

## SYSTEM CONCEPTS LIMITED

### GENERAL TERMS AND CONDITIONS FOR THE SUPPLY OF SERVICES

#### 1. INTERPRETATION

The following definitions and rules of interpretation apply in these General Terms and Conditions.

##### 1.1 DEFINITIONS:

**Accepted Order:** an Order as accepted by SCL in accordance with clause 2.2.

**Affiliate:** in relation to a party, any entity that directly or indirectly controls, is controlled by, or is under common control with that party from time to time.

**Applicable Data Protection Laws:** all Applicable Laws and regulations relating to the protection of personal data and the privacy of individuals including the UK GDPR, the Data Protection Act 2018 and the Privacy and Electronic Communications Regulations 2003 (SI 2003/2426).

**Applicable Laws:** all Applicable Laws, statutes, and regulations from time to time in force.

**Business Day:** a day other than a Saturday, Sunday or public holiday in England, when banks in London are open for business.

**Change:** a material change to the scope, nature, volume, cost or execution of the Services or Deliverables under the Contract.

**Change Control Note:** the written record of any Change agreed or to be agreed by the parties under clause 5.

**Client:** the Client set out in the Contract Details, or if none, in the Accepted Order.

**Client Default:** has the meaning set out in clause 7.2.

**Client Equipment:** any equipment, including tools, systems, cabling or facilities, , including IT equipment and access to IT systems, provided by or on behalf of the Client to SCL for use in the supply of the Services.

**Client Materials:** all documents, information, software, and other materials (whether owned by the Client or a third party), provided by the Client to SCL in connection with the Contract.

**Client Project Manager:** the Client's principal point(s) of contact for managing the contract on behalf of the Client, being the (or each) individual identified as such in the Contract Details, or if none, as specified to SCL in writing, or any replacement individual(s) appointed under clause 5.3.

**Confidential Information:** information that one party (discloser) discloses or makes available to the other party (recipient) in connection with the Contract and which would be regarded as confidential by a reasonable business person, including all information relating to the business, financial, commercial, technical, organisational, legal, management, or marketing operations of the Client and/or SCL. It does not include information that the recipient already knew, is or becomes public through no fault of the recipient, is independently developed by the recipient, or is rightfully given to the recipient by a third party without confidentiality obligations.

**Contract:** the contract between SCL and the Client for the supply of the Services, comprising the Contract Details or if none, the Accepted Order, any Special Conditions and any Schedules attached thereto, and these General Terms and Conditions.

**Contract Year:** each 12-month period starting on the Effective Date or an anniversary of it.

**control:** has the meaning given in section 1124 of the Corporation Tax Act 2010, and controls and controlled shall be interpreted accordingly.

**Data Protection Legislation:** all Applicable Laws relating to the protection of personal data and the privacy of individuals, including the UK GDPR, the Data Protection Act 2018 and the Privacy and Electronic Communications Regulations 2003 (SI 2003/2426).

**Deliverables:** the deliverables set out in the Contract Details, or if none, in the Accepted Order and all other documents, products, software and other materials developed by SCL for the Client in the performance of the Services.

**Effective Date:** has the meaning given in clause 2.2.

**Fees:** the fees payable by the Client for the Services, as set out in the Contract Details, or if none, in the Accepted Order or, if no specific fees are set out in such Accepted Order, the fees agreed between the parties in writing.

**General Terms and Conditions:** these general terms and conditions as varied by any Special Conditions or in accordance with clause 17.6.

**Intellectual Property Rights (IPRs):** patents, copyright, trade marks, business names and domain names, rights in designs, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how and trade secrets), and all other intellectual property rights, in each case whether registered or unregistered and including all applications and all similar or equivalent rights or forms of protection anywhere in the world.

**Order:** the Client's order for the Services as set out in the order form or via email (whether in response to a quotation or proposal document or otherwise).

**Policies:** the business policies listed in Schedule 1.

**Project Manager:** the Client Project Manager or SCL Project Manager, as the case may be.

**Restricted Person** means any person employed or engaged by SCL during the Term who is or has been involved in the provision of the Services to the Client or the management of the Contract.

**SCL Equipment:** any equipment, including hardware, tools, systems, cabling or devices, used by SCL or its subcontractors in the supply of the Services, excluding any items which are hired or loaned from the Client.

**SCL Project Manager:** SCL's principal point(s) of contact for managing the Contract on behalf of SCL, being the (or each) individual identified as such in the Contract Details, or if none, as specified to the Client in writing, or any replacement individual(s) appointed under clause 5.3.

**Services:** the services set out in the Contract Details, or if none, in the Accepted Order, or in the service description provided by SCL to the Client with SCL's quotation.

**Special Conditions:** the special conditions applicable (as specified in the quotation or proposal document and/or the Accepted Order) to a specific service obtained by the Client from SCL.

**Term:** the duration of the Contract set out in the Contract Details, or if none, in the Accepted Order.

**Third Party Materials:** all documents, information, software and other materials in any form belonging to a third party.

**UK GDPR:** has the meaning given to it in section 3(10) (as supplemented by section 205(4)) of the Data Protection Act 2018.

## 1.2

### INTERPRETATION

1.2.1 Condition, Schedule and paragraph headings shall not affect the interpretation of this agreement.

1.2.2 A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).

- 1.2.3 A reference to legislation or a legislative provision is a reference to it as amended, extended or re-enacted from time to time; and includes all subordinate legislation made from time to time under that legislation or legislative provision.
- 1.2.4 References to **include** or **including** or any similar expression shall be interpreted as being without limitation.
- 1.2.5 A reference to **writing** or **written** includes email but not fax.

## **2. BASIS OF CONTRACT**

- 2.1 Each Order constitutes an offer by the Client to purchase Services in accordance with these General Terms and Conditions. SCL is free to accept or reject each Order at its absolute discretion.
- 2.2 An Order will only be deemed to be accepted by SCL when SCL issues written acceptance of the Order at which point and on which date the Order shall be deemed an Accepted Order and the Contract comes into existence (**Effective Date**).
- 2.3 Any descriptions or illustrations contained in SCL's advertising, brochures or other marketing material are provided for the purpose of giving an approximate idea of the Services and do not form part of the Contract or have any contractual force.
- 2.4 The terms of the Contract apply to the exclusion of any other terms that the Client seeks to impose or incorporate. The Client waives any right it might have to rely on any term endorsed upon, delivered with or contained in any document of the Client that is inconsistent with these General Terms and Conditions.
- 2.5 Any quotation or proposal document given by SCL is valid for a period of three (3) months from the date so provided (unless withdrawn or amended by SCL earlier). Any quotation or proposal document does not constitute an offer to enter into a contractual arrangement capable of acceptance by the Client.

## **3. COMMENCEMENT AND DURATION**

- 3.1 The Contract starts on the Effective Date and continues, unless terminated earlier in accordance with its terms, for the Term, or if none specified, until completion of the Services.

## **4. SUPPLY OF SERVICES**

- 4.1 SCL shall:
- 4.1.1 supply the Services to the Client from the Effective Date in accordance with the Contract in all material respects;
- 4.1.2 perform the Services with reasonable care and skill in accordance with the generally recognised standards and practices in its industry;
- 4.1.3 perform the Services in a timely and professional manner. SCL shall use reasonable endeavours to meet any performance dates or project milestones specified in the Contract but these dates are estimates only. Time is not of the essence for the performance of any of SCL's obligations in the Contract;
- 4.1.4 obtain and maintain all licences, consents and permissions needed to supply the Services in accordance with the Contract, excluding any licences, consents and permissions that the Client is expressly responsible for obtaining or maintaining under the Contract or should reasonably be responsible for obtaining and maintaining;
- 4.1.5 take reasonable steps to keep any Client Equipment safe and secure while in the possession or control of SCL. Subject to this, the Client Equipment shall remain at the sole risk and responsibility of the Client;
- 4.1.6 use reasonable endeavours to ensure its staff observe all reasonable health and safety and security requirements that apply at any of the Client's premises that such persons

access, provided that those requirements have been communicated to SCL in advance in writing. SCL will not be liable under the Contract if, as a result of observing these requirements, it is in breach of any of its other obligations under the Contract;

4.1.7 comply with the Client Policies and any Client requirements in relation to health and safety and security that apply at the Client's premises which SCL Personnel access, as set out in Schedule 1; and

4.1.8 comply with its obligations in Schedule 2.

## **5. CONTRACT MANAGEMENT AND GOVERNANCE**

5.1 Each party shall appoint its Project Manager(s) to oversee the delivery and receipt of the Services on a day-to-day basis and be the principal point(s) of contact for the other party in connection with managing the relationship between the parties in respect of the Contract.

5.2 Each party's Project Manager(s) shall have the authority to make decisions and act on its behalf in connection with the operation of the Contract (including by signing Change Control Notes).

5.3 Each party may replace its Project Manager(s) at any time by giving notice to the other party of the replacement(s).

5.4 If any person that is not identified as a Client Project Manager gives any instruction in connection with the Contract, SCL is not obliged to carry out that instruction unless and until authorisation is subsequently obtained from a Client Project Manager.

## **6. CHANGE CONTROL**

6.1 Either party may submit a written request for Change to the other party in accordance with this clause 5 but no proposed Change will come into effect until a Change Control Note has been signed by the authorised representatives of both parties.

6.2 If SCL wishes to make a Change, it shall send a draft Change Control Note to the Client.

6.3 If the Client wishes to make a Change:

6.3.1 it shall submit a written request to SCL and provide as much detail as SCL reasonably requires, including the timing of the proposed Change, to draft a Change Control Note; and

6.3.2 SCL shall, as soon as reasonably practicable after receiving the information under clause 6.3.1, provide a draft Change Control Note to the Client.

6.4 A Change Control Note shall contain:

6.4.1 the title of the Change;

6.4.2 a description of the Change;

6.4.3 details of the effect of the proposed Change on the Services, Fees, timetable for the Services, and any other terms of the Contract.

6.5 If the parties:

6.5.1 agree to the terms of a Change Control Note, they shall sign it and that Change Control Note will amend the Contract; or

6.5.2 are unable to agree a Change Control Note, the Client may, at its option:

(a) elect to continue to receive the Services agreed under the original Contract between the parties (and any subsequent agreed amendments thereto); or

- (b) within thirty (30) days' of receiving confirmation from SCL that SCL are unable to agree the Change Control Note, terminate the Contract in accordance with clause 14.2. For the avoidance of doubt, if the Client does not exercise its right to terminate in accordance with this clause 6.5.2(b), the Client shall be deemed to have elected to continue to receive the Services in accordance with clause 6.5.2(a).

6.6 SCL may make any Change which:

- 6.6.1 is necessary for the Services to be provided in accordance with Applicable Laws; or
- 6.6.2 implements a general change to SCL's operational processes or standard service offerings and does not have a material adverse impact on the Services or materially increase the Fees.

SCL shall notify the Client if it does so.

6.7 The Client's consent to any Change requested by SCL shall not be unreasonably withheld or delayed. If the Client rejects a Change requested by SCL, it shall explain its reasons for doing so in sufficient detail as to enable SCL to understand the reasons for such rejection.

## **7. CLIENT OBLIGATIONS**

7.1 The Client shall:

- 7.1.1 co-operate with SCL in all matters relating to the Services;
- 7.1.2 provide SCL and its subcontractors with access to the Client's premises and other facilities as reasonably required by SCL for the performance of the Services;
- 7.1.3 provide SCL with all information and materials as SCL may reasonably require to supply the Services, and ensure that they are accurate and complete in all material respects and all electronic files used to provide them are free from malware and other harmful code;
- 7.1.4 provide any Client Equipment specified in the Contract Details, or if none, in the Accepted Order (or otherwise agreed in writing between the parties) by the dates and in the manner prescribed in the Contract Details or the Accepted Order (as applicable) (or otherwise agreed in writing between the parties);
- 7.1.5 ensure that all Client Equipment is in good working order and suitable for the purposes for which it is used in relation to the Services and conforms to all relevant legal standards or requirements;
- 7.1.6 obtain and maintain all licences, consents and permissions that relate specifically to the Client's business and are necessary to enable SCL to provide the Services, including all licences, consents and permissions:
  - (a) needed to allow SCL to use and access the Client Materials and Client Equipment, and install and operate SCL Equipment, in connection with the performance of the Services; or
  - (b) otherwise stated as being the Client's responsibility in the Contract Details, or if none, in the Accepted Order (or otherwise agreed in writing between the parties).
- 7.1.7 maintain any SCL Equipment in the Client's possession or control in good condition and in accordance with SCL's instructions from time to time and shall not dispose of or use SCL Equipment other than in accordance with SCL's written instructions or authorisation;
- 7.1.8 if requested by SCL, provide clear and prompt feedback on draft Deliverables submitted by SCL to the Client. The Client acknowledges and agrees that where SCL makes a request under this clause 7.1.8, the provision of such feedback by the Client is required as part of SCL's quality control systems. The Client shall provide such feedback within a reasonable time of receipt of a request from SCL under this clause 7.1.8;

- 7.1.9 respond promptly to any reasonable requests from SCL for instructions or approvals required to provide the Services;
  - 7.1.10 inform SCL of all health and safety and security requirements that apply at any of the Client's premises which SCL personnel access;
  - 7.1.11 use the Deliverables in accordance with SCL's reasonable instructions, and not rely on the Deliverables for any purpose other than the purposes intended under this Agreement or beyond any time limits specified in writing by SCL;
  - 7.1.12 comply with the SCL Policies, as set out in Schedule 1; and
  - 7.1.13 comply with its obligations in Schedule 2.
- 7.2 To the extent that SCL's performance of any of its obligations under the Contract is prevented or delayed by any act or omission of the Client or any of its agents, consultants or other suppliers (**Client Default**):
- 7.2.1 SCL shall not be deemed to be in breach of the Contract nor liable for any losses incurred by the Client as a result of such performance being prevented or delayed;
  - 7.2.2 the time for SCL's performance of its obligations so prevented or delayed shall be extended accordingly; and
  - 7.2.3 the Client shall pay SCL for any additional time and/or materials spent in connection with any additional work caused by such Client Default, prevention or delay, at SCL's standard time and materials rates;
  - 7.2.4 the Client shall reimburse SCL on written demand for any losses incurred as a result of the Client Default.

## 8. NON-SOLICITATION

- 8.1 During the Term and for a period of six (6) months after termination or expiry of the Contract, the Client shall not (and shall procure that none of its Affiliates shall), without the prior written consent of SCL solicit or entice away (or attempt to solicit or entice away) any Restricted Person from the employment or service of SCL.
- 8.2 If the Client commits any breach of clause 8.1, the Client shall, on demand, pay to SCL a sum equal to 75% of one year's basic salary together with the value of any other benefits, payable by SCL to the Restricted Person during the week immediately prior to the Restricted Person ceasing to provide services to SCL.

## 9. FEES AND PAYMENT

- 9.1 In consideration for the provision of the Services, the Client shall pay SCL the Fees in accordance with this clause 9.
- 9.2 Where the Fees are calculated on a time and materials basis:
  - 9.2.1 SCL's daily fee rates for each individual are calculated on the basis of an eight (8) hour day from 9.00am - 5.30pm worked on a Business Day (**Business Hours**). SCL may charge on a pro rata basis for part days worked by SCL personnel during Business Hours; and
  - 9.2.2 SCL may charge for work outside Business Hours at the daily fee rate on a pro-rata basis.
- 9.3 The Client shall reimburse SCL for:
  - 9.3.1 any expenses reasonably incurred by SCL personnel in performance of the Services; and
  - 9.3.2 the cost of any materials or services procured by SCL from third parties for the performance of the Services.

- 9.4 SCL may increase the Fees with effect from each anniversary of the Effective Date to reflect the percentage increase in the Retail Prices Index during the previous twelve (12) month period. SCL shall give the Client not less than thirty (30) days' prior notice of each such increase in the Fees.
- 9.5 Subject to clause 9.6, SCL shall invoice the Client for the Fees in accordance with the schedule set out in the Contract Details, or if none, in the Accepted Order. Where no schedule is specified, SCL shall, at SCL's option, invoice the Client for the Fees at the end of each month for Services performed during that month or on completion of the Services for Services performed under this agreement.
- 9.6 Where requested by the Client and agreed by SCL (at SCL's sole discretion), SCL may invoice the Client for the Fees in advance of provision of the Services. In such circumstances, if at any time the Client does not substantively engage with SCL in respect of such Services for a period of six (6) months, then the Services shall be deemed to be performed in full and SCL shall be released from any future performance of obligations in relation to such Services, unless otherwise agreed between the parties in writing.
- 9.7 SCL may, at SCL's option, invoice the Client monthly in arrears, or in accordance with invoices issued pursuant to clause 9.5, for expenses and third party costs.
- 9.8 The Client shall pay each invoice submitted by SCL within thirty (30) days of the invoice date to a bank account nominated in writing by SCL, unless agreed otherwise between the parties in writing.
- 9.9 All sums payable by the Client exclude value added tax (**VAT**). The Client shall, on receipt of a valid VAT invoice from SCL, pay to SCL any additional amounts in respect of VAT as are chargeable on those sums.
- 9.10 Without prejudice to any other right or remedy that SCL may have, if the Client fails to make a payment due to SCL under the Contract by the due date:
- 9.10.1 the Client shall pay interest on the overdue sum from the due date until payment of the overdue sum, whether before or after judgment. Interest under this clause 9.10 will accrue each day at 4% a year above the Bank of England's base rate from time to time, but at 4% a year for any period when that base rate is below 0%; and
- 9.10.2 SCL may suspend all or part of the Services until payment has been made in full;
- 9.10.3 terminate the Contract in accordance with clause 14.3.1(a).
- 9.11 All amounts due under the Contract shall be paid in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law).

## **10. INTELLECTUAL PROPERTY RIGHTS**

- 10.1 All IPRs arising out of or in connection with the Services shall be owned by SCL. This includes all IPRs in the Deliverables, excluding any Client Materials contained within them.
- 10.2 Subject to clause 10.3 and to SCL receiving payment of all Fees attributable to the Deliverables, SCL grants to the Client a non-exclusive, royalty-free, non-transferable (except in accordance with clause 17.2), perpetual licence (with the right to grant sublicences) to use the Deliverables for the purpose of receiving and exploiting the Services and Deliverables in its business.
- 10.3 SCL may need to include Third Party Materials within the Deliverables that will not be licensed to the Client on the same terms as clause 10.2. SCL licenses the Client (at the Client's cost) to use those Third Party Materials on the terms permitted by the third party and the Client shall comply with those terms (including any usage restrictions) provided they are supplied to the Client in writing. SCL's liability in relation to Third Party Materials shall be limited to the liability accepted by the third party under the relevant licence agreement.
- 10.4 The Client and its licensors retain ownership of all IPRs in the Client Materials. The Client grants SCL a non-exclusive, royalty-free licence (with the right to grant sublicences) to use, copy and modify the Client Materials during the term of the Contract for the purpose of providing the Services to the Client. The Client warrants and represents that SCL's use of the Client Materials in the performance of the Services will not infringe the rights of any third party.

- 10.5 SCL:
- 10.5.1 warrants that the supply, receipt and use of the Deliverables by the Client shall not infringe the Intellectual Property Rights of any third party;
  - 10.5.2 shall indemnify the Client against all losses incurred by the Client as a result of any claim that the supply, receipt or use of any of the Deliverables infringes the IPRs of any third party (**IPR Claim**); and
  - 10.5.3 shall not be liable under the warranty in clause 10.5.1 the indemnity in clause 10.5.2 to the extent that the actual or alleged infringement arises from:
    - (a) any changes made to the Deliverables without SCL's prior written consent;
    - (b) instructions, information or materials (including Client Materials) provided by the Client for the development of or inclusion in the Deliverables; or
    - (c) the use of the Deliverables for a purpose or in a manner not authorised by SCL or the failure of the Client to adhere to SCL's instructions for the use of the Deliverables.
- 10.6 If any IPR Claim is made, or in SCL's reasonable opinion is likely to be made, against the Client, SCL may, at its option and expense:
- 10.6.1 procure for the Client the right to continue to use the Deliverables, or relevant part of the Deliverables, in accordance with the terms of this Agreement;
  - 10.6.2 modify or replace the Deliverables with non-infringing versions, provided that the modified or replaced versions are at least equivalent in terms of functionality, quality and performance as the original versions; and
  - 10.6.3 if clause 10.6.1 and clause 10.6.2 are not reasonably practicable, terminate the Client's right to use the Deliverables affected by the IPR Claim with immediate effect by notice in writing to the Client and refund any of the fees paid by the Client as at the date of termination in respect of the affected Deliverables (less a reasonable sum in respect of the Client's use of the Deliverables to the date of termination) on return of all copies of the Deliverables which are capable of return.
- 10.7 The Client:
- 10.7.1 shall not use, disclose, or otherwise distribute any of the Deliverables other than as permitted under the Contract and shall not authorise any third party to use the Deliverables except as permitted under the Contract;
  - 10.7.2 shall not commit any act, or assist any other person in committing any act which may infringe the Intellectual Property Rights of SCL;
  - 10.7.3 warrants that the supply, receipt and use of the Client Materials in the performance of the Contract by SCL shall not infringe the IPRs of any third party;
  - 10.7.4 shall indemnify SCL against all losses incurred by SCL as a result of any claim that the supply, receipt or use of the Client Materials infringes the IPRs of any third party; and
  - 10.7.5 shall not be liable under the warranty in clause 10.7.3 or the indemnity in clause 10.7.4 to the extent that the actual or alleged infringement arises from the use of the Client Materials for a purpose or in a manner not authorised by the Client.
- 10.8 If a third party brings a claim against either party (each an **Indemnified Person**) or notifies an Indemnified Person of its intention to do so, and that claim may reasonably be considered likely to give rise to a liability under an indemnity in this clause 10 (**Claim**), that party shall:
- 10.8.1 as soon as reasonably practicable, notify the party giving the indemnity (**Indemnifying Party**) of the Claim, specifying the nature of the Claim in reasonable detail;

- 10.8.2 allow the Indemnifying Party, at the Indemnifying Party's cost, to conduct all negotiations and proceedings in relation to the Claim and to settle or compromise the Claim, provided that the Indemnifying Party may not settle or compromise the Claim unless it involves only the payment of money by the Indemnifying Party and includes a complete release of the Indemnified Person;
- 10.8.3 not make any admission of liability, settlement or compromise in relation to the Claim without the prior written consent of the Indemnifying Party (that consent not to be unreasonably conditioned, withheld or delayed); and
- 10.8.4 provide the Indemnifying Party, at the Indemnifying Party's cost, with reasonable information, assistance and co-operation in responding to and defending the Claim.
- 10.9 Each party's liability under the indemnity it gives in this clause 10 will be subject to and conditional upon the Indemnified Person's compliance with clause 10.8.
- 10.10 This clause 10 states the Client's exclusive remedy with respect to any infringement of a third party's IPRs by the Deliverables.
- 11. DATA PROTECTION**
- 11.1 Each party shall comply with its obligations under the Data Protection Legislation.
- 11.2 Where the Client shares personal data with SCL pursuant to this agreement, the Client warrants that it has all necessary consents and permissions to enable it to share such personal data with SCL.
- 11.3 Any material breach of the Data Protection Legislation by either party shall constitute a material breach for the purposes of clause 14.1.1.
- 11.4 Where required, each party shall provide reasonable assistance to the other party in complying with all applicable requirements of the Data Protection Legislation.
- 12. LIMITATION OF LIABILITY**
- 12.1 The following definitions apply in this clause 12:
  - 12.1.1 **default:** any act or omission resulting in one party incurring liability to the other; and
  - 12.1.2 **liability:** every kind of liability arising under or in connection with the Contract including liability in contract, tort (including negligence) or otherwise.
- 12.2 Nothing in the Contract limits or excludes:
  - 12.2.1 liability for deliberate default;
  - 12.2.2 liability for death or personal injury caused by negligence to the extent preserved by section 2(1) of the Unfair Contract Terms Act 1977;
  - 12.2.3 liability for fraud or fraudulent misrepresentation;
  - 12.2.4 liability for breach of the terms implied by section 2 of the Supply of Goods and Services Act 1982;
  - 12.2.5 any liability that cannot legally be limited; or
  - 12.2.6 the Client's liability for its payment obligations under the Contract.
- 12.3 Subject to clause 12.2, SCL's total liability shall not exceed 100% of the Fees paid to SCL under the Contract.
- 12.4 Subject to clause 12.2, neither party shall have any liability for:

- 12.4.1 loss of profits (including loss of anticipated savings);
  - 12.4.2 loss of business or business opportunity;
  - 12.4.3 loss of use or corruption of software, data or information;
  - 12.4.4 loss of or damage to goodwill; or
  - 12.4.5 indirect or consequential loss.
- 12.5 Subject to clause 12.2, SCL shall not be liable for any losses incurred by the Client as a result of:
- 12.5.1 using draft Deliverables as finished work without SCL's prior written approval; or
  - 12.5.2 using the Deliverables for any purpose other than that for which they were intended.
- 12.6 Subject to clause 12.2, SCL has given commitments as to compliance of the Services with relevant specifications in clause 4. In view of these commitments, all conditions, warranties, representations or other terms that might otherwise be implied into this agreement are, to the fullest extent permitted by law, excluded from this agreement, including the conditions and term implied by sections 3 to 5 and 13 of the Supply of Goods and Services Act 1982.
- 12.7 The Client's liability shall not be reduced by:
- 12.7.1 amounts awarded or agreed to be paid under clause 8; or
  - 12.7.2 amounts awarded by a court or arbitrator, using their procedural or statutory powers in respect of costs of proceedings or interest for late payment.
- 12.8 Unless a party notifies the other party that it intends to make a claim within the notice period, the other party shall have no liability for that claim. The **notice period** shall start on the day on which the party wishing to make a claim became, or ought reasonably to have become, aware of its having grounds to make a claim and shall expire twelve (12) months from that date. The notice must be in writing and must identify the event and the grounds for the claim in reasonable detail.

### **13. CANCELLATION**

- 13.1 Once an Order is accepted by SCL in accordance with clause 2.2, the Accepted Order shall not be cancelled by the Client at any time before the end of its Term for any reason without SCL's prior written consent, other than pursuant to clause 14.1 or 14.2. If SCL consents to the cancellation of an Accepted Order in accordance with this clause 13.1, then SCL shall be entitled to charge the Client the proportion of the Fees applicable to the work provided under the Contract up to the date of cancellation, including any third party costs expended by SCL in connection with the provision of the Services.

### **14. TERMINATION**

- 14.1 Without affecting any other right or remedy available to it, either party may terminate the Contract with immediate effect by notifying the other party if:
- 14.1.1 the other party is in material breach of the Contract where the breach is not capable of remedy, or the breach is capable of remedy and is not remedied within fourteen (14) days by the other party after being notified to do so;
  - 14.1.2 the other party repeatedly breaches any of the terms of the Contract in such a manner as to reasonably justify the opinion that its conduct is inconsistent with it having the intention or ability to give effect to the terms of it;
  - 14.1.3 the other party takes or has taken against it (other than in relation to a solvent restructuring) any step or action towards its entering bankruptcy, administration, provisional liquidation or any composition or arrangement with its creditors, applying to court for or obtaining a moratorium under Part A1 of the Insolvency Act 1986, being wound up (whether voluntarily or by order of the court), being struck off the register of companies, having a receiver

appointed to any of its assets, or its entering a procedure in any jurisdiction with a similar effect to a procedure listed in this clause 14.1.3;

14.1.4 the other party suspends or ceases, or threatens to suspend or cease, carrying on all or a substantial part of its business; or

14.1.5 the other party's financial position deteriorates so far as to reasonably justify the opinion that its ability to give effect to the terms of the Contract is in jeopardy.

14.2 Without affecting any other right or remedy available to it, the Client may terminate the Contract if the events set out in clause 6.5.2 occur, by giving SCL not less than thirty (30) days' notice in writing.

14.3 Without affecting any other right or remedy available to it, SCL may terminate the Contract:

14.3.1 with immediate effect by notifying the Client if:

(a) the Client fails to pay any amount due under the Contract by the due date for payment and remains in default not less than fourteen (14) days after being notified to make that payment;

(b) the Client fails to pay any amount due under the Contract by the due date for payment on five (5) or more occasions in any Contract Year;

(c) the Client commits a breach of clause 10; or

(d) there is a change of control of the Client.

14.3.2 at any time by giving the Client not less than thirty (30) days' notice in writing.

14.4 Either party may terminate the Contract where it has the right to do so under clause 17.1.

14.5 Without affecting any other right or remedy available to it, SCL may suspend the supply of Services if the Client becomes, or SCL reasonably believes that the Client is about to become, subject to any of the events listed in clause 14.1.3, clause 14.1.4 or clause 14.1.5.

## **15. CONSEQUENCES OF TERMINATION**

15.1 On termination of the Contract:

15.1.1 the Client shall immediately pay to SCL all of SCL's outstanding unpaid invoices and interest and, where no invoice has been submitted for Services supplied, SCL may submit an invoice, which shall be payable by the Client immediately on receipt; and

15.1.2 except as otherwise set out in these General Terms and Conditions, each party shall promptly return to the other party (in accordance with that other party's reasonable instructions) all equipment, materials or other property in its possession or control that belong to the other party and were supplied in connection with the Contract.

15.2 If SCL exercise its right to terminate the Contract pursuant to clause 14.1.1 or 14.3.1, the Client shall immediately pay to SCL the amount of the Fee.

15.3 Termination of the Contract will not affect any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination.

15.4 Any provision of the Contract that expressly or by implication is intended to come into or continue in force on or after termination of the Contract will remain in full force and effect, including clause 8, clause 10, clause 11, clause 12, this clause 15, and clause 16.

## **16. CONFIDENTIALITY**

- 16.1 Each party undertakes that it shall not at any time disclose to any person any Confidential Information of the other party, except as permitted by clause 16.2.
- 16.2 Each party may disclose the other party's Confidential Information:
- 16.2.1 to those of its employees, officers, representatives, contractors, subcontractors or advisers who need to know that information for the purposes of exercising its rights or carrying out its obligations under the Contract. Each party shall ensure that such persons comply with confidentiality obligations which are substantially equivalent to those set out in this clause 16; and
  - 16.2.2 as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.
- 16.3 Each party shall keep the other party's Confidential Information secret and confidential and shall not use the other party's Confidential Information for any purpose other than to exercise its rights and perform its obligations under the Contract.
- 16.4 The provisions of this clause 16 shall continue to apply for a period of two (2) years after termination or expiry of the Contract.

## **17. GENERAL**

- 17.1 **Force majeure.** Neither party shall be liable for any delay or failure in the performance of its obligations for so long as and to the extent that such delay or failure results from events, circumstances or causes beyond its reasonable control. If the period of delay or non-performance continues for a period of sixty (60) days, the party not affected may terminate this agreement by giving not less than thirty (30) days' written notice to the affected party. In the event of such termination, the consequences set out in clause 15 shall apply.
- 17.2 **Assignment and other dealings.**
- 17.2.1 Unless provided otherwise in the Contract, the Client shall not assign, transfer, delegate or subcontract any or all of its rights and obligations under the Contract without SCL's prior written consent.
  - 17.2.2 SCL may at any time assign, transfer, delegate or subcontract any or all of its rights and obligations under the Contract.
- 17.3 **Compliance.** Each party shall comply with all Applicable Laws in performing its obligations under the Contract.
- 17.4 **Dispute resolution.** No party may commence any court or arbitration proceedings in relation to the whole or part of any dispute between the parties until it has attempted to settle the dispute by mediation and either the mediation has terminated, or the other party has failed to participate in the mediation, or the dispute has not been resolved within thirty (30) days of mediation commencing, provided that the right to issue proceedings is not prejudiced by a delay. Where relevant, the mediator shall be agreed upon within seven (7) days of a request by either party for mediation. Unless otherwise agreed, the parties shall share equally the costs of mediation. Nothing in this clause 17.4 shall prevent either party from seeking a preliminary injunction or other judicial relief if in its judgement such action is necessary nor shall SCL be precluded at any time from issuing proceedings or taking any other step in relation to the non-payment of monies due by the Client under the Contract.
- 17.5 **Entire agreement.**
- 17.5.1 The Contract constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances and understandings between them, whether written or oral, relating to its subject matter.
  - 17.5.2 Each party acknowledges that in entering into the Contract it does not rely on and shall have no remedies in respect of any statement, representation, assurance or warranty

(whether made innocently or negligently) that is not set out in the Contract. Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in the Contract.

**17.6 Variation.**

17.6.1 Except as set out in these General Terms and Conditions, no variation of the Contract will be effective unless it is in writing and signed by the parties or their authorised representatives.

17.6.2 SCL may vary these General Terms and Conditions from time-to-time by posting an updated version on its website but, unless otherwise agreed in writing and signed by the parties (or their authorised representatives), no variation will apply to Accepted Orders already in force prior to that variation.

**17.7 Waiver.** A waiver of any right or remedy is only effective if given in writing and will not be deemed a waiver of any subsequent right or remedy. A failure or delay to exercise, or the single or partial exercise of, any right or remedy does not waive that or any other right or remedy, nor does it prevent or restrict any further exercise of that or any other right or remedy.

**17.8 Severance.** If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it will be deemed deleted, but that will not affect the validity and enforceability of the rest of the Contract.

**17.9 Notices.**

17.9.1 Any notice given to a party under or in connection with the Contract shall be in writing and shall be:

- (a) delivered by hand or by pre-paid first-class post or other next working day delivery service to its registered office (if a company) or its principal place of business (in any other case); or
- (b) sent by email to the address specified in the Contract Details, or if none, in the Accepted Order (or to any address substituted in writing by the party to be served).

17.9.2 Any notice will be deemed to have been received:

- (a) if delivered by hand, at the time the notice is left at the proper address;
- (b) if sent by pre-paid first-class post or other next working day delivery service, at 9.00 am on the second Business Day after posting; or
- (c) if sent by email, at the time of transmission or, if this time falls outside Business Hours in the place of receipt, when Business Hours resume.

17.9.3 This clause 17.9 does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

**17.10 Third party rights.**

17.10.1 Unless it expressly states otherwise, the Contract does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Contract.

17.10.2 The rights of the parties to rescind or vary the Contract are not subject to the consent of any other person.

**17.11 Relationship of the parties.** Nothing in these General Terms and Conditions is intended to, or will be deemed to, establish any partnership or joint venture between any of the parties, constitute any party the agent of another party, or authorise any party to make or enter into any commitments for or on behalf of any other party.

- 17.12 **Counterparts.** This Contract may be executed in any number of counterparts, each of which constitutes a duplicate original, but all the counterparts together constitute the one contract. Transmission of the executed signature page of a counterpart of the Contract by email (in PDF, JPEG or other agreed format) takes effect as the transmission of an executed "wet-ink" counterpart of the Contract.

**18. GOVERNING LAW**

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

**19. JURISDICTION**

- 19.1 Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with the Contract or its subject matter or formation. Nothing in this clause limits the right of SCL to take proceedings against the Client in any other court of competent jurisdiction, nor shall the taking of proceedings in any one or more jurisdictions preclude the taking of proceedings in any other jurisdictions, whether concurrently or not, to the extent permitted by the law of such other jurisdiction.

## **Schedule 1**

### **POLICIES**

The Policies are:

#### **SCL Policies:**

- SCP-001 Anti-bribery policy v5.0
- SCP-002 Anti-harassment policy v5.0
- SCP-003 Corporate social responsibility policy v4 0
- SCP-019 Modern Slavery Policy V2.0
- SCP-026 Fraud Prevention Policy V2.0 May 23
- SCP-031 Supplier Policy V1.0
- SCT-004 PEP Policy V2.0
- SCP-014 Safeguarding policy V3.0
- SCT-002 Health and safety policy V3.0
- SCT-003 Environmental and Sustainability policy V3.0
- SCP-024 GDPR Policy v3.0
- SCP-025 Whistleblowing Policy v2.0
- SCT-027 Privacy Policy V3.0

## Schedule 2

### TUPE

1. In this Schedule 2, the following definitions shall apply:

**Employment Regulations:** the Transfer of Undertakings (Protection of Employment) Regulations 2006 (SI 2006/246) and all other Applicable Laws in any applicable jurisdiction regulating the automatic transfer of employment on a service provision change.

2. Each party agrees that neither the start nor the termination of the Services (or any part of them) is expected to constitute a relevant transfer for the purposes of the Employment Regulations.
3. SCL shall, if requested to do so by the Client at any time during the period of three (3) months before termination or expiry of the Services, use all reasonable endeavours to organise SCL personnel in such a way that none of them transfer to the Client or its replacement supplier on termination or expiry of the Services.
4. If, despite paragraph 3, the employment or engagement of any SCL personnel is found or alleged to have transferred to the Client or its replacement supplier by virtue of this agreement or the Employment Regulations on the termination or expiry of the Services (or any part of them), then:
  - 4.1 the Client shall notify SCL within five (5) Business Days of becoming aware of that fact;
  - 4.2 SCL may, within five (5) Business Days after the date of the notice in paragraph 4.1, make an offer of employment or engagement to the relevant person (or procure that a subcontractor does);
  - 4.3 the Client shall release, or procure that its replacement supplier releases, the relevant person from their employment or engagement if the offer is accepted or, if no offer is made or accepted, terminate their employment or engagement within five (5) Business Days of the expiry of the five (5) Business Day period referred to in paragraph 4.2; and
  - 4.4 SCL shall indemnify the Client or its replacement supplier (as applicable) against all losses incurred by them as a result of the termination of the employment or engagement of the relevant person, provided that such employment or engagement is terminated within three (3) months of the date of transfer and provided that the Client or its replacement supplier takes reasonable steps to minimise those costs or losses.
  - 4.5 In the event that the Client or its replacement supplier choose to continue to employ or engage the relevant person, SCL shall indemnify the Client or its replacement supplier (as applicable) against any claims of losses incurred by the Client or its replacement supplier as a result of anything done or omitted to be done by SCL on or before the date of transfer, and SCL shall be entitled to control conduct of any such claims.
5. In relation to any claim(s) in relation to the indemnity under paragraphs 4.4 or 4.5 of this Schedule 2:
  - 5.1 The Client or its replacement supplier (as applicable) shall notify SCL promptly upon becoming aware of any circumstances which may give rise to a claim.
  - 5.2 SCL shall, at its own cost, be entitled to conduct all negotiations and proceedings and to settle any such claim, always provided that SCL shall (i) keep the Client and/or its replacement supplier (as applicable) up to date in relation to any claim(s); (ii) consult with the Client and/or its replacement supplier (as applicable); and (iii) obtain the Client or its replacement supplier's (as applicable) prior approval of any settlement terms, such approval not to be unreasonably withheld or delayed.
  - 5.3 The Client or its replacement supplier (as applicable) shall provide SCL with such reasonable assistance relating to the claim(s) as SCL may require, subject to reimbursement by SCL of the other party's costs so incurred.
  - 5.4 The Client or its replacement supplier (as applicable) shall not, without prior consultation with SCL, make any admission relating to the claim(s) or attempt to execute or settle the claim(s), provided that SCL considers and addresses any such claim(s) diligently and in such a way as not to bring the reputation of the other party into disrepute.