## General terms & conditions

Please read these Terms & Conditions carefully as they form the legal agreement between us in regard to our provision of Services to you. If there is anything you do not understand please ask us. Please note that the Customer is responsible for backing up of any and all data which may be lost in the provision of these Services.

### 1. AGREEMENT FORMATION

1.1. The purpose of these Optimity IT Ltd ("Optimity IT") terms and conditions is to provide general terms and conditions ("General Terms and Conditions") and a framework within which Customer may from time to time purchase Services from Optimity IT.

1.2. These Optimity IT General Terms and Conditions supersede all other terms, conditions and warranties which are implied by law or which the Customer may purport to apply under any purchase order, acknowledgement of delivery or similar document or otherwise; and/or which have been established between Optimity IT and the Customer by course of dealing, unless Optimity and Customer have mutually negotiated, executed and delivered specific terms in the Service Schedule for provision of Service(s) to Customer, in which case the terms and conditions of such Service Schedule shall prevail over these Optimity IT Terms and Conditions. Any oral or written quotation, proposal, purchase order, statements made by Optimity IT's employees shall not form part of any Agreement unless included in writing in a Service Schedule or Statement of Work.

1.3. The entire Agreement is formed of these Optimity IT Terms and Conditions (including both the General Terms and Conditions and Service Schedules relevant to the Equipment/Services being provided) and the Statement of Work where relevant.

1.4. If there is any express conflict between the General Terms and Conditions, the Service Schedule and the Statement of Work, the order of priority (highest first) shall be the Statement of Work, then the Service Schedule, and finally the General Terms and Conditions.

1.5. Unless previously withdrawn or Optimity IT specified otherwise in writing, quotations are valid for a period of one calendar month only from the date of issue. If, after such a period, Optimity IT, at the Customer's request, agrees to supply the Services detailed in such a lapsed quotation this Agreement shall apply thereto.

1.6. The Services (unless otherwise agreed between the parties) shall be provided in the English language only and during the hours of 9.00 a.m. and 6.00 p.m. GMT/BST each day Monday to Friday inclusive, excluding bank and public holidays in England ("Normal Business Hours") and shall constitute the services set out on the Service Schedule and any services which the parties agree in writing shall be provided pursuant to this Agreement.

1.7. The Customer acknowledges that it is responsible for purchasing all hardware and software which is necessary to enable the Customer to receive the benefit of the Services and Optimity IT shall not be responsible for making any such purchases of hardware or software on behalf of the Customer.

1.8. In this Agreement: (i) any terms in the singular shall include the plural and vice versa; (ii) the words "include" "including" "in particular" or "excluding" or the like will not be construed as a terms of limitation, (iii) any reference to a "Clause" means a clause of this Agreement; (iv) the headings are included for convenience only and may not be used in construing or interpreting this Agreement.

1.9. All Proposals, drawings, descriptive matter, specifications, advertising and promotional material issued by Optimity IT and any descriptions or illustrations contained in Optimity IT's catalogues or brochures, and statements made by Optimity IT's employees, agents or subcontractors, whether before or during the term of this Agreement, are made, issued or published for the sole purpose of giving an approximate idea of the Services described in them, and shall not form part of this Agreement.

### 2. PERFORMANCE

2.1. Optimity IT will use commercially reasonable endeavours to perform the Services by or within any date or period agreed in writing, but such dates or periods are estimates only given in good faith and Optimity IT will not be liable for any failure to complete or deliver by such dates or within such periods. Time for performance of the Services will not be of the essence nor may be made of the essence by notice. If no dates or periods are so specified, performance or delivery will be within a reasonable time.

2.2. Optimity IT will use its commercially reasonable endeavours to fulfil the Customer's instructions or requests within its area of expertise and is under no obligation to provide services outside of its expertise. Should Optimity IT agree to provide Services outside of its expertise it will not be liable for any failure of the Services to meet the Customer's requirements.

2.3. Where the Customer wishes to change the scope of the Services, including any dates for performance or delivery, it shall make such request in writing. Optimity IT shall confirm in writing within a reasonable period whether it will be able to comply with the request and, if so, set out any changes to the Fees or dates of performance or delivery. The Customer shall confirm in writing within 2 working days whether it wishes to proceed. For the avoidance of doubt, although Optimity IT will endeavour to comply with reasonable requests by the Customer for such changes, it shall not be under any obligation to do so.

2.4. The Customer shall provide Optimity IT with such assistance, access to staff and decision making, at the Customer's cost, as Optimity IT may reasonably require in connection with the provision of the Services.

2.5. Optimity IT shall not be liable for any breach of its obligations under this Agreement due to any cause beyond its reasonable control ("force majeure"). For the avoidance of doubt where the Customer suffers a force majeure event, the Customer shall still be liable to pay any Fees which become due and payable for Services provided by Optimity IT during the event of force majeure and where Optimity IT suffers a force majeure event, the Customer shall not be liable to pay for any Services not provided by Optimity IT. Should an event of force majeure continue without interruption for 3 months or more, then either party may by notice to the other, cancel this Agreement without incurring any liability for any resulting loss or damage.

3. INTELLECTUAL PROPERTY

3.1. Any Intellectual Property Rights supplied by Optimity IT to the Customer, or specifically produced by Optimity IT for the Customer, in connection with this Agreement, shall be the exclusive property of Optimity IT and to the extent that any such rights vest in the Customer shall be deemed to be and shall be assigned to Optimity IT by the Customer. Any Intellectual Property Rights belonging to, licensed to or supplied by Optimity IT to the Customer shall be used by the Customer as expressly permitted under the terms of this Agreement and in accordance with the instructions of Optimity IT.

3.2. Any licence provided by Optimity IT to the Customer in relation to the Intellectual Property Rights shall be personal to the Customer, non-exclusive, revocable and limited to the United Kingdom and in the absence of earlier revocation shall terminate upon termination of this Agreement.

3.3. By using the Services (in particular, but without limitation, the Hosting Services) the Customer shall provide Optimity IT with information and data, title to which shall remain vested in the Customer (or its licensors). The Customer warrants, represents and undertakes that it has all necessary rights and licences to use and transmit over the internet to the Customer all information and data which will be subject to the Hosting Services and hereby grants Optimity IT a non-exclusive licence to use such information and data for the purposes of performing the Services.

3.4.1. In this Agreement "Optimity Intellectual Property Rights" shall mean any intellectual property rights (including copyright, patents, trademarks, know how, confidential information, service marks, database rights, design rights (in each case whether registered, capable of registration or otherwise, including application for any registration of such rights and all other similar proprietary rights)) owned by Optimity IT and/or created by Optimity IT specifically as a result of the provision of the Services. "Other Intellectual Property Rights" shall mean any intellectual property rights which are other than Optimity Intellectual Property Rights and are provided by Optimity IT in the delivery of the Services to Customer.

3.4.2. As between the Customer and Optimity IT all Optimity Intellectual Property Rights and all other rights in the Services shall be owned by Optimity IT. Subject to the provisions of this clause 3, Optimity IT licenses such rights to the Customer free of additional charge and on a non-exclusive, worldwide basis to such extent as is necessary to enable the Customer to make reasonable use of the Services.

3.4.3. The Customer acknowledges that, with regard to Other Intellectual Property Rights, the Customer's use of such right is conditional on Optimity IT obtaining a written licence (or sub-licence) from the relevant licensor or licensors on such terms as will entitle Optimity IT to licence (or sub-licence, as applicable) such rights to the Customer.

4. CUSTOMER'S OBLIGATIONS

At all times, throughout the term of this Agreement, the Customer shall comply with all obligations set out herein and in the Service Schedule, including but not limited to:

4.1. giving Optimity IT personnel such timely access, accurate data, and authorised instructions as required to provide the Services;

4.2. providing a safe environment for all of Optimity IT's employees, agents or subcontractors who, pursuant to providing the Services, attend premises which are under the Customer's ownership and/or control. The Customer will comply with all statutory or other regulations and codes of practice in connection with such premises;

4.3. procuring that its employees/sub-contractors have received appropriate information and training about the use of the Customer's hardware and equipment used in connection with the Services (the "Infrastructure") and provision of the Services by Optimity IT and permitting only authorised and qualified personnel to contact Optimity IT to request provision of the Services;

4.4. notifying Optimity IT if it becomes aware of any unauthorised use of all or part of the Services or Infrastructure;

4.5. performing all Customer administered tasks and routines requested by Optimity IT in accordance with the schedule and specification for such tasks and routines agreed with Optimity IT;

4.6. maintaining a current archive copy of all data stored or transmitted through the Infrastructure and/or Services to the extent necessary to enable Optimity IT to provide the Services;

4.7. promptly notifying Optimity IT if the Infrastructure or Services are not operating correctly and providing all information as reasonably required by Optimity IT to enable Optimity IT to comply with its obligations hereunder; 4.8. ensuring that there is a legitimate licence for every copy of a software programme in use by Customer (other than those that are provided by Optimity IT in the provision of the Services) and that such licences permit use by Optimity IT as required to perform the Services and comply with such licence terms and conditions and providing a copy of such licence to Optimity IT and safely storing all disks, manuals, hard copy licence agreements and/or documentation relating to such software;

4.9. within a reasonable time, furnishing Optimity IT with such information and documents as Optimity IT may reasonably request for the proper performance of Optimity IT's obligations hereunder, including without limitation all documentation for the Infrastructure. The Customer shall ensure that all such information or documents are complete and accurate;

4.10. taking all reasonable steps including any steps specified by Optimity IT or the relevant manufacturer of the Infrastructure to ensure that, as far as reasonably practicable, the Infrastructure and all other equipment, facilities or offices will be properly maintained, safe and without risks to health;

4.11. ensuring that all material or data stored on or transmitted via the Services and Infrastructure is checked for viruses and other harmful code;

4.12. keeping Optimity IT informed of any changes to the Customer's address, the Infrastructure and/or Customer's personnel and any other information that may affect Optimity IT's workload and/or the payment of charges due; 4.13. unless otherwise expressly agreed in writing with Optimity IT, ensure the Infrastructure and Services are covered by adequate insurance; and

4.14. maintaining a written, dated and timed record of any routines, modifications, alterations or enhancements to the Infrastructure performed by the Customer or any third party that have been agreed with Optimity IT, including, but not limited to, software and hardware configuration changes, installations and removals.

4.15. The Customer shall not, and shall procure that its employees shall not:

4.15.1. enhance, relocate or make any adjustments or any additions to the Infrastructure, other than as agreed with Optimity IT;

4.15.2. use Services/Infrastructure in an unlawful manner or in contradiction of legislation and regulations governing the Internet or accepted Internet practices of any connected networks, or to transfer any illegal material (including but not limited to material which may be deemed to be offensive, abusive, indecent, defamatory, obscene, menacing, in contempt of Court or in breach of copyright, confidentiality, privacy or other rights);

4.15.3. divulge any passwords that allow the Customer to have access to the Services and/or Infrastructure to a third party and shall use all reasonable endeavours to keep all passwords confidential and inaccessible to third parties;

4.15.4. without the prior written consent of Optimity IT, at any time from the date on which these Conditions were executed to the expiry of six months after the later of: (a) completion of all projects under any Statement of Work; or (b) the last date of supply of the Services; or (c) termination of this Agreement, solicit or entice away from Optimity IT or employ or attempt to employ any person who is, or has been, engaged as an employee or sub-contractor of Optimity IT in the provision of the Services.

4.15.5. Any consent given by Optimity IT in accordance with condition 4.15.4 shall be subject to the Customer paying to Optimity IT a sum equivalent to 80% of the then current annual remuneration of Optimity IT's employee or subcontractor or, if higher, 80% of the annual remuneration to be paid by the Customer to that employee or sub-contractor.

4.16. Optimity IT shall not be liable for any delay or failure that results from the delay or failure of the Customer to comply with its obligations. The Customer hereby indemnifies Optimity IT in full and on demand in respect of any costs, claims, damages or liabilities arising from any delay or failure by the Customer to comply with its obligations under this Agreement and where any such failure results in Optimity IT spending additional time and expense to fulfil the Services, Optimity IT shall be entitled to charge the Customer for such time at Optimity IT's then current time and materials rates.

4.17. Customer shall be responsible (at its own cost) for preparing and maintaining the relevant premises for the supply of the Services, including identifying, monitoring, removing and disposing of any hazardous materials from any of its premises in accordance with all applicable laws, before and during the supply of the Services at those premises, and informing Optimity IT of all of its obligations and actions under this condition 4.17.

4.18. Customer shall obtain and maintain all necessary licences and consents and comply with all relevant legislation in relation to the Services, the installation of Optimity's Equipment, the use of the Infrastructure in relation to Optimity IT's Equipment insofar as such licences, consents and relate to the Customer's business, premises, staff and equipment in all cases before the date on which the Services are to be provided.

4.19. Customer shall keep, maintain and insure Optimity IT's Equipment in good condition and shall not dispose of or use Optimity IT's Equipment other than in accordance with Optimity IT's written instructions or authorisation; andacknowledge and agree that Optimity IT, may from time to time connect to and access the Customer's IT Hardware and Infrastructure without prior notice solely in order to perform support services pursuant to this Agreement.

5. CONFIDENTIALITY

5.1. Each party shall keep strictly confidential all information concerning the business of the other party (including any trade secrets and IPRs) received from or on behalf of the other party, or otherwise relating to this Agreement, and in each case which is of a secret or confidential nature ("Confidential Information").Each party undertakes to only use the other party's Confidential Information for the purposes envisaged by this Agreement, and to only disclose it to such of its employees, agents and subcontractors who have a reasonable need to know the same, and who are subject to a written equivalent obligation of confidentiality.

5.2. The obligations of confidence contained in this Clause 5 shall not apply to any Confidential Information that the recipient party can reasonably prove (i)

was in the public domain at the time of disclosure; (ii) was lawfully in its possession and was not acquired directly or indirectly from the other party or from a third party under an obligation of confidence (directly or indirectly) to the other party; (iii) is or becomes public knowledge by act or acts other than those of such party; and/or (iv) is required to be disclosed by law, or if required under court order of competent jurisdiction or where there is a statutory obligation to disclose the Confidential Information.

5.3. Neither Optimity IT nor the Customer may (i) use the name of the other either directly or by inference for any purpose whatsoever; or (ii) disclose any information concerning this Agreement, including its existence, in each case without the prior written authority of the other (such consent not to be unreasonably withheld or delayed. Optimity IT may ask the Customer to display the Customer's name or logo on Optimity IT's website and to provide a press release relating to the Customer-Optimity IT relationship. Such consent by the Customer shall not be unreasonably withheld.

6. INDEMNITY

6.1. Unless otherwise expressly stated in this Agreement, Optimity IT makes no warranty in respect of the supply of Equipment and/or Services and all other terms, conditions and warranties which may otherwise be implied into this Agreement by law or course of dealings between the parties are hereby excluded to the fullest extent legally possible.

6.2. Without prejudice to any other rights of Optimity IT, the Customer shall indemnify, keep indemnified and hold harmless Optimity IT against all costs (including without limitation legal costs and the cost of enforcement (on a full indemnity basis)) liabilities, claims, damages, direct, indirect or consequential losses (including without limitation, pure economic loss, loss of profits, loss of business, depletion of goodwill and like loss whether such losses are direct, indirect or consequential losses), expenses and/or judgments whatsoever, which it may suffer or incur, and arising from any: a) breach by the Customer of any warranties, covenants, undertakings and/or representations given under the Agreement; and/or b) injury and/or damage suffered or incurred by or to any of Optimity IT's (or any of Optimity IT's contractor's) employees and/or equipment whilst on the Site (except to the extent of the indemnified party's negligence or wilful misconduct); and/or c) infringement by the Customer (including, its affiliates, directors, officers, agents, consultants and employees) of any third party's Intellectual Property Rights.

6.3. In the event that Customer's use of the Service(s) infringes, or is alleged to infringe, upon a third party's Other Intellectual Property Rights, Optimity IT will indemnify and defend Customer against all costs, liabilities, claims, or damages, on the condition that Customer: (a) notify Optimity IT immediately of the claim; (b) allow Optimity IT exclusive control of the defense of the claim; (c) make no admissions of liability or offer or accept any settlement of the claim without Optimity IT's prior written consent; and (d) provide Optimity IT with reasonable cooperation and assistance in the defence of the claim as requested by Optimity IT. Optimity IT shall have no obligation to indemnify Customer in the event that the claimed infringement arose or resulted from: (1) Customer's use of the Service in combination with equipment, software or equipment which was not supplied by Optimity IT; (2) any modification of the Service(s) or Equipment without Optimity IT's written authorisation; (3) use of the Service(s) in a way not permitted by this Agreement. If Customer's use of the Service(s) leads to a claim of such infringement, or if Optimity IT reasonably believes that it may lead to one, Optimity IT shall have the right, at Optimity IT's option, to a) obtain the right to permit Customer to continue to use the Service(s) without infringement; or (b) modify or replace the infringing elements of the Service(s) to eliminate the infringement, so long as the Service(s) are not materially adversely affected thereby.

6.4. The foregoing sub-clause 6.3 sets forth Customer's exclusive remedies for claims that Customer's use of the Service(s) infringe a third party's Other Intellectual Property Rights.

7. LIABILITY

7.1. The following provisions of this Clause 7 set out the entire financial liability of Optimity IT (including any liability for the acts or omissions of its employees, agents and subcontractors) to the Customer in respect of (i) any breach of this Agreement; and (ii) any representation, statement or tortious act or omission including negligence arising under or in connection with the Agreement.

7.2. Neither party limits its liability where any person is injured due to its negligence or for fraud, or fraudulent misrepresentation or for any liability which cannot be limited or excluded by law.

7.3. Optimity IT (including its respective licensors, agents and subcontractors, if any) shall not be liable for:

7.4. any indirect, special, incidental or consequential loss or damages arising out of or in connection with this Agreement;

7.5. any loss of profit, goodwill, anticipated savings, business opportunity, data, use of data, recovery of data, injury to reputation or third party losses, procurement of replacement goods and services; and

7.6. any failure or delay caused by circumstances beyond Optimity IT's reasonable control (or that of Optimity IT's respective licensors, agents and subcontractors, if any); even if Optimity IT or they were advised of the possibility of such loss or damages.

7.7. Optimity IT's entire liability to Customer under or in connection with this Agreement is limited to the lesser of: (a) £10,000 (ten thousand pounds sterling) or (b) the amounts paid or payable for the relevant Service during the twelve (12) months preceding the date on which the claim arose.

7.8. Optimity IT will only be liable to the Customer under this Agreement or otherwise in respect of any Services, provided that the Customer notifies Optimity

IT in writing as soon as it is reasonably practicable after it becomes aware that such liability may have arisen.

8. TERMINATION.

8.1. This Agreement shall terminate upon the expiry of the Term of the last Statement of Work between the parties (unless the parties agree otherwise in writing in the relevant Statement of Work). The Term of each Statement of Work, unless otherwise provided in the relevant Statement of Work, shall automatically renew for successive additional period(s) of twelve (12) months. Statements of Work may not be cancelled or terminated prior to their scheduled expiration date except in accordance with the express terms of this Agreement.

8.1.1 To terminate the relevant Statement of Work, the Customer must deliver not less than ninety (90) days written notice of termination prior to the scheduled expiry of the Term.

8.2. This Agreement, as to the relevant Statement(s) of Work only, may be terminated for cause by either party in the following circumstances, with immediate effect, from the date of service on the other of written notice if:

8.2.1. the other party is in breach of any material obligation under this agreement or the relevant Statement of Work and, if the breach is capable of remedy, that party has failed to remedy such breach within 28 days of receipt of notice so to do;

8.2.2. an order is made or a resolution is passed for the winding up of the other party; or (ii) an administrator is appointed to manage the affairs, business and property of the other party; or (iii) a receiver is appointed of any of the other party's assets or undertaking or (iv) the other party makes any arrangement or composition with its creditors or makes an application to a court of competent jurisdiction for the protection of its creditors in any way; or

8.2.3. the Customer ceases, or threatens to cease, to trade; or there is a change of control of the Customer;

8.2.4. Without prejudice to any other of its rights or remedies, upon termination, any costs or expenses incurred by Optimity IT up to the date of termination (including Fees for work done up to the time of termination) will be paid by the Customer to Optimity IT immediately.

8.3. The Customer shall, within five (5) working days from the date of termination, return all of Optimity IT's Equipment and other personal property of Optimity IT and/or its suppliers, as applicable. If the Customer fails to do so, then Optimity IT and/or its suppliers, as applicable, may enter the Customer's premises and take possession of them.

9. FEES AND PAYMENT

9.1. The Fees shall be calculated as set out in the relevant quote or Statement of Work, and, if not set out therein, calculated in accordance with Optimity IT's then current rates. Non-recurring charges shall be invoiced upon execution of the relevant Statement of Work and due immediately upon delivery of invoice.

9.2. Where, at any time before completion of the Services to the Customer, there is any increase in Optimity IT's costs which is due to any:

9.2.1. factor outside of Optimity IT's reasonable control including any significant increase in the costs of labour or materials;

9.2.2. delay or additional costs caused by any change in the Customer's instructions; and/or

9.2.3. negligence or default of the Customer (including where the Customer gives Optimity IT inadequate, untimely or incorrect information or instructions);

Optimity IT shall be entitled to increase the amount of the Fees on notice to the Customer to cover such increases.

9.3. The Fees and any other payment due under this Agreement are exclusive of VAT (and any other applicable sales or purchase tax duty or levy) and the Customer shall pay all duties taxes or other government charges in respect of the Services.

9.4. Optimity IT shall invoice Customer monthly in arrears for Services which are based upon Customer's usage, and quarterly in advance for all other Services, unless agreed to the contrary by the parties in writing.

9.5. Invoices are payable within 30 days of receipt (or by Direct Debit facility) and in any event, where the Services are being carried out in stages, before the next stage commences.

9.6. Without prejudice to any other rights of Optimity IT, interest will be payable on all amounts which are overdue for more than thirty days at three per cent above Barclays Bank Plc base rate from time to time calculated from the due date for payment until the date of actual payment.

9.7. Without prejudice to any other rights Optimity IT may have, Optimity IT may suspend its performance of the Services during any period in which any invoices or other payments due under this Agreement remain overdue.

9.8. Traveling expenses and subsistence reasonably incurred by the Optimity IT's employees, sub-contractors or agents in connection with the provision of the Services will be charged at cost plus such administration charges as Optimity IT may notify the Customer from time to time (which may be a percentage of the cost) in addition to the Fees.

10. WARRANTIES

10.1. Optimity IT warrants that (subject to the other provisions of this Agreement) it will use reasonable skill and care in providing the Services.

10.2. If the performance of the Services does not conform with the warranty in Clause 10.1, Optimity IT shall at its option either: (i) carry out such Services to the correct standard; or (ii) refund the price of the applicable Services at the pro rata amount of the Fees.

10.3. If Optimity IT complies with Clause 10.2 it shall have no further liability for a breach of the warranty in Clause 10.1 in respect of such Services.

10.4. All other warranties, conditions and other terms implied by statute or common law are, to the fullest extent permitted by law, excluded from this Agreement.

11. DATA PROTECTION

11.1. Both parties will comply with all applicable requirements of the UK Data Protection Act (2018) and to the extent applicable to this Agreement, the provisions of the General Data Protection Regulation (the "Data Protection Legislation"). This clause 11 is in addition to, and does not relieve, remove or replace, a party's obligations under the Data Protection Legislation.

11.2. The parties acknowledge that for the purposes of the Data Protection Legislation, the Customer is the data controller and Optimity IT is the data processor (where Data Controller and Data Processor have the meanings as defined in the Data Protection Legislation).

11.3. Without prejudice to the generality of clause 11.1, the Customer will ensure that it has all necessary appropriate consents and notices in place to enable lawful transfer of the Personal Data (as defined in the Data Protection Legislation) to Optimity IT for the duration and purposes of this Agreement.

11.4.Without prejudice to the generality of clause 11.1, Optimity IT shall, in relation to any Personal Data processed in connection with the performance by Optimity IT of its obligations under this agreement:

11.4.1. process that Personal Data only on the written instructions of the Customer (and such instructions shall be deemed to be given if Optimity IT processes Personal Data pursuant to the Services) unless Optimity IT is required by the laws of any member of the European Union or by the laws of the European Union applicable to Optimity IT to process Personal Data (Applicable Data Processing Laws). Where Optimity IT is relying on laws of a member of the European Union or European Union law as the basis for processing Personal Data, Optimity IT shall promptly notify the Customer of this before performing the processing required by the Applicable Data Processing Laws unless those Applicable Data Processing Laws prohibit Optimity IT from so notifying the Customer;

11.4.2. ensure that it has in place appropriate technical and organisational measures, to protect against unauthorised or unlawful processing of Personal Data and against accidental loss or destruction of, or damage to, Personal Data, appropriate to the harm that might result from the unauthorised or unlawful processing or accidental loss, destruction or damage and the nature of the data to be protected, having regard to the state of technological development and the cost of implementing any measures (those measures may include, where appropriate, pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of its systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the technical and organisational measures adopted by it);

11.4.3. ensure that all personnel who have access to and/or process Personal Data are obliged to keep the Personal Data confidential; and

11.4.4. not transfer any Personal Data outside of the European Economic Area unless the prior written consent of the Customer has been obtained and the following conditions are fulfilled:

11.4.5. the Customer or Optimity IT has provided appropriate safeguards in relation to the transfer;

11.4.6. the Data Subject (as defined in the Data Protection Legislation) has enforceable rights and effective legal remedies;

11.4.7. comply with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred; and

11.4.8. comply with reasonable instructions notified to it in advance by the Customer with respect to the processing of the Personal Data.

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

11.4.10. notify the Customer without undue delay on becoming aware of a Personal Data breach;

11.4.11. at the written direction of the Customer, delete or return Personal Data and copies thereof to the Customer on termination of the agreement unless required by Applicable Data Processing Legislation to store the Personal Data; and

11.4.12. maintain complete and accurate records and information to demonstrate its compliance with this clause 11.

11.5. The Customer consents to Optimity IT appointing third-party processors of Personal Data under this agreement. Optimity IT confirms that it has entered or (as the case may be) will enter with a third-party processor into a written agreement incorporating terms which are substantially similar to those set out in this clause 11. As between the Customer and Optimity IT, Optimity IT shall remain fully liable for all acts or omissions of any third-party processor appointed by it pursuant to this clause 11.

11.6. Optimity IT shall have no liability in respect to processing of personal data, save where it has not complied with its obligations under the relevant Data

Protection Legislation or it has acted outside or contrary to the lawful instructions of the Customer.

12. GENERAL

12.1. Optimity IT reserves the right to sub-contract the provision of the whole or part of any Services required under this Agreement.

12.2. Subject to the provisions of 12.1 above, neither party may assign, transfer, or otherwise dispose of its rights or obligations under this Agreement without the prior written consent of the other party (not to be unreasonably withheld or delayed).

12.3. No variation or modification of this Agreement (including any specification of the Services) shall be valid unless in writing and signed by both parties.

12.4. The failure of either party to require the performance of any of the terms of this Agreement or the waiver by either party of any default under this Agreement will not prevent a subsequent enforcement of such term, nor be deemed a waiver of any subsequent breach.

12.5. Should any provision of this Agreement be declared invalid for any reason, such a decision will not affect the validity of any remaining provisions which will remain in force and effect. In any such event, the parties will negotiate in good faith to replace the invalid provision with a provision of equivalent economic effect.

12.6. Nothing in this Agreement is intended to or shall operate to create a partnership or joint venture of any kind between the parties or to authorise either party to act as agent for the other and neither party shall have authority to act in the name or on behalf of or otherwise bind the other in any way. 12.7. The Customer shall pay all amounts due to be paid to Optimity IT in full without deduction or withholding) except as required by law and the Customer shall not be entitled to assert any credit, set-off or counterclaim against Optimity IT to justify withholding payment of any such amount, in whole or in part.

12.8. Nothing in this Agreement will be construed as conferring any rights on any person that is not a Party to this Agreement, whether under The Contracts (Rights of Third Parties) Act 1999 or otherwise. 12.9. Any notices shall be in writing and shall be made by hand, by recorded delivery or by email (for notices sent by email a supporting physical copy must be sent on the same day by post) to such addresses or numbers as the parties may specify from time to time. Notices sent by hand, or by recorded delivery post will be treated as having been received on the working day after the day upon which they were sent. Proof of successful far-end receipt must be kept. Emails will only be treated as having been received when a nonautomated response is obtained from the email recipient. Without limiting the generality of the foregoing, any notice by Customer of termination of a Service must be sent via email with delivery receipt requested to cancellations@optimity.co.uk.

12.10. This Agreement constitutes the entire agreement and supersedes all previous verbal or written proposals and agreements between the Parties relating to the Services. The Customer shall have no remedy, and Optimity IT shall have no liability, in respect of any statement whether written or oral made to it upon which it relied in entering into this Agreement unless such statement was made by Optimity IT knowing that it was untrue.

12.11. This Agreement, all matters regarding the interpretation or enforcement of it, and any other matters or disputes arising in connection with it or its subject matter, including the Services shall be governed by English law and the parties hereby submit to the exclusive jurisdiction of the English courts.