



IDENTITY

The human experience agency

Terms & Conditions: Supplier

Terms of Business

1. DEFINITIONS AND INTERPRETATION

The following definitions and rules of interpretation apply in these Terms (unless the context requires otherwise).

1.1. Definitions

Agreement means the contract between Identity and the Supplier consisting of (i) the Purchase Order (as accepted by the Supplier) (ii) these Terms (iii) any Specification and (iv) any other document(s) (or part(s) of document(s)) incorporated by reference and/or notified in writing by Identity to the Supplier.

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

Confidential Information: information in whatever form (including without limitation, in written, oral, visual or electronic form or on any magnetic or optical disk or memory and wherever located) relating to the business, customers, products, affairs and finances of a company for the time being confidential to that company and trade secrets including, without limitation, technical data and know-how relating to the business of that company or of any Group company or any of their suppliers, customers, agents, distributors, shareholders, management or business contacts, whether or not such information (if in anything other than oral form) is marked confidential.

Control: has the meaning given in section 1124 of the Corporation Tax Act 2010, and the expression **change of control** shall be construed accordingly.

Cancellation Event:

- the Identity Client notifies Identity that it is for any reason, including related to COVID-19, cancelling the Project or the Identity Client decides to cancel the Project;
- the Identity Client notifies Identity that it shall be delivering the Project in a different location, or the Identity Client determines that the Project is to be delivered in a different location, including, in each case, by allowing virtual attendance of some or all delegates; and/or
- the Identity Client notifies Identity that it intends to postpone the Project, or the Identity Client decides to postpone the Project but in either case, Identity is unable to accommodate the re-scheduled dates.

Deliverables: all documents, products, materials and Services developed or provided by the Supplier or its agents, subcontractors and personnel as part of or in relation to the Goods and/or Services in any form, including without limitation those items included within any Purchase Order and/or any Specification.

Fees: the charges payable by Identity for the supply of the Goods and/or Services by the Supplier shall be set out within the Specification and/or Purchase Order which Identity shall provide to the Supplier from time to time.

Goods means those goods specified in the relevant Purchase Order;

Group: in relation to a company, that company, any subsidiary or holding company from time to time of that company, and any subsidiary from time to time of a holding company of that company.

Identity: means Identity Holdings Limited, a company registered in the United Kingdom with company number 04217845 whose registered office is 30-34 North Street, Hailsham, East Sussex, BN27 1DW, UK.

Identity Client: Identity's own client in relation to a Project.

Identity IP: means all Intellectual Property Rights produced by the Supplier in connection with this Agreement, including: (a) the Goods and/or Services and any Deliverables; (b) any other materials coming into existence in connection with the performance of the Agreement by the Supplier; and / or (c) any Confidential Information relating to Identity or to the Goods and/or Services;

Identity Materials: all materials, equipment and tools, drawings, specifications and data supplied by Identity to the Supplier whether marked as Identity Materials or not.

Insurance Policies: means those insurance policies set out in Clause 7 (Insurances).

Intellectual Property Rights: All patents, utility models, rights to inventions, copyright and neighbouring and related rights, moral rights, trademarks and service marks, business names and domain names, rights in get-up and trade dress, goodwill and the right to sue for passing off or unfair competition, rights in designs, rights in computer software, 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 rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world in any medium, both existing or in the future in perpetuity.

Pandemic: a widespread national outbreak of infectious disease (including the disease known as coronavirus disease (COVID-19)) as determined by the World Health Organisation.

Party: Identity and Supplier are each individually a Party to the Agreement, and jointly are the **Parties**.

Policies: Identity's mandatory policies set out at www.identitygroup.co.uk/policies.

Project means the Identity project for which the Goods and/or Services are being provided.

Purchase Order or PO: means the document setting out the Goods and/or Services incorporating these Terms.

Schedules: the schedules to this Agreement.

Specification: means any specifications that Identity shall provide to the Supplier from time to time in respect of Goods and/or Services to be supplied to Identity by the Supplier under the Agreement.

Services: means those services specified in the relevant Purchase Order.

Step-In Trigger Event: means

- any event that would entitle Identity to terminate in accordance with this Agreement;
- a default by the Supplier that is materially preventing or materially delaying the supply of the Goods and/or Services;
- Identity considers that the circumstances constitute an emergency despite the Supplier not being in breach of its obligations under this Agreement;
- Identity being advised by the Identity Client or a regulatory body that the exercise by Identity or the Identity Client of its rights under Clause 25 is necessary;
- the existence of a serious risk to the health or safety of persons, property or the environment in connection with the Services; and/or
- a need by Identity to take action to discharge a statutory duty.

Supplier Materials: all Intellectual Property Rights either subsisting in the Deliverables (excluding any Identity Materials incorporated within them) or otherwise necessary or desirable to enable Identity to receive and use the Goods and/or Services.

1.2. Interpretation

1.2.1. A reference to a statute or statutory provision is a reference to it as amended, extended, or re-enacted from time to time. A reference to a statute or statutory provision includes any subordinate legislation made from time to time under that statute or statutory provision.

1.2.2. Any words following the terms including, include, in particular, for example or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.

1.2.3. A reference to writing or written includes fax and email.

2. SUPPLY OF SERVICES

2.1. Receipt of a PO by the Supplier constitutes an offer by Identity to obtain Supplies from the Supplier which shall be deemed to have been accepted on the Supplier's either confirming its acceptance in writing duly signed by or on behalf of the Supplier or providing (or beginning to provide) all or part of the Goods and/or Services.

2.2. The terms and conditions of this Agreement apply to all purchases of Supplies by Identity to the exclusion of any terms and conditions submitted in any way by or on behalf of the Supplier (**Supplier Conditions**), and the Supplier irrevocably waives any right that it otherwise might have to rely on the Supplier Conditions.

2.3. The Supplier shall supply the Goods and/or Services to Identity in accordance with this Agreement.

2.4. In delivering the Goods and performing the Services the Supplier shall meet any performance dates specified in the Purchase Order, noting that time is of the essence.

2.5. The Supplier undertakes, represents and warrants to Identity that the Supplier shall:

- provide any Goods and perform the Services with the highest level of care, skill, and diligence in accordance with best practice in the Supplier's industry, profession or trade;
- co-operate with Identity in all matters relating to the supply of the Goods and Services, and comply with all instructions of Identity;
- appoint or, at the written request of Identity, replace without delay a manager, who shall have authority to contractually bind the Supplier on all matters relating to the Goods and Services. The initial manager shall be the Supplier's representative;
- only use personnel who are suitably skilled and experienced to perform the tasks assigned to them, and in sufficient number to ensure that the Supplier's obligations are fulfilled in full and on time;
- any travel and subsistence arrangements between the Supplier and its personnel comply with and will continue to comply with all relevant HMRC requirements;
- ensure, at the Suppliers own cost, that it obtains, and maintains all consents, licences and permissions (statutory, regulatory, contractual or otherwise) it may require and which are necessary to enable it to comply with its obligations in the Agreement and further to ensure that all local customs, byelaws, consents, licences and permissions are obtained and complied with by the Supplier at all times in the jurisdiction and location in which the Goods and/or Services in respect of the Agreement are to be performed;
- ensure that the Goods and Services and Deliverables shall conform in all respects with the description set out in this Agreement and that the Deliverables shall be fit for any purpose that Identity expressly or impliedly makes known to the Supplier;
- provide all equipment, tools, vehicles, and other items required to provide the Goods and Services whether included within the Purchase Order or not;
- ensure that the Deliverables, and all goods, materials, standards, and techniques used in providing the Goods and Services are of the best quality and are free from defects in workmanship, installation and design;
- comply with (i) all applicable laws, statutes, regulations, and codes from time to time in force; and (ii) the Policies;
- observe all health and safety rules and regulations and any other reasonable security requirements that apply at any of Identity's premises and including all third-party sites at which the Goods and Services may be provided from time to time as notified to the Supplier;
- maintain a Health and Safety policy (and shall provide such policy to Identity if requested by Identity) and, in addition, shall not take any actions putting Identity or anyone else at risk;
- hold all Identity Materials in safe custody at its own cost and risk, maintain the Identity Materials in good condition until returned to Identity or delivered to any third party nominated by

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Identity in writing, and not dispose of or use the Identity Materials other than in accordance with Identity's written instructions or authorisation;

2.5.14. not do or omit to do anything which may cause Identity to lose any licence, authority, consent, or permission on which it relies for the purposes of conducting its business and

2.5.15. notify Identity in writing immediately upon the occurrence of a change of control of the Supplier; and

2.5.16. comply with any procedures notified to it by Identity for vetting and accreditation of personnel in respect of all Supplier personnel employed or engaged in the provision of the Goods and/or Services and agree that it shall not be relieved of its obligations to supply the Goods and/or Services should any of its personnel (including sub-contractors) fail to pass such vetting and accreditation procedures.

2.6. Identity shall have the right, in its absolute discretion, to require the Supplier not to use specified individuals employed or engaged by the Supplier, or by a sub-contractor of the Supplier, in the supply of the Goods and/or Services. Identity shall not exercise this right in breach of any law. The Supplier shall not be relieved of its obligations to supply the Goods and/or Services in accordance with this Agreement where Identity exercises this right.

3. DELIVERY, TITLE AND RISK

3.1. The Supplier shall supply the Goods and/or Services in accordance with the instructions and date(s) specified in the Purchase Order. Time is of the essence for delivery of the Goods and Services. The Supplier shall (without further liability to Identity) devote such of their time, attention and ability to the Goods and Services (including any overtime or additional shifts required) as may be necessary to meet those timescales.

3.2. The Supplier shall ensure that:

3.2.1. any Goods are marked and delivered in accordance with Identity's instructions and any applicable regulations or requirements of the carrier and properly packed and secured so as to reach their destination in an undamaged condition in the ordinary course; and

3.2.2. each delivery of any Goods is accompanied by a delivery note which shows the PO number, date of order, number of packages and contents and, in the case of part delivery, the outstanding balance remaining to be delivered.

3.3. Unless otherwise agreed by Identity in writing, any Goods shall be delivered during business hours with transportation charges and any other applicable charges pre-paid by the Supplier. The Supplier shall offload Goods at its own risk, as directed by Identity.

3.4. Identity and, if applicable, the Supplier shall inspect any Goods as soon as practicable following delivery and agree an inventory of the quality and quantity delivered. Identity shall not be liable for any damage found on such inspection. If Identity in its reasonable opinion considers any of the Goods to be in an unsuitable condition or of the wrong quantity either on delivery or subsequently, Identity shall notify the Supplier, which shall promptly arrange the repair, remedy, correction or replacement of such Goods within 24 hours following the time of Identity's notification to the Supplier. If the Supplier has not fully repaired, remedied, corrected, or replaced (as appropriate) such Goods by the expiry of such 24-hour period, Identity shall be entitled to enforce Identity's remedies under Clause 8 (Remedies).

3.5. Unless otherwise specified, the Supplier shall be responsible for installing, commissioning and decommissioning any Goods.

3.6. Identity shall not be deemed to have accepted any Goods until it has had a reasonable period of time to inspect them following delivery or, if later, within a reasonable period of time after any latent defect in them has become apparent.

3.7. The Supplier shall give Identity prior written notice of the delivery under this Agreement of any Goods having a hazard to the health and safety of persons or property, identifying those hazards and giving full details of any precautions to be taken by Identity on the delivery of such Goods and their subsequent storage or handling. The Supplier shall notify Identity in writing of all requirements and restrictions imposed by governmental and other authorities or persons relating to the possession, use or onward supply of the Goods.

3.8. Where Identity is purchasing any Goods:

3.8.1. title to the Goods shall pass to Identity upon the earlier of delivery or the first payment by Identity in respect of the Goods and the Supplier shall take all reasonable steps to pass title in such Goods to Identity, including, where requested, completing a vesting certificate; and

3.8.2. risk in the Goods shall only pass to Identity upon delivery of the Goods in accordance with this Agreement.

3.9. Where Identity is hiring Goods:

3.8.1. title to the Goods indicated as being hired by Identity from the Supplier (Hire Goods) shall remain the property of the Supplier.

3.8.2. the Supplier irrevocably permits Identity and its contractors to use the Hire Goods in accordance with the manufacturer's instructions and recommendations during the hire period specified in this Agreement (**Hire Period**) and subject to this Agreement.

3.8.3. Identity shall have no liability or responsibility whatsoever for: (i) any loss or damage to, and any charges or other payments to the Supplier for, any property of the Supplier (including any Hire Goods) which occurs after the date due for collection by Supplier; or (ii) theft or loss of Hire Goods not caused by the negligence of Identity.

4. FEES AND PAYMENT

4.1. In consideration for the provision of the Services, Identity shall pay the Fees to the Supplier in accordance with the Purchase Order.

4.2. All amounts payable by Identity under this Agreement are exclusive of value added tax (VAT).

4.3. The Supplier shall submit invoices for the Fees plus VAT if applicable to Identity and Identity shall pay such Fees in accordance with the payment schedule set out in the Purchase Order and/or any Specification.

4.4. Each Supplier invoice shall be for the Fees plus VAT if applicable and shall include all supporting information reasonably required by Identity.

4.5. Where the Supplier submits an invoice in accordance with Clause

4.4, Identity will consider and verify it in a timely fashion.

4.6. Except as referenced above, Identity shall pay all invoices that Identity has determined are valid and undisputed and compliant in all respects with the Agreement and which relate to Goods and/or Services properly made in accordance with the Agreement within 30 days of the date of receipt.

4.7. In the event that the Supplier has failed to provide any Goods and/or Services in accordance with the Agreement, Identity may withhold the Fees payable in connection with the Goods and/or Services and/or the period in which those Goods and/or Services were due.

4.8. Identity may, upon reasonable prior written notice, set off any amount owed by the Supplier against any amount due to the Supplier under this Agreement or under any other agreement between the Supplier and Identity.

5. INTELLECTUAL PROPERTY

5.1. The Supplier acknowledges and agrees that all Identity IP is and shall be, as between the Supplier and Identity, the exclusive property of Identity and will vest in Identity on creation. To the extent necessary, the Supplier hereby assigns (by way of present and future assignment) absolutely all Identity IP to Identity. To the extent that any Identity IP does not vest in Identity either pursuant to this Agreement or otherwise under law, the Supplier shall hold such Identity IP in trust for and always for the benefit of Identity. The Supplier agrees to execute all documents and do all other things required by Identity in order to perfect Identity's title to the Identity IP and to otherwise give effect to this Clause 5.

5.2. The Supplier agrees to:

5.2.1. disclose all Identity IP to Identity on creation;

5.2.2. ensure that any Personnel assign all identity IP to Identity on creation and otherwise comply with this Clause 5; and

5.2.3. execute all documents and do all other things required by Identity in order to perfect Identity's title to the Identity IP and to otherwise give effect to this Clause 5.

5.3. To the extent required to enable Identity or its successors or assignees to utilise in full without restriction for whatever purpose they may so determine and to enjoy and receive the benefit of the Services, the Supplier hereby grants Identity and its successors and assignees a perpetual, irrevocable, transferable and royalty free licence (including the right to sub-license) to use all Supplier Materials. The Supplier undertakes to inform Identity in writing of any intention to use Supplier Materials in connection with this Agreement (including the type and nature thereof, and the intended use to which they will be put) in good time prior to their use.

5.4. Identity grants the Supplier a fully paid-up, non-exclusive, royalty-free, non-transferable licence to copy and use the Identity Materials for the term of the Agreement for the purpose of providing the Goods and/or Services to Identity in accordance with this Agreement.

5.5. The Supplier shall procure (as appropriate) from all relevant personnel an undertaking to waive and not to assert any and all moral rights that those persons may have, presently or in the future, in relation to any Goods and/or Services as conferred to them under the Copyright, Designs and Patents Act 1988 or any similar legislation, including in such form as may be required by Identity.

5.6. The Supplier hereby warrants that:

5.6.1. use by Identity (and its licensees, assignees, successors and any other person authorised by any of them) of Identity IP or any other Intellectual Property Rights in the Goods and/or Services shall not infringe the Intellectual Property Rights of any third party;

5.6.2. it has not, and shall not, grant or assign any rights of any nature in part or all of any Goods and/or Services to any third party whatsoever in any part of the world;

5.6.3. all Goods and/or Services will be original to the Supplier and that Identity is or shall be the sole and unencumbered owner of all Identity IP and that nothing in the Goods and/or Services (or any exploitation thereof by Identity) will infringe any right whatsoever of any third party; and

5.6.4. the Supplier has all the applicable permissions and licenses and has fulfilled any other relevant requirements required to copy and provide to Identity any third-party material in whatever format ("Third Party Material") provided as part of the Goods and/or Services and that any Third-Party Material shall be appropriately flagged as such where not immediately identifiable.

5.7. The Supplier hereby irrevocably and unconditionally waives any and all moral rights or any rights of a similar nature as it may have or acquire in the Goods and/or Services in perpetuity and warrants and undertakes to procure that all persons engaged in the creation or production or other use of the Goods and/or Services have waived any and all moral rights on the same terms.

5.8. In addition to any other remedy available to Identity, the Supplier shall indemnify Identity against all liabilities, costs, expenses, damages and losses (including but not limited to any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other reasonable professional costs and expenses) suffered or incurred by Identity arising out of or in connection with any claim brought against Identity for actual or alleged infringement of a third party's rights (including any Intellectual Property Rights) arising out of, or in connection with, the receipt, use or onward supply of the Services by Identity and its licensees and sub-licensees. This Clause 5.8 shall survive termination of this Agreement.

5.9. The Supplier acknowledges that Identity may sub-license the rights granted in this Clause 5 to any part of Identity's Group and its customers without requiring further permission from the Supplier.

6. LIMITATION OF LIABILITY

6.1. Nothing in this Agreement shall limit or exclude either Party's liability for fraud or fraudulent misrepresentation or for death or personal injury caused by negligence, or for any liability which cannot legally be excluded or limited.

6.2. Nothing in this Agreement shall exclude or limit the Supplier's liability under Clause 16 (Confidentiality), Clause 19 (Freedom of Information and Transparency), Clause 16.2, or the indemnity at Clause 5.8 (Indemnity).

6.3. Subject to Clause 6.2 and Clause 5.8 (Indemnity), neither Party is liable, whether in contract, tort (including negligence or breach of statutory duty), misrepresentation or otherwise in connection with the Agreement for any indirect, special or consequential losses or

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damage, in each case howsoever arising.

6.4. Subject to Clause 6.1 and Clause 6.2, the Supplier's total aggregate liability in contract, tort (including negligence or breach of statutory duty), misrepresentation or otherwise in connection with the Agreement shall in no circumstances exceed 125% of the Fees paid or payable (had the Agreement not been breached) under the relevant Purchase Order and Specification.

6.5. Subject to Clause 6.1, Identity's total aggregate liability in contract, tort (including negligence or breach of statutory duty), misrepresentation or otherwise in connection with the Agreement shall in no circumstances exceed 100% of the Fees paid or payable (had the Agreement not been breached) under the relevant Purchase Order and Specification.

7. INSURANCE

7.1. During the term of the Agreement and for a period of six years thereafter, the Supplier shall ensure that the Insurance Policies are taken out with reputable insurers acceptable to Identity and such policies shall include (i) Professional Indemnity insurance of £1,000,000 or more and (ii) Public Liability insurance of £2,000,000 or more.

7.2. The Supplier shall on request supply to Identity copies of such Insurance Policies and evidence that the relevant premiums have been paid.

7.3. The Supplier shall always comply with all terms and conditions of the Insurance Policies. If cover under the Insurance Policies shall lapse or not be renewed or be changed in any material way or if the Supplier is aware of any reason why the cover under the Insurance Policies may lapse or not be renewed or be changed in any material way, the Supplier shall notify Identity without delay.

8. REMEDIES OF IDENTITY

8.1. Where there is any breach of the Supplier's warranty in Clause 2 (Supply of Services) Identity may (as applicable and without liability to the Supplier arising out of such action and whether or not all or any part of the Goods and/or Services have been accepted by Identity):

8.1.1. require the Supplier to prepare and submit to Identity for Identity's approval within such timeframes as Identity shall require, a remediation plan setting out how, and the timescales in which, the Supplier will remedy the relevant failure(s);

8.1.2. require the Supplier, at the Supplier's expense, within 5 days after receipt of notice from Identity or within 24 hours if during the period from 15 September 2021 to 15 November 2021 either: (i) to re-execute the Supplies; or (ii) to provide a full refund of the Fees (if paid);

8.1.3. refuse to accept any further deliveries or performance of the Goods and/or Services;

8.1.4. recover from the Supplier any expenditure reasonably incurred by Identity in obtaining substitute supplies from another supplier;

8.1.5. carry out at the Supplier's expense any work reasonably necessary to make the Goods and/or Services comply with the Agreement; and/or

8.1.6. claim such damages as may have been incurred by Identity as a result of the Supplier's breach of the Agreement.

8.2. Any remedy under the Agreement shall be without prejudice to any other right or remedy which has already accrued, or subsequently accrues, to Identity, unless expressly agreed otherwise.

8.3. If Identity exercises any right under Clause 8.1 in respect of Goods, Identity may at its absolute discretion require the Supplier to collect the relevant Goods forthwith or return the Goods to the Supplier at the Supplier's cost.

8.4. Where any amendments are required pursuant to Clause 8.1, no additional Fees shall be incurred for any such amendments unless approved, with Identity acting reasonably.

9. TERMINATION

9.1. Identity shall be entitled to terminate this Agreement without cause by giving the Supplier not less than 30 days prior written notice to the Supplier in writing.

9.2. Without affecting any other right or remedy available to it, Identity may terminate this Agreement with immediate effect by giving written notice to the Supplier if:

9.2.1. there is a change of control of the Supplier; or

9.2.2. the Supplier's financial position deteriorates to such an extent that in Identity's opinion the Supplier's capability to adequately fulfil its obligations under the Agreement has been placed in jeopardy;

9.2.3. the Supplier fails to comply with legal obligations in the field of environmental, social or labour law; or

9.2.4. the Supplier commits a material breach of Clause 2.

9.3. Without affecting any other right or remedy available to it, either Party may terminate the Agreement with immediate effect by giving written notice to the other Party if:

9.3.1. the other Party commits a material breach of any term of the Agreement which breach is irremediable or (if such breach is remediable) fails to remedy that breach within a period of 7 days after being notified in writing to do so, or, where the breach concerns Goods or Services being completed where time is of the essence, the Supplier fails to remedy that breach within a period of 3 hours after being notified in writing to do so;

9.3.2. the other Party takes any step or action in connection with its entering administration, provisional liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver appointed to any of its assets or ceasing to carry on business or, if the step or action is taken in another jurisdiction, in connection with any analogous procedure in the relevant jurisdiction; or

9.3.3. the other Party suspends, or threatens to suspend, or ceases or threatens to cease to carry on all or a substantial part of its business; or

9.3.4. the Supplier fails to comply with legal obligations in the fields of environmental, social or labour law.

9.4. Following termination of the Agreement in accordance with this Clause 9, Identity's sole liability in respect of the Goods and/or Services

shall be to pay the Supplier for any costs relating to the provision of the Goods and/or Services which have been properly incurred by the Supplier in accordance with this Agreement prior to the date of termination, provided that the Supplier submits a valid invoice for such amount within 30 days of such date.

9.5. Any provision of the Agreement that expressly or by implication is intended to come into or continue in force on or after termination or expiry of the Agreement shall remain in full force and effect.

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

10. OBLIGATIONS ON TERMINATION

10.1. On termination of the Agreement the Supplier shall:

10.1.1. immediately deliver to Identity any Confidential Information of Identity, all Deliverables (whether or not then complete) and any Identity Materials in the possession of the Supplier; and

10.1.2. if so requested by Identity, provide all assistance reasonably required by Identity to facilitate the smooth transition of the Services to Identity or any replacement supplier appointed by it.

11. POST-TERMINATION RESTRICTIONS

11.1. In order to protect the legitimate business interests of Identity, the Supplier covenants with Identity that it shall not (except with the prior written consent of Identity):

11.1.1. solicit or entice away (or attempt to solicit or entice away) from Identity the business or custom of any Restricted Customer;

11.1.2. be involved with the provision of goods or services to any Restricted Customer; or

11.1.3. carry on; or be engaged, concerned or interested in; or assist in any way, any business concern which is (or intends to be) in competition with the business of Identity.

11.2. The Supplier shall be bound by the covenants set out in Clause 11.1 during the term of this Agreement, and for a period of 3 months for clause 11.1.2 and 11.1.3 and a period of 12 months for clause 11.1.1 after termination of this Agreement.

11.3. For the purposes of this Clause 11, a Restricted Customer shall mean any firm, company or natural person who is a client of Identity on the contract for which the Supplier is providing the Services.

11.4. The covenants in Clause 11.1 are intended for the benefit of, and shall be enforceable to the fullest extent permitted by law, Identity and shall apply to actions carried out by the Supplier, its employees, agents or officers in any capacity (including as shareholder, partner, director, principal, consultant, officer, agent or otherwise) and whether directly or indirectly, on its own behalf or on behalf of, or jointly with, any other person.

12. FORCE MAJEURE

12.1. For the purposes of this Clause, "Force Majeure Event" means an event beyond the reasonable control of the affected party including, act of God, fire, flood, abnormal weather conditions, war, riot, civil commotion, terrorism, but excluding, failure of supplies of power, fuel, transport, equipment, raw materials or other goods or services or any strikes or industrial dispute relating to the Supplier and/or the Connected Persons or the negligence or the lack of funds of the Supplier and/or the Connected Persons but, for the avoidance of doubt, other than in respect of clause 13 (where Pandemic shall be classified as a Force Majeure Event) it does not include any Pandemic related event.

12.2. Neither Party shall be in breach of this Agreement nor liable for any delay in performing, or failure to perform, any of its obligations under the Agreement if such delay or failure results from a Force Majeure Event provided that such Party complies with the obligations set out in this Clause 12 (Force Majeure). Save as provided in Clause 12.5, a Force Majeure Event will not entitle either party to terminate the Agreement.

12.3. The party affected by the Force Majeure Event ("Affected Party") shall immediately notify the other in writing of the matters constituting the Force Majeure Event and shall keep that party fully informed of their continuance and of any relevant change of circumstances whilst such Force Majeure Event continues.

12.4. The Affected Party shall take all reasonable steps available to it to minimise its effects on the performance of its obligations under this Agreement.

12.5. If the Force Majeure Event continues for longer than fifteen days Identity may, whilst the Force Majeure Event continues immediately terminate the Agreement by notice in writing to the Supplier, on a date to be specified in that notice.

13. PROJECT DELAYS AND CANCELLATION

13.1. Where the timing of the Project changes and/or preparations for the Project are delayed, Identity may review the timeline for delivery or performance of the Services and any date ("Key Date") which is set out or defined in this Agreement which is relevant to the delivery or performance of the Services including but not limited to:

13.1.1. the Commencement Date;

13.1.2. any milestone dates for performance or delivery of the Services set out in or agreed pursuant to this Agreement.

13.2. Subject to Clause 13.3, Identity may in its sole discretion, as a result of any changes to Key Dates which arise out of Identity's review under Clause 13.1, and subject to giving the Supplier at least 1 month's written notice:

13.2.1. extend the Term by a period of up to 12 months from the date of expiry of the Agreement;

13.2.2. revise any dates for payment of the Fees provided that such dates shall only be revised as is reasonably necessary to address any delays to Key Dates resulting from the Cancellation Event.

13.3. In the event that Identity exercises its discretion under Clause 13.2 to extend the Term, the parties shall consider what consequential amendments are needed including, without limitation, any variations to any service levels, milestone dates for performance or delivery of Services under the Agreement, any increase or decrease in the Fees

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(with any increase in the Fees being limited to the relevant increase in the Consumer Fees Index) and any changes to the business continuity arrangements.

13.4. In the event that a Cancellation Event occurs, then Identity shall be entitled to terminate this Agreement on the grounds that such termination is a termination by reason of unresolved Force Majeure Event in accordance with Clause 12.5. Upon termination of this Agreement following any cancellation of the Project, Identity shall pay the Supplier for any costs relating to the provision of the Goods and/or Services which have been properly incurred by the Supplier in accordance with this Agreement prior to the date of termination but shall have no further liability to the Supplier.

13.5. The Supplier acknowledges that the adverse effects of a Pandemic or other circumstances (including those circumstances set out in the definition of Cancellation Event) may result in Identity needing to omit or remove work from the Agreement, rather than Identity terminating this Agreement. For the avoidance of doubt, the Supplier agrees to such reduction in scope and shall not in any circumstances be entitled to recover or otherwise make a claim against Identity in respect of loss of profit or loss of opportunity in respect of any commensurate reduction in the Fees where the scope of the Goods and/or Services are reduced.

14. MARKETING AND BRANDING

14.1. Where requested by Identity, the Supplier shall ensure that all staff acting for and on behalf of the Supplier including but not limited to any subcontractor of the Supplier, shall wear 'Identity' branded clothing provided by Identity whilst on any site where requested by Identity within correspondence, the Specification and/or the Purchase Order. In circumstances where Identity does not provide branded clothing, the Supplier shall ensure all staff wear unbranded black clothing with a branded high visibility vest (provided by Identity) and compliant personal protection equipment fit for purpose (provided by the Supplier) as agreed from time to time.

14.2. The Supplier will not publish, refer to, comment upon, acknowledge or announce any Goods, Services or Deliverables completed in accordance with this Agreement, without the express consent in writing of a Director of Identity. All Goods and Services shall remain entirely confidential between the parties and Identity shall be under no obligation to provide consent to any publication or announcement of any kind. The extent of this clause in respect of both confidentiality and intellectual property shall extend to and include, but be not limited by, any announcements for the purposes of marketing of the Goods and Services by the Supplier, including on social media or any further or other form of communication. The Supplier shall ensure that any licensee, subcontractor, or sub-licensee shall agree to adhere to this clause which shall survive termination of this Agreement.

15. SUBCONTRACTING

15.1. The Supplier may not, without Identity's prior written approval, assign, novate, transfer, sublicense, subcontract, charge or otherwise deal in this Agreement or any of its rights or obligations arising pursuant to this Agreement (in whole or in part). Where any such approval is granted the Supplier shall remain liable to Identity for the performance of all obligations (except for Identity's) under this Agreement and the Supplier shall include in any sub-contracts (i) the same payment terms as are set out in Clause 5 (Fees) and (ii) the right of the Supplier to terminate the sub-contract if the sub-contractor fails to comply with legal obligations in the fields of environmental, social or labour law. Nothing in this Agreement shall restrict Identity from assigning, novating, transferring, sublicensing, subcontracting, charging or otherwise dealing in this Agreement or its rights or obligations under it (in whole or in part) as it sees fit in its sole discretion from time to time.

16. CONFIDENTIALITY

16.1. Each Party shall at all times keep any Confidential Information of the other secret and confidential, and not at any time during the period of this Agreement, and for a period of five years after termination of the Agreement, disclose to any third party, except as permitted by Clause 16.2.2.

16.2. Each Party may disclose the other party's Confidential Information:

16.2.1. to its employees, officers, representatives, subcontractors or advisers who need to know such information for the purposes of carrying out the Party's obligations under the Agreement. Each Party shall ensure that its employees, officers, representatives, subcontractors or advisers to whom it discloses the other Party's Confidential Information comply with this Clause 16.2; and

16.2.2. as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority and shall inform the other Party of the request and any disclosures.

16.3. Neither Party shall use the other Party's Confidential Information for any purpose other than to perform its obligations under this Agreement.

16.4. Identity and the Supplier acknowledge that Identity's own client in relation to the Project shall have the right to publish Identity's compliance with its obligation to pay undisputed invoices within the specified payment period.

17. DATA PROTECTION

17.1. The Supplier shall comply with its obligations under (i) the General Data Protection Regulation (Regulation (EU) 2016/679) (ii) the Law Enforcement Directive (Directive (EU) 2016/680), (iii) the Data Protection Act 2018 and (iv) any other applicable legislation (together the **Data Protection Legislation**).

17.2. Identity will collect and process information relating to the Supplier in accordance with Identity's Data Protection Policy.

17.3. The Supplier shall, in relation to any Personal Data processed by the Supplier under or in connection with this Agreement:

17.3.1. use and Process the Personal Data only for the purpose of fulfilling its obligations under this Agreement;

17.3.2. comply with the express instructions or directions of Identity from time to time in connection with the use of the Personal Data;

17.3.3. not disclose or transfer the Personal Data to any third party or Personnel unless necessary for the provision of the Services and, for any disclosure or transfer of Personal Data to

any third party, obtain the prior written consent of Identity;

17.3.4. keep the Personal Data confidential;

17.3.5. ensure that at all times it has in place appropriate technical and organisational measures to guard against unauthorised or unlawful processing of the Personal Data and/or accidental loss, destruction, or damage to the Personal Data. Such technical and organisational measures will include as a minimum compliance with Identity's Data Protection and Cyber-Security Policies as supplied from time to time;

17.3.6. not process or otherwise transfer any Personal Data outside of the UK without Identity's prior written consent;

17.3.7. assist Identity in responding to any data subject access request and with ensuring compliance with its obligations under the Data Protection Legislation with respect to security, breach notifications, privacy impact assessments and consultations with supervisory authorities or regulators;

17.3.8. notify Identity without undue delay on becoming aware of a Personal Data breach or communication which relates to Identity's or Supplier's compliance with the Data Protection Legislation;

17.3.9. at the written request of Identity, delete or return Personal Data and any copies thereof to Identity on termination of this Agreement unless required by the Data Protection Legislation to store the Personal Data; and

17.3.10. maintain complete and accurate records and information to demonstrate compliance with this Clause 17 and allow for audits by Identity or Identity's designated auditor.

18. TAXATION

18.1. The Supplier shall be fully responsible for and shall indemnify Identity for and in respect of any Tax (howsoever arising or assessed) and any other liability, deduction, contribution, assessment or claim arising from or made in connection with this Agreement, the provision of any Supplies pursuant to this Agreement or any payment or benefit received by any person engaged by the Supplier to perform the Supplies or any of them.

18.2. The Supplier shall further indemnify Identity against all reasonable costs, expenses and any penalty, fine or interest incurred or payable by Identity in connection with or in consequence of any such liability, deduction, contribution, assessment or claim.

18.3. The Supplier shall use all reasonable endeavours to avoid engaging any person who is not subject to full deduction of Tax as an employee or deemed employee under PAYE on the payroll of the Supplier or a tax compliant agency or umbrella company ("**IR35 Worker**") for the provision of any of the Services.

18.4. The Supplier warrants that it is the "end client" for the purposes of IR35 in respect of each IR35 Worker and shall in respect of each IR35 Worker:

- provide to Identity details of the assessment and record-keeping processes which the Supplier shall use to determine the status of all IR35 Workers for IR35 purposes;
- provide to Identity a monthly update setting out details of all assessments by the Supplier of IR35 Workers which have been made for IR35 purposes; and
- provide on demand all such assistance, information and documentation (including without limitation copy correspondence) as Identity may require in relation to any query, enquiry or investigation in connection with any IR35 status determinations made (or required to be made) in respect of any IR35 Worker, including in connection with any appeal.

18.5. The Supplier shall use all reasonable endeavours to comply with its own obligations pursuant to IR35 and shall procure that the IR35 Worker and any other intermediary so complies.

18.6. If HMRC at any time, whether following an enquiry or PAYE audit or otherwise, determine that IR35 applies and Identity is the "end client" for IR35 purposes in respect of any IR35 Worker, the Supplier shall indemnify Identity in full in respect of any costs, expenses, damages or loss (including any Tax, interest and penalties) incurred by Identity in connection therewith (the "**IR35 Liability**") and Identity may at its option deduct from any payment due to the Supplier an amount equal to any such IR35 Liability. The Supplier shall pay to Identity on demand a sum equal to the amount of any IR35 Liability not so deducted.

18.7. The Supplier shall maintain records of any IR35 Worker, including records of any payment or benefit provided to or for the benefit of the IR35 Worker, copies of all status determination statements and any correspondence relating thereto and the Supplier shall provide copies of such records to Identity on demand.

18.8. The Supplier shall (and shall procure that its associated persons shall) not engage in any activity, practice or conduct which would constitute either a UK tax evasion facilitation offence or a foreign tax evasion facilitation offence for the purposes of Criminal Finances Act 2017 and shall have and maintain throughout the Term of this Agreement such policies and procedures as are reasonable to prevent the facilitation of tax evasion by another person, as required by Criminal Finances Act 2017.

18.9. The Supplier shall on demand provide to Identity details of the reasonable prevention measures it has taken to prevent the commission of an offence pursuant to Criminal Finances Act 2017 and shall promptly report to Identity any request or demand from a third party to facilitate the evasion of tax in connection with the performance of this Agreement.

19. FREEDOM OF INFORMATION AND TRANSPARENCY

19.1. The Supplier acknowledges that the Identity Client may be subject to the requirements of the Freedom of Information Act 2000 (FOIA) and the Environmental Information Regulations 2004 (EIRs) and that in such circumstances Identity has certain obligations to the Identity Client relating to the FOIA and the EIRs.

19.2. The Supplier shall (and shall procure that its sub-contractors (if any) shall:

19.2.1. provide all necessary assistance and cooperation as reasonably requested by Identity to enable Identity to comply with its obligations to the Identity Client under the FOIA and EIRs; and

19.2.2. transfer to Identity all Requests for Information relating to this Agreement that it receives as soon as practicable and in any event within two (2) Business Days of receipt.

19.3. The Supplier acknowledges that Identity may be required under

IDENTITY

the FOIA and EIRs to disclose Information (including commercially sensitive information) without consulting or obtaining consent from the Supplier. Identity shall take reasonable steps to notify the Supplier of a Request for Information (in accordance with the Secretary of State's section 45 Code of Practice on the Discharge of the Functions of Public Authorities under part 1 of the FOIA) to the extent that it is permissible and reasonably practical for it to do so but (notwithstanding any other provision in the Agreement) Identity shall be responsible for determining in its absolute discretion whether any Commercially Sensitive Information and/or any other information is exempt from disclosure in accordance with the FOIA and EIRs.

20. EQUALITY, SOCIAL VALUES AND MODERN SLAVERY

20.1. The Supplier shall and shall procure that all Connected Persons and all of its and their Personnel shall at all times comply with all Applicable Laws, including all United Kingdom legislation relating to all forms of discrimination including (without limitation) the Equality Act 2010 and/or any statutory modifications or re-enactments thereof relating to discrimination in employment.

20.2. The Supplier acknowledges the importance of social values and agrees to perform the Services in a manner that adheres to the principles and outputs set out in the Social Values Policy issued by Identity and any related Action Plans issued by Identity, to the extent reasonably applicable.

20.3. The Supplier shall, to the extent applicable, record the following:

20.3.1. Carbon Footprint - calculation of outputs and targets for reduction

20.3.2. Energy Consumption: targets in the usage of greener energy

20.3.3. Recycling Rate: target recycling rates

20.3.4. Supply Chain Miles: target limits for the miles which materials and goods need to travel

20.3.5. Waste Reduction: target consumption reductions and re-use of materials

20.4. In performing its obligations under this Agreement, the Supplier:

20.4.1. shall ensure that it and its personnel comply with the Modern Slavery Act 2015 and any anti-slavery and human trafficking policy that Identity has in place from time to time;

20.4.2. provide to Identity such information as Identity may reasonably request in order to provide Identity with assurance that there is no human trafficking in the Supplier's supply chains;

20.4.3. submit to Identity a declaration of compliance with the Modern Slavery Act 2015 in a form to be provided by Identity; and

20.4.4. notify Identity in writing (and setting out full details of the relevant circumstances) as soon as it becomes aware of any actual or suspected slavery or human trafficking in a supply chain which has a connection with this Agreement or the Project.

20.5. The Supplier represents and warrants to Identity that, at the date of the Agreement, neither the Supplier nor any of its Personnel:

- has been convicted of any offence involving slavery and human trafficking anywhere in the world; and/or
- so far as the Supplier is aware, having made all reasonable enquiries, is or has been notified that they may be the subject of any investigation, inquiry or enforcement proceedings by any governmental, administrative or regulatory body regarding any offence or alleged offence of, or in connection with, slavery and human trafficking;

20.6. The Supplier shall inform Identity promptly if there is any change to the representations and warranties set out in clause 22.2, material or otherwise.

20.7. The Supplier shall maintain a complete set of records of all documentation and materials provided to the Company in connection with the Agreement and shall implement procedures for its own Personnel, suppliers, sub-contractors, and other participants in its supply chains, to ensure that there is no slavery or human trafficking in its supply chains. The Supplier shall make records available for the Company upon reasonable request and shall notify the Company as soon as it becomes aware of any actual or suspected slavery or human trafficking in a supply chain which has a connection with the Agreement.

20.8. The Supplier shall indemnify Identity against any losses, liabilities, damages, costs (including, but not limited to, legal fees) and expenses incurred by, or awarded against, the Agreement as a result of any breach by the Supplier of the Modern Slavery Act 2015.

20.9. Identity may terminate this Agreement with immediate effect by giving written notice to the Supplier if the Supplier commits a breach or suspected breach of Clauses 20.4 to 20.7.

20.10. Any breach by the Supplier of Clauses 20.4 to 20.7 shall be deemed a material breach of this Agreement which is incapable of remedy.

21. CORRUPT GIFTS OR PAYMENTS

21.1. For the purposes of this clause 21:

"Prohibited Act" means any of the following:

- to directly or indirectly offer, promise or give any person working for or engaged by the Identity Client or any other public body and/or Identity a financial or other advantage to:
 - induce that person to perform improperly a relevant function or activity; or
 - reward that person for improper performance of a relevant function or activity;
- to directly or indirectly request, agree to receive or accept any financial or other advantage as an inducement or a reward for improper performance of a relevant function or activity in connection with this Agreement;
- committing any offence:
 - under the Bribery Act 2010 (or any legislation repealed or revoked by such Act); or
 - under legislation or common law concerning fraudulent acts; or
 - defrauding, attempting to defraud or conspiring to defraud the Identity Client; or
- any activity, practice or conduct which would constitute one of the offences listed above if such activity, practice or conduct had been carried out in the UK.

"Relevant Requirements" means all applicable laws relating to bribery,

corruption and fraud, including the Bribery Act 2010 and any guidance issued by the Secretary of State for Justice pursuant to section 9 of the Bribery Act 2010.

21.2. The Supplier represents and warrants that neither it, nor to the best of its knowledge any of its staff or sub-contractors, have at any time prior to the date of this Agreement:

21.2.1. committed a Prohibited Act or been formally notified that it is subject to an investigation or prosecution which relates to an alleged Prohibited Act; or

21.2.2. been listed by any government department or agency as being debarred, suspended, proposed for suspension or debarment, or otherwise ineligible for participation in government procurement programmes or contracts on the grounds of a Prohibited Act.

21.3. The Supplier must not:

21.3.1. commit a Prohibited Act; or

21.3.2. do or suffer anything to be done which would cause Identity or the Identity Client or any of Identity's or the Identity Client's employees, consultants, contractors, sub-contractors or agents to contravene any of the Relevant Requirements or otherwise incur any liability in relation to the Relevant Requirements.

21.4. The Supplier shall during the Term:

21.4.1. establish, maintain and enforce, and require that its sub-contractors establish, maintain and enforce, policies and procedures which are adequate to ensure compliance with the Relevant Requirements and prevent the occurrence of a Prohibited Act;

21.4.2. keep appropriate records of its compliance with its obligations under clause 21.4.1 and make such records available to Identity on request;

21.4.3. if so required by Identity, within twenty (20) Working Days of the date of this Agreement, and annually thereafter, certify to Identity in writing that the Supplier and all persons associated with it or its sub-contractors or other persons who are supplying Goods and/or Services under this Agreement are compliant with the Relevant Requirements. The Supplier shall provide such supporting evidence of compliance as Identity may reasonably request; and

21.4.4. have, maintain and (where appropriate) enforce an anti-bribery policy to prevent it and any Supplier staff or sub-contractors or any person acting on the Supplier's behalf from committing a Prohibited Act. This anti-bribery policy must be disclosed to Identity on request.

21.4.5. The Supplier shall immediately notify Identity in writing if it becomes aware of any breach of Clause 21.2, or has reason to believe that it has or any of the Supplier staff or sub-contractors have:

- been subject to an investigation or prosecution which relates to an alleged Prohibited Act;
- been listed by any government department or agency as being debarred, suspended, proposed for suspension or debarment, or otherwise ineligible for participation in government procurement programmes or contracts on the grounds of a Prohibited Act;
- received a request or demand for any undue financial or other advantage of any kind in connection with the performance of this Agreement; or
- otherwise suspects that any person or Party directly or indirectly connected with this Agreement has committed or attempted to commit a Prohibited Act.

21.5. If the Supplier makes a notification to Identity under Clause 21.4.5, the Supplier shall respond promptly to Identity's enquiries, co-operate with any investigation, and allow Identity to audit any books, records and/or any other relevant documentation in accordance with Clause 21.

21.6. If the Supplier breaches Clause 21.5, Identity may by notice:

21.6.1. require the Supplier to remove any Supplier personnel whose acts or omissions have caused the Supplier's breach from the Project; or

21.6.2. immediately terminate this Agreement for material default.

21.7. Any notice served by Identity under Clause 21.5 shall set out:

21.7.1. the nature of the Prohibited Act;

21.7.2. the identity of the party who Identity believes has committed the Prohibited Act;

21.7.3. the action that Identity has elected to take; and

21.7.4. if relevant, the date on which this Agreement shall terminate.

22. AUDIT, TRANSPARENCY AND PROVISION OF INFORMATION

22.1. The Supplier will provide full transparency to Identity in relation to any costs to be applied to the provision of the Goods and/or Services and shall disclose to Identity where any such costs any element of fee or profit for the Supplier.

22.2. The Supplier shall maintain complete and accurate books and records relating to this Agreement and shall allow Identity and/or its agents to access, inspect and audit the Supplier's records, accounts and other relevant information and premises (including the making and removal of copy documents) at reasonable times on reasonable prior notice and solely to assess compliance with the terms of this Agreement. Where such access, inspection or audit is required by a governmental authority or regulator, the Supplier shall allow such inspection or audit at any time and there shall be no limit to the number of such inspections or audits that can be undertaken.

23. SEVERANCE

If a provision of this Agreement is, becomes or is found to be illegal, invalid or unenforceable (in whole or in part), such provision shall be deemed severed, and the legality, validity and enforceability of the remainder of this Agreement shall not be affected.

24. NOTICES

24.1. Any notice or other communication given to a party under or in connection with the Agreement shall be in writing and shall be:

IDENTITY

24.1.1. delivered by hand or by pre-paid first-class post or other next working day delivery service at the address given in the Agreement or as otherwise notified in writing to the other party; or

24.1.2. sent by email to the address specified above.

24.2. Unless proven otherwise, any notice or communication shall be deemed to have been received:

24.2.1. if delivered by hand, at the time the notice is left at the address given in the Agreement or given to the addressee; or

24.2.2. 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

24.2.3. 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. In this Clause **13.9(b)(iii)**, business hours mean 9.00am to 5.00pm Monday to Friday on a day that is not a public holiday in the place of receipt.

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

25. STEP-IN RIGHTS

25.1. On the occurrence of a Step-In Trigger Event, Identity and/or the Identity Client may serve notice on the Supplier (a "**Step-In Notice**") that it will be taking action under this Clause 25, either itself or with the assistance of a third party. The Step-In Notice shall set out the following:

- the action Identity and/or the Identity Client wishes to take and, in particular, the Goods and/or Services that it wishes to control or otherwise supervise (the "Required Action");
- the Step-In Trigger Event that has occurred and whether Identity and/or the Identity Client believes that the Required Action is due to the Supplier's default;
- the date on which Identity and/or the Identity Client wishes to commence the Required Action;
- the time period which Identity and/or the Identity Client believes will be necessary for the Required Action;
- whether Identity and/or the Identity Client will require access to the Supplier's premises; and
- to the extent practicable, the impact that Identity and/or the Identity Client anticipates the Required Action will have on the Supplier's obligations to provide the Services during the period that the Required Action is being taken.

25.2. Following service of a Step-In Notice, Identity and/or the Identity Client shall:

- take the Required Action set out in the Step-In Notice and any consequential additional action that it reasonably believes is necessary to achieve the Required Action;
- keep records of the Required Action taken and provide information about the Required Action to the Supplier;
- co-operate wherever reasonable with the Supplier in order to enable the Supplier to continue to provide the Services in relation to which Identity is not assuming control; and
- act reasonably in mitigating the cost that the Supplier will incur as a result of the exercise of the rights of Identity and the Identity Client under this Clause 25.

25.3. For so long as and to the extent that the Required Action is continuing, then:

- the Supplier shall not be obliged to provide the Services to the extent that it is the subject of the Required Action, though the Supplier shall remain liable for the supply of the Goods and/or Services (even those being performed as part of the Required Action) as though they were supplied by the Supplier;
- no deductions shall be applicable in relation to the Fee in respect of Goods and/or Services that are the subject of the Required Action; and
- Identity shall pay to the Supplier the Fee after subtracting any applicable deductions and Identity's and/or the Identity Client costs of taking the Required Action.

25.4. Before ceasing to exercise its step-in rights under this Clause 25, Identity and/or the Identity Client shall deliver a written notice to the Supplier (a "**Step-Out Notice**"), specifying:

- the Required Action it has actually taken; and
- the date on which Identity plans to end the Required Action (the "**Step-Out Date**") subject to Identity being satisfied with the Supplier's ability to resume the supply of the Goods and/or Services and the Supplier's plan.

25.5. The Supplier shall, following receipt of a Step-Out Notice and not less than twenty (20) Working Days (or twenty four (24) hours if within ten (10) Working Days of the start of the Project or during the Project) prior to the Step-Out Date, develop for Identity's and/or the Identity Client's approval (as the case may be) a draft plan (a "**Step-Out Plan**") relating to the resumption by the Supplier of the Services, including any action the Supplier proposes to take to ensure that the affected Services satisfy the requirements of this Call-Off Contract.

25.6. If Identity and/or the Identity Client (as the case may be) does not approve the draft Step-Out Plan, they shall inform the Supplier of the reasons for not approving it. The Supplier shall then revise the draft Step-Out Plan taking those reasons into account and shall re-submit the revised plan to Identity and/or the Identity Client for approval. Identity and/or the Identity Client (as the case may be) shall not withhold or delay its approval of the draft Step-Out Plan unnecessarily.

25.7. The Supplier shall bear its own costs in connection with any step-in by Identity and/or the Identity Client under this Clause 25, provided that Identity shall reimburse the Supplier's reasonable additional expenses incurred directly as a result of any step-in action taken by Identity under:

- limbs (c) or (d) of the definition of a Step-In Trigger Event; or
- limbs (e) and (f) of the definition of a Step-in Trigger Event (insofar as the primary cause of Identity serving the Step-In Notice is identified as not being the result of the Supplier's Default).

26. ENTIRE AGREEMENT

26.1. This Agreement constitutes the entire agreement between the

parties and any Group Company and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.

26.2. Each party acknowledges that in entering into this Agreement it does not rely on any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in this Agreement, provided that nothing in this Agreement shall limit or exclude any liability for fraud or fraudulent misrepresentation.

27. NO VARIATION

No variation of this Agreement shall be effective unless it is in writing and signed by the parties (or their authorised representatives).

28. COUNTERPARTS

This Agreement may be executed in any number of counterparts, each of which, when executed, shall constitute a duplicate original, but all the counterparts shall together constitute the one agreement.

29. THIRD PARTY RIGHTS

29.1. Unless expressly stated otherwise and subject to clause 29.2 below, a person who is not a party to this Agreement shall not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Agreement. This does not affect any right or remedy of a third party which exists, or is available, apart from that Act.

29.2. This Agreement shall be enforceable against the Supplier by the Identity Client.

29.3. The rights of the parties to terminate, rescind or agree any variation, waiver or settlement under this Agreement are not subject to the consent of any other person.

30. NO WAIVER

A waiver by either party of any of the terms or conditions of this Agreement in any instance shall not be deemed or construed to be a waiver of such term or condition for the future, or of any subsequent breach thereof. Waivers of any rights or remedies under this Agreement may only be given, and shall only be effective when given, in writing and no failure to exercise or delay in exercising any right or remedy under this Agreement shall operate as a waiver of that or any other right or remedy.

31. ASSIGNMENT AND TRANSFER

The Supplier may not assign, novate, transfer, sublicense, subcontract, charge or otherwise deal in this Agreement or any of its rights or obligations arising pursuant to this Agreement (in whole or in part), nor purport to do any of the same, without the express prior written consent of Identity. Identity may assign, novate, transfer or otherwise deal in this Agreement and its rights and obligations hereunder as it sees fit in its sole discretion from time to time and by entering into this Agreement the Supplier hereby consents to any novation of this Agreement from Identity to the Identity Client.

32. GOVERNING LAW AND JURISDICTION

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

32.2. Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this Agreement or its subject matter or formation (including non-contractual disputes or claims).