client

8.4 If the Client fails to pay the Contractor any sum due pursuant to the Contract, the Client shall be liable to pay interest to the Contractor on such sums from the due date for payment at the statutory rate as defined under the Late Payment of Commercial Debts (Interest) Act 1998 as amended and supplemented by the Late Payment of Commercial Debts Regulations 2002, accruing on a daily basis until payment is made, whether before or after any judgment. The statutory rate is currently defined as 8% above the base lending rate from time to time of Bank of England. The Company reserves the right to claim interest under the Late Payment of Commercial Debts (Interest) Act 1998.

9 Cancellation and Rescheduling

9.1 The Client has a right to cancel its order for any Services. Any cancellation request must be received by the Contractor at least 5 days before commencement of the Services and shall be subject to a reasonable administration charge, therefore, by the Contractor.

9.2 The Contractor shall endeavour to comply with reasonable requests by the Client for postponement of delivery of Services but shall be under no obligation to do so and where delivery is postponed by agreement otherwise than due to default by the Contractor, the Client shall pay all costs and expenses occasioned thereby and payment for the Services delivered prior to the postponement shall be made within 30 days of receiving an invoice for such Services.

10 Quantum Meruit

10.1 This clause 10.1 shall only apply in respect of Project Services. Where from any cause whether arising under the Agreement or otherwise or whether due to the Contractor's breach of contract or otherwise the delivery of Service is only partly completed, then the Contractor shall be entitled to payment on quantum meruit basis in respect of all work done by the Contractor without prejudice to the Contractor's other rights and remedies should non-completion be occasioned by default of the Client.

11 Copyright

11.1 The copyright (and any trademark, database right and design right) in any report, documentation, information, software or invention on whatever media, prepared or created by the Contractor prior to this Agreement shall be the property of the Contractor notwithstanding termination hereof unless otherwise expressly agreed in writing between the parties. The Contractor grants the Client an irrevocable, worldwide, non-exclusive, sub-licensable, royalty free licence to any such materials used in connection with the provision of the Services.

11.2 The Client shall own all intellectual property rights in any report, documentation, information, or other material which the Contractor may have access to in providing the Service, or which are created by either party in connection with the provision of the Service. The Client grants the Contractor a limited licence

to use such reports, documents, information and other materials only for the purpose of providing the Services and shall on the Client's request provide a full copy of and/or destroy all such reports, documents, information and other materials promptly upon termination of this Agreement.

11.3 The Contractor shall indemnify and hold harmless the Client in respect of any third party claims that any deliverables infringe a third party's intellectual property rights.

12 Confidentiality and Non-Disclosure

12.1 The Contractor and the Client shall not, other than with the prior written consent of the other, during or after the termination or expiry of this Agreement, disclose any information which the other has specifically stated is confidential to him, or which is by its nature confidential.

12.2 The foregoing provisions shall not prevent the disclosure or use by the Contractor of any information which is or hereafter, through no fault of the Contractor, becomes public knowledge or to the extent permitted by law.

12.3 This clause 12 shall survive the termination of this Agreement.

13 Liability and Insurance

13.1 If the Contractor's employees, contractors or agents suffer any personal injury while performing the Services at the Client's premises as a direct result of the Client's negligence or breach of this agreement, the Client shall indemnify the Contractor in respect of any third party claims subject to the liability cap in clause 13.4.

13.2 If the Client is dissatisfied with the Contractor's performance of the Service the Client shall report the matter to the Contractor who will promptly attempt to rectify the complaint in question. Unless the problem relates to anything that the Client has done or omitted to do such rectification shall be done at the Contractor's cost

13.3 Except in respect of liability arising out of clauses 12 or 14A, the Client and the Contractor accept that to the extent permitted by law each party's liability (whether for foreseeable or consequential loss including loss of profits) arising from breach of the terms of the agreement (whether express or implied by law) will be restricted to 150% of the sum paid or payable by the Client to the Contractor in the previous calendar year or if the liability arises in the first year of this Agreement, 150% of the total sum scheduled to be paid or payable by the Client in respect of the first year.

13.4 The Contractor shall ensure it has the necessary professional indemnity insurance cover in place to cover potential claims in the event that the Client suffers a loss as a result of proven negligence on the part of the Contractor in the execution of the work/services specified in this contract.

13.5 Nothing in this clause 13 excludes either party's liability for death or personal injury caused by that party's negligence, fraud or misrepresentations.

14 Termination

14.1 This Agreement shall terminate on the completion of the Services (if applicable) or at the date specified in the Contract for the expiry of those Services. Notwithstanding any other provision of this Agreement (including the Contract), the Client shall be entitled to terminate this Agreement or any of the Services under this Agreement for convenience by providing 90 days' notice in writing.

14.2 Notwithstanding any other provisions herein contained this Agreement may be terminated forthwith by either party by notice in writing if any of the following events shall occur viz.:

14.2.1 If the other party shall at any time be in default under this Agreement and shall fail to remedy such default within thirty (30) days from receipt of notice in writing from the party not in default specifying such default;

14.2.2 If the other party shall have a petition presented against it by a creditor for its winding up or shall enter into any liquidation (other than for the purpose of a bona fide reconstruction or amalgamation), shall call any meeting of its creditors, shall have an administrator appointed, be unable to pay its debts or shall cease to carry on business.

14.3 If any such event referred to in clause 14.2 shall occur, termination shall become effective forthwith or on the date set forth in such notice.

14.4 The expiry or termination of this Agreement shall be without prejudice to the rights of the parties accrued up to the date of such expiry or termination.

14.5 If any such event referred to in clause 14.2.2 shall occur, notice shall be given to the other party within seven (7) days of the event. If action has been taken to have a petition struck out, judgement set aside, or the event otherwise satisfactorily resolved, relevant evidence shall be given to the other party which may then confirm that the termination provisions in clause 14.1 shall be waived.

14A Data Protection

14A.1 The Contractor shall comply with all applicable laws regarding data protection in performing the Services, including the Data Protection Act 1998 and Privacy and Electronic Communications (EC Directive) Regulations 2003.

14A.2 To the extent the Contractor processes personal data on behalf of the Client as a data processor in performing any of the Services, the Contractor shall:

- (i) only process such personal data in accordance with the Client's instructions; and
- (ii) take all appropriate organisational and technical security measures to ensure that all personal data is kept secure and is not subject to any unauthorised or unlawful processing, accidental loss, destruction or damage.

14A.3 The Contractor shall not transfer any personal data processed in accordance with this Agreement outside the European Economic Area without the Client's prior written consent.

14A.4 The Contractor shall permit the Client to audit and inspect its facilities and processing of personal data under this Agreement at reasonable times having given reasonable notice. Each party shall bear their own cost in respect of such audit.

14A.5 The Contractor indemnifies the Client in respect of any third party claims arising out of its processing of personal data subject to this Agreement.

14A.6 "Personal data", "processing" and "data processor" in this clause shall have the meanings given to them by the Data Protection Act 1998.

15 Force Majeure

15.1 Neither party shall be liable to the other for any delay or failure to perform its obligations hereunder (other than a payment of money) where such delay or failure results from any cause or causes beyond its reasonable control including without limitation, any of the following: act of God, government act, war, fire, flood, explosion or civil commotion

16 Enticement/non-solicitation

16.1 The Client undertakes that it shall not without the Contractor's prior written consent, either during or within six months after termination of this Agreement whichever is the later, engage, employ or otherwise solicit for employment any person who, during the relevant period, was an employee of the Contractor or self employed person engaged by the Contractor.

17 Entire Agreement

17.1 This Agreement and the documents referred to in it, constitute the entire agreement and understanding of the parties and supersedes any previous agreement between the parties relating to the subject matter of this Agreement.

17.2 Each of the parties acknowledges and agrees that in entering into this Agreement, and the documents referred to in it, it does not rely on, and shall have no remedy in respect of, any statement, representation, warranty or understanding (whether negligently or innocently made) of any person other than as expressly set out in this Agreement as a warranty.

17.3 Any documents or notices given hereunder by either party to the other must be in writing and may be delivered personally or by recorded delivery or registered post or via electronic mail and in the case of post will be deemed to have been given 2 working days after the date of posting.

18 General

18.1 In the event that any of the terms contained herein are determined by any competent authority to be invalid or unenforceable to any extent, such term shall to that extent be severed from the body of this Agreement which shall continue to be valid and enforceable to the fullest extent permitted by the Law.

18.2 The parties hereby agree that this Agreement and the provisions hereof shall be construed in accordance with the Laws of England and the parties submit to the exclusive jurisdiction of the courts of England and Wales.

18.3 No third party shall acquire rights arising from the Contracts (Rights of Third Parties) Act 1999.

18.4 The title to goods and services provided by the Contractor remains with the Contractor until such time as payment in full has been received into the Contractor's bank account. If the goods are on the Client's site then the Client accepts responsibility and liability for their use and safe keeping, including their insurance even if title has not passed to Client.