

STANDARD TERMS AND CONDITIONS ("ST&C")**PURCHASE OF SERVICES****1. INTERPRETATION**

The definitions and rules of interpretation set out in Schedule 1 (Interpretation) apply to these ST&C.

2. APPLICABILITY

These ST&C will apply to the exclusion of any other terms and conditions of business contained or referenced in any document issued by the Supplier to the Buyer (including any: acknowledgement or other form of acceptance; quotation; delivery note; standard form; or proposal) or implied by trade custom, practice or any course of dealings between the Parties, unless such terms and conditions are expressly stated in the Order to apply.

3. DELIVERY OF SERVICES

3.1 The Services will be provided to the Buyer and its Affiliates;

- (a) from the start date (the "**Service Start Date**") specified in the Order or, if no start date is specified in the Order, from the date last notified by the Buyer to the Supplier before the Order was agreed, or if no such date was notified to the Supplier, with immediate effect.
- (b) until the service completion date specified in the Order or, where no service completion date is specified in the Order, from the date last notified by the Buyer to the Supplier before the Order was agreed, or, if no such date was notified to the Supplier:
 - (i) for services relating to the completion of a particular project or task: until the Services have been completed in accordance with the Contract
 - (ii) for ongoing services that do not relate to the completion of a particular project or task: 12 months from the Service Start Date.
- (c) in accordance with:
 - (i) the specification or description of the Services as agreed by the Parties in writing or as set out, or referenced, in the Order;
 - (ii) any timescales for the provision of the Services specified in the Order or, if no timescales are specified in the Order, any reasonable timescales notified by the Buyer to the Supplier from time to time; and
 - (iii) any standards of service (such as enquiry response times) set out, or referenced in, the Order.

3.2 The Supplier warrants that:

- (a) the Services will be performed with the skill, care and diligence to be reasonably expected from a Supplier with expertise in the provision of the Services (or similar services);
- (b) the Services will conform with all descriptions, standards and specifications set out or referenced in the Order or as otherwise agreed in writing by the Buyer and the Supplier, and shall be fit for any particular or other purpose that the Buyer makes expressly or impliedly known to the Supplier before the Effective Date;
- (c) it will provide the Services in accordance with any applicable Law and industry standards and, through the provision of the Services it will not, to the best of its knowledge (whether actual, constructive or imputed), cause the Buyer or its Affiliates to breach any applicable Law or industry standards; and
- (d) it has, and will maintain throughout the Contract, all the necessary authorities, permits, authorizations, and licenses from third parties that it needs to carry out the Services and to allow the Buyer and its Affiliates to use and exploit the Services.

4. PRICE AND PAYMENT

4.1 The price for the Services and the currency for payment will be set out in the Order.

4.2 Prices are exclusive of value added tax or any other similar tax ("**VAT**") payable in the Buyer's jurisdiction of incorporation but includes all other taxes, duties and levies, including non-VAT sales and use taxes. If VAT is chargeable in the Buyer's jurisdiction of incorporation, it will be separately identified on the invoice and will be payable by the Buyer subject to the Supplier's compliance with its obligations in clause 4.4 and without prejudice to clause 4.5 below.

4.3 Subject to clause 4.2, the Supplier will be responsible for, and, without limiting clause 15, shall defend, indemnify and hold harmless in full the Buyer, from and against any and all taxes, duties, fines penalties and interest, imposed on the Supplier, its personnel or any Affiliate of the Supplier, by the government or any other lawful taxing authority of any country for or on account of any payment made to or earned by the Supplier in connection with the provision of the Services under this Contract.

4.4 The Supplier will submit an invoice (being a valid VAT invoice where appropriate) to the Buyer after the invoicing date(s) set out in the Order, or if such dates are not contained in the Order, on completion of the Services. The Supplier will follow any reasonable instructions of the Buyer with respect to the format of the invoice and will include on the invoice the Order number and a full breakdown of the price (with sufficient information to enable the Buyer to verify the price, including, where the price is based on a rate card, hours worked).

4.5 Provided clause 4.6 or 6.2(d) does not apply and provided payment is not disputed by the Buyer, then the Buyer will electronically transfer payment to the Supplier on the date falling 60 days after the end of the calendar month in which the

Buyer received the Supplier's invoice. If such a day is not a normal banking day in the Buyer's place of business, then payment will be made on the following normal banking day in the Buyer's place of business.

- 4.6 The Buyer will be entitled to set-off any liability (including amounts invoiced but not yet due) owed by it to the Supplier against any liability of the Supplier or any of its Affiliates to the Buyer or any of its Affiliates under the Contract or otherwise.
- 4.7 If the Supplier does not receive any undisputed amount due from the Buyer under the Contract on its due date (as set out in clause 4.5), the Supplier will be entitled to charge interest on all undisputed overdue amounts at a rate of 4% per annum, accruing on a simple basis from the day the amount became overdue.

5. QUALITY

Without limiting the warranties set forth in clause 3, the Supplier will comply in full with any quality requirements agreed by the Parties in writing or as set out or referenced in the Order and any other reasonable quality requirements notified by the Buyer to the Supplier from time to time.

6. REMEDY FOR DEFECTS

- 6.1 If the Services do not conform to (or do not continue to conform to) all of the requirements set out in clauses 3.2 and 5 then the Buyer may (subject to clause 6.2(a)) send the Supplier a written notice requiring the Supplier to rectify the Non-Conformance within the timescale required by the Buyer (taking into account the Buyer's operational priorities), at the Supplier's cost (a "Rectification Notice"). To the extent the Buyer has not yet paid for Services subject to a Rectification Notice, the Buyer will not be obliged to pay until the Non-Conformances have been addressed to the reasonable satisfaction of the Buyer. The Supplier will immediately notify the Buyer if it believes it will be unable to rectify the Non-Conformance in accordance with the Rectification Notice.

- 6.2 If:

- (a) the Buyer (at its sole and absolute discretion) does not believe it is desirable for the Supplier to perform the work to rectify the Non-Conformance;
- (b) the Supplier notifies the Buyer that it will be unable to rectify the Non-Conformance in accordance with the Rectification Notice; or
- (c) the Supplier does not successfully rectify the Non-Conformance in accordance with the Rectification Notice, then the Buyer may, without prejudice to any rights or remedies it may have:
- (d) adjust the Contract price by an amount determined by the Buyer at its sole and absolute discretion, to reflect the Buyer's assessment of the extent and impact of the Non-Conformance (such an adjustment could be to reduce the price to nil)
- (e) rectify or arrange to have rectified such Non-Conformance at the Supplier's cost; or
- (f) procure equivalent services from alternate sources in order to meet the Buyer's requirements at the Supplier's cost.

To the extent that the Buyer reduces the Contract price under sub-clause (d) above to an amount lower than the amount of the price for such Services already paid to the Supplier, the Supplier will reimburse the Buyer for the difference between the price paid and the adjusted price, within 14 days of the Buyer invoicing the Supplier for such amounts. To the extent that the Buyer incurs costs under sub-clauses (d) and (e) above, the Supplier will reimburse the Buyer within 14 days of the Buyer invoicing the Supplier for such costs.

7. DELAY AND FORCE MAJEURE

- 7.1 The Supplier will immediately notify the Buyer in writing if it has any reason to believe that it may or will be delayed in any way from completing its obligations under the Contract, with full details of the reasons for such belief and any mitigating measures it is taking to manage or reduce the delay.
- 7.2 Subject to the affected Party's compliance with clause 7.3, the time specified for the performance by a Party of any obligation of that Party in the Contract will be extended by a period equal to the period for which such performance is prevented by a Force Majeure Event.
- 7.3 The affected Party will use all reasonable efforts to mitigate the effect of a Force Majeure Event.
- 7.4 If the Buyer receives a notification from the Supplier under clause 7.1 or if the Buyer reasonably believes that a Force Majeure Event has occurred that will or may prevent the timely performance of the Supplier's obligations under the Contract, the Buyer may immediately, on written notice to the Supplier, cancel its order under the Contract in respect of some or all of the Services. In the event of such a cancellation, neither Party will have any liability to the other in respect of such cancellation.

8. SUPPLY OF INFORMATION AND RIGHTS OF INSPECTION

- 8.1 The Buyer may, at its absolute discretion and at any time before the termination or expiration of the Contract, inspect, or nominate an Affiliate, a regulatory body or an independent third party to inspect;
- (a) any processes, procedures, policies, systems or plans used by the Supplier in connection with the provision of the Services; and
 - (b) any financial information of the Supplier, including any annual report, interim accounts or monthly management accounts or any other information only to the extent necessary to allow the Buyer to confirm the Supplier's compliance with the terms of the Contract,

and the Supplier will co-operate to the fullest possible extent with the Buyer to ensure the Buyer or, as applicable, an Affiliate, a regulatory body or an independent third party is able to complete such inspections promptly and to the Buyer's satisfaction.

- 8.2 The Buyer will usually give the Supplier reasonable written notice of its intention to exercise its rights under clause 8.1, however the Buyer retains, at its sole discretion, the right to conduct inspections without prior notice to the Supplier.
- 8.3 If any inspection is required by the Buyer under clause 8.1 as a result of reasonable concerns relating to the Supplier's ability to perform its obligations under the Contract, the Supplier will be responsible for the costs of the inspection.
- 8.4 If the Buyer has reasonable grounds for believing the Supplier may be unable to perform its obligations under the Contract, the Buyer may require the Supplier to provide adequate assurances or other written evidence, to the Buyer's satisfaction, that the Supplier is able to fulfil its obligations under the Contract, within 30 days of the Buyer's request.
- 8.5 Any inspections or test carried out in accordance with the Contract will not imply an acceptance of the Services or any waiver of the Supplier's obligations under the Contract.

9. PERSONNEL

- 9.1 The Supplier shall ensure that all Staff are suitably experienced, qualified, skilled and trained to the level expected of a specialist professional providing services similar to the Services to customers of the same nature as the Buyer and shall ensure that all Staff shall act at all times in a professional manner.
- 9.2 If the Buyer or its Affiliates reasonably believes that any member of Staff is substandard or otherwise unsuitable to perform his or her obligations in connection with the Services, the Buyer may give notice requiring the Supplier to remove any such member of Staff from the provision of the Services. The Supplier shall (at its own cost) promptly arrange for the removal of such Staff from the performance of the Services and shall replace him or her with personnel acceptable to the Buyer and, as applicable, its Affiliates.
- 9.3 Staff will, at all times, remain employed or engaged by the Supplier and the Supplier shall meet all employment costs and liabilities in respect of Staff.
- 9.4 If, as a result of the termination or expiration of this Contract (whether in whole or in part), the contract of employment or engagement of any person who was engaged in providing the Services has effect, or is alleged to have the effect, pursuant to the WARN Act (or any other legislation providing for the rights of employees upon a transfer of an undertaking, plant closing or mass layoff), as if originally made with the Buyer, any of its Affiliates or any Successor Supplier (as applicable), then the Supplier, without limiting clause 15, shall defend, indemnify and hold harmless in full the Buyer (and pay to the Buyer such sums as would, if paid to the relevant Affiliate or Successor Supplier (as applicable) and the relevant Affiliate or Successor Supplier (as applicable)) against all Losses suffered or incurred by the Buyer, any Affiliate and/or Successor Supplier arising from or in connection with:
- (a) any such employment or engagement; and
 - (b) any termination of any such employment or engagement (regardless of such a termination is classed as an unlawful discharge, unlawful termination, unfair dismissal, wrongful dismissal or otherwise and regardless of whether such termination is part of a plant closing, mass layoff or other reduction in force).
- 9.5 In respect of any employees of the Buyer or its Affiliates involved in connection with the Contract, the Supplier shall not, during the term of the Contract, directly or indirectly entice or solicit such person away from the Buyer or its Affiliates (as applicable) with the intent of employing or otherwise engaging such person or with the intent of causing a termination of such person's relationship with the Buyer or its Affiliate. This clause 9.5 shall not apply in respect of any personnel who can be shown to have independently responded to a bona fide general solicitation of employment without any direct or indirect inducement or direction from the Supplier.

10. TERMINATION

- 10.1 The Buyer may terminate the Contract in whole or in part immediately on written notice to the Supplier if:
- (a) the Supplier suffers an Insolvency Event;
 - (b) the Supplier breaches clauses 8.1, 11, 12, 13, 14 or 16; or
 - (c) the Supplier breaches any other clause of this Contract and, in the case of a breach that is remediable, does not remedy such breach within 30 days of receiving written notice of the breach and a request to remedy the breach.
- 10.2 The Buyer may, at any time, terminate the Contract in whole or in part, without cause, on 60 days' written notice.
- 10.3 On termination in accordance with clause 10.1, the Supplier will, if required by the Buyer to do so, promptly provide the Buyer (or any Affiliate nominated by the Buyer) with and license the Buyer (or such Affiliate) to use all such documentation and information as may be necessary to enable the Buyer to have a third party provide the Services or perform the Services itself or through an Affiliate. Subject to clause 12, the Buyer will have no right to use such documentation and information provided under this clause 10.3 for any purpose other than having itself, an Affiliate or a third party perform the Services.
- 10.4 The Supplier may terminate the Contract in the following circumstances only and any right the Supplier may otherwise have to terminate or cancel the Contract at Law is excluded:
- (a) if the Buyer suffers an Insolvency Event;
 - (b) if the Buyer is in breach of any obligation to make payment under the Contract and such breach continues for a period of 90 days from the date that the Buyer received a written notice from the Supplier notifying the Buyer that payment was overdue, provided that the amount of the payment is not in dispute between the Parties.
- 10.5 On termination or expiration of the Contract for whatever reason, the Supplier shall provide all the assistance as the Buyer may reasonably require to ensure an orderly transition of the Services to any Successor Supplier.

11. CONFIDENTIALITY

- 11.1 Subject to clause 11.2, each Party agrees to hold in confidence any Information that it acquires directly or indirectly from the other Party (or the Affiliates of the other Party) and agrees:
- (a) to protect that Information with the same degree of care used to protect its own Information (which will never be less than a reasonable degree of care);
 - (b) not to use the Information other than for the purposes of the Contract.
- 11.2 Subject to clause 13, the provisions of clause 11.1:
- (a) do not apply to Information which is:
 - (i) already in the public domain;
 - (ii) received from a third party who is without an obligation of non-disclosure;
 - (iii) required to be produced by a legitimate legal authority, provided, however, that any party required to produce Information to a legitimate legal authority shall take reasonable efforts to alert the disclosing party of such production prior to making it and shall limit such production to only such information that legal counsel indicates is clearly required to be produced; or
 - (iv) already known by the receiving Party at the time of receipt not due to a breach of an obligation of non-disclosure.
 - (b) will not prevent either Party from disclosing the Contract and financial information concerning the business between the Parties to appointed auditors, legal advisers, insurers and accountants or as otherwise required by Law;
 - (c) will not prevent either Party from disclosing information to suppliers solely to the extent necessary for the purposes of providing and receiving the Services; and
 - (d) will not prevent the Buyer disclosing Information to its Affiliates.
- 11.3 Each Party will be responsible for the observance of the provisions of this clause 11 by its employees or any other third parties to whom Information is disclosed in accordance with this clause 11.

12. INTELLECTUAL PROPERTY RIGHTS

- 12.1 Subject to clause 12.2, neither Party will acquire any title, right or interest in or to any IPR belonging to or licensed to the other Party or developed by the other Party relating to the Services.
- 12.2 All IPR created in any written reports delivered to the Buyer, or its Affiliates, based on any data or Information provided by the Buyer or its Affiliates, shall be work made for hire of the Buyer and will vest in and become the absolute property of the Buyer. The Supplier will transfer, or will ensure the transfer of, any IPR created as a result of the Contract to the Buyer with full title guarantee and the Supplier will:
- (a) take all necessary actions, or will ensure that the necessary actions are taken, (including signing documents) to ensure that such IPR vests in full with the Buyer immediately on creation: and
 - (b) ensure that its (and its suppliers) employees and contractors waive any moral rights in or relating to any works to which such IPR relates and will, on request, provide the Buyer with written evidence of such waiver.
- 12.3 The Supplier will not use, exploit, develop, transfer or license any IPR created as a result of work undertaken under or in connection with the Contract or any IPR belonging to, or provided to the Supplier by, the Buyer or any Affiliate of the Buyer for any purpose other than fulfilling its obligations to the Buyer under the Contract.
- 12.4 Without limiting clause 15, the Supplier shall defend, indemnify and hold harmless in full the Buyer against any Loss suffered by the Buyer as a result of a third party claim that the possession, use, exploitation, development or repair by the Buyer, or any Affiliate, of the Services infringes or misappropriates a third party's IPR. This clause 12.4 will not apply where the third party claim is the direct and unavoidable result of the Supplier using IPR that was provided to the Supplier by the Buyer or an Affiliate of the Buyer.

13. COMPLIANCE WITH LAW AND DATA PROTECTION

- 13.1 The Supplier will, at all times:
- (a) obtain, maintain and observe all regulatory approvals, permits and authorizations applicable in connection with the supply of the Services;
 - (b) comply with all applicable Laws;
 - (c) notify the Buyer of any restrictions or provisos:
 - (i) that exist in respect of any regulatory approvals, permits or authorizations granted in connection with the Services;
 - (ii) that exist under any Law; and
 - (d) provide the Buyer with any information reasonably requested by the Buyer and any information which it knows or should know that the Buyer will or may need in order to comply with or manage its obligations under any Laws.
- 13.2 The Supplier shall comply with the provisions and obligations imposed on it by the Data Protection Laws at all times when Processing Personal Data in connection with the Contract, which Processing shall be in respect of the types of Personal Data, categories of Data Subjects, nature and purposes, and duration, set out or referred to in the Order.
- 13.3 Each Party shall maintain records of all processing operations under its responsibility that contain at least the minimum information required by the Data Protection Laws, and shall make such information available to any DP Regulator on request.
- 13.4 To the extent the Supplier receives from, or Processes any Personal Data on behalf of, the Buyer or any Affiliate of the Buyer, the Supplier shall:

- (a) not Process such Personal Data for any purpose other than those set out in this Contract and only in accordance with the Buyer's written instructions from time to time;
 - (e) inform the Buyer within 24 hours if any such Personal Data is subject to a personal data breach, any other personal data breach or a security breach or is lost or destroyed or becomes damaged, corrupted or unusable;
 - (f) only appoint a third party (including any subcontractors and Affiliates) to Process such Personal Data with the prior written consent of the Buyer;
 - (g) subject to applicable law, not disclose any Personal Data to any Data Subject or to a third party other than at the written request of the Buyer or as expressly provided for in this Agreement; and
 - (h) as the Buyer so directs, return or irretrievably delete all Personal Data on termination or expiration of this Agreement, and not make any further use of such Personal Data (except to the extent applicable Law requires continued storage of the Personal Data by the Supplier and the Supplier has notified the Buyer accordingly, in which case the provisions of this clause 13 shall continue to apply to such Personal Data).
- 13.5 If either Party receives any complaint, notice or communication which relates directly or indirectly to the Processing of Personal Data by the other Party or to either Party's compliance with the Data Protection Laws, it shall as soon as reasonably practicable notify the other Party and it shall provide the other Party with reasonable cooperation and assistance in relation to any such complaint, notice or communication.
- 13.6 The Supplier shall during the term of this Contract operate and maintain an information security program, including administrative, physical and technical safeguards, designed to protect against and prevent any unauthorized use, access, Processing, destruction, loss, alteration or disclosure of any data and other proprietary information shared by the Buyer.
- 14. INSURANCE**
- 14.1 The Supplier will take out and maintain comprehensive general liability insurance with a per claim limit of no less than \$1,000,000 USD (or equivalent in the local currency), which level shall apply to each and every claim. Such insurance will operate on a 'claims occurring' basis, shall name the Buyer as an 'additional insured' and shall include coverage for contractual liability in respect of personal injury or death and loss or damage to property.
- 14.2 The Supplier will maintain employment practices insurance with a per claim limit of no less than \$1,000,000 USD (or equivalent in the local currency), which level shall apply to each and every claim. Such insurance shall name the Buyer as an 'additional insured'.
- 14.3 The Supplier will maintain errors and omissions liability insurance with a minimum per claim limit of no less than \$5,000,000 USD (or equivalent in the local currency), which level shall apply to each and every claim. Such insurance shall name the Buyer as an 'additional insured'.
- 14.4 Certificates of insurance acceptable to the Buyer shall be provided by the Supplier to the Buyer on request. The Supplier will notify the Buyer at least 30 days before either amending, renewing or cancelling any insurance required by this clause 14 or allowing any such policy to lapse.
- 14.5 If the Supplier fails to take out or maintain any insurance required by this clause 14, the Buyer may purchase such insurance itself and the Supplier will be responsible for reimbursing the Buyer for any such costs.
- 15. INDEMNIFICATION**
- 15.1 Without limiting rights the Supplier has under law and equity or as otherwise set forth in the Contract, the Supplier shall defend, indemnify and hold harmless in full the Buyer and each Affiliate of Buyer against any and all Losses, including, without limitation, any injury, death or damage to property, arising out of or occurring in connection with the Services (except to the extent directly arising out of the Buyer's gross negligence or willful misconduct), or the Supplier's negligence, errors and omissions, breach of Law, willful misconduct or breach of the Contract, including, without limitation, any breach of warranty.
- 15.2 Nothing in the Contract shall exclude or limit the Supplier's liability existing under Law, including, without limitation, Supplier's liability for fraud, personal injury or death caused by its negligence or willful misconduct.
- 16. ETHICS**
- 16.1 The Supplier shall comply in full with the Ethical Legislation and the Buyer's Code of Conduct for Suppliers, as set out on the Buyer's website at (<http://www.rotork.com/en/about-us/index/codeofconduct>) in each case as the Buyer may update it from time to time.
- 16.2 The Supplier warrants that it has not, and none of its Associated Persons or, to the extent it is aware, its former Associated Persons, have:
- (a) authorized, offered, promised or given any financial or other advantage, directly or indirectly, to or for the use or benefit of any other natural or legal person, in order to improperly obtain a business advantage; or
 - (b) engaged in any other conduct which would constitute an offence under the Ethical Legislation,
 - (c) and the Supplier undertakes that for the duration of the Contract it will not, and will, to the extent it is legally able, procure that none of its Associated Persons will, engage in any of the conduct described in sub-clauses (a) and (b) above.
- 16.3 The Supplier warrants that:
- (a) it has in place, and for the duration of the term of the Contract will maintain, adequate policies, systems, controls and procedures:

- (i) to prevent it and its Associated Persons from violating the Ethical Legislation or the Buyer's Code of Conduct for Suppliers;
 - (ii) for reporting a violation or suspected violation of the Ethical Legislation and/or generally accepted standards of business ethics and conduct (including the Buyer's Code of Conduct for Suppliers), and for ensuring that all such reports are fully investigated and acted upon appropriately.
 - (b) it will promptly report to the Buyer any request or demand for any undue financial or other advantage of any kind received by the Supplier in connection with the performance of the Contract.
- 16.4 The Supplier will keep, and will ensure that each of its Associated Persons will keep, accurate and up to date records:
- (a) showing all payments made by the Supplier in connection with the Contract; and
 - (b) the steps taken by the Supplier to comply with the Ethical Legislation and the Buyer's Code of Conduct for Suppliers, and will permit the Buyer, or any independent third party nominated by the Buyer, to inspect and take copies of such records and accounts and to meet with the Supplier's or Associated Persons' personnel, in order to audit the Supplier's and Associated Persons' compliance with this clause 16. Such rights or inspection audit shall continue for three years after expiration or termination of the Contract. The Supplier will fully cooperate in any audit carried out under this clause 16.

17. MISCELLANEOUS

- 17.1 If there is a conflict of provisions, the following order of precedence will apply:
- (a) any provisions expressly set out on the Order that are specific to the Services to be performed by the Supplier;
 - (b) these ST&C;
 - (c) subject to clause 2, any other document referred to in the Order or these ST&C;
 - (d) any other terms and conditions set out in the Order that are not specific to the Services to be performed by the Supplier.
- 17.2 The rights and remedies of each Party may be exercised as often as needed, are cumulative and apply (except where expressly stated in the Contract) in addition to its rights under Law and may only be waived in writing and specifically. Not exercising, or a delay in exercising, any right is not a waiver of that right.
- 17.3 If any provision of the Contract is, or becomes, illegal, invalid or unenforceable in any jurisdiction in relation to any Party, that will not invalidate the remaining provisions or affect the legality, validity or enforceability of that or any other provision in any other jurisdiction.
- 17.4 Each Affiliate shall have the benefit of all rights provided for in the Contract and shall be entitled to enforce the Contract subject to and in accordance with its terms.
- 17.5 Notwithstanding clause 17.4, no consent of any third party is needed for any amendment (including any release or compromise of any liability) or termination of the Contract.
- 17.6 The Supplier will not assign, subcontract or otherwise transfer its rights or obligations under the Contract.
- 17.7 All rights and remedies exercisable by the Buyer in accordance with the Contract will, unless otherwise expressly specified in the Contract, be without prejudice to any other rights and remedies of the Buyer, whether contained in, or deriving from, the Contract or not.
- 17.8 The Contract constitutes the entire agreement between the Parties with respect to the Services and supersedes all prior agreements and understandings, both written and oral, between, or among the Parties with respect to the subject matter hereof.
- 17.9 Any notice given to a Party under or in connection with the Contract will be in writing and addressed to that other Party at its registered office or its principal place of business.
- 17.10 Neither Party will use the other Party's name or trademarks in any publicity without the other Party's written permission.
- 17.11 Clauses 3.2, 3.3, 3.4 4, 6, 9.4, 10.3, 10.5, 11, 12, 13.1(d), 13.2, 16.4, 17, 18 and 19 (and any other provision which expressly or impliedly survives termination or expiration of the contract) will survive the expiration or termination of the Contract and will continue in full force and effect after expiration or termination.

18. LAW AND JURISDICTION

- 18.1 Unless otherwise expressly stated in the Order:
- (a) the Contract and any non-contractual obligations arising out of or in relation to the Contract, will be governed by and construed in accordance with Law of the State of New York without reference to any conflict of law provisions that would cause another jurisdiction's laws to apply; and
 - (b) the Supplier hereby irrevocably consents to the jurisdiction and venue of the state courts of Monroe County, State of New York to settle any dispute arising out of or in connection with the Contract, the legal relationships created by it, and any non-contractual obligations arising out of or in relation to it.
- 18.2 Nothing in this clause 18 limits the right of the Buyer to take legal action under the Contract in any other courts with jurisdiction. To the extent allowed by Law, the Buyer may take proceedings in any other court and concurrent proceedings in any number of jurisdictions.

SCHEDULE 1: INTERPRETATION

1. DEFINITIONS

"Affiliates" means as to any person, any other person that it is in Control of, is Controlled by, or is under common Control with, such person.

"Associated Person" means, in relation to a company, a person (including any director, officer, employee, agent or other intermediary) who performs services for or on behalf of that company (in each case when performing such services or acting in such capacity).

"Buyer" means the legal entity that issues the Order to the Supplier.

"Contract" means the Order as accepted by the Supplier, these ST&C and any other terms and conditions that the Order and these ST&C expressly stipulate will apply to the supply of the Services.

"Control" means the power, directly or indirectly, either to: (a) vote 50% or more of the securities having ordinary voting power for the election of directors (or person performing similar functions) of such person; or, (b) direct or cause the direction of the management and policies of such person, whether by contract or otherwise.

"Data Protection Laws" means any Laws and regulations in any relevant jurisdiction relating to privacy or the use or processing of data relating to natural persons, including: (a) California Consumer Privacy Act; and (b) HIPAA; applicable state privacy Laws; and (c) applicable state data breach notification Laws; and (d) applicable state Social Security number protection Laws; and (e) any Law governing email or telephone marketing or other Law regarding marketing communications; and (f) any rule, regulation, bylaw, standard, policy, or procedure of any card association, including the Payment Card Industry Data Security Standards (PCIDSS).

"Data Subject" means an individual identifiable from applicable Personal Data.

"Effective Date" means the date the Contract was entered into by the Parties.

"Ethical Legislation" means (a) any legislation enacted in the Buyer or Supplier's jurisdiction of incorporation or in any other jurisdiction where the Service is being performed, to enforce or implement either the United Nations Convention against Corruption (being the subject of General Resolution 58/4 of 31 October 2003 of the General Assembly of the United Nations) or the OECD Convention on Combatting Bribery of Foreign Public Officials in International Business Transactions adopted on 21 November 1997; and (b) the United Kingdom Proceeds of Crime Act 2002, the United Kingdom Bribery Act 2010 and the United States Foreign and Corrupt Practices Act (15 U.S.C. Section 78dd-1 et. Seq.)

"Force Majeure Event" means, subject to such events being (a) unforeseeable at the time the Parties entered into the Contract and; (b) beyond the reasonable control of the Supplier: acts of God; the refusal of any Government to grant a necessary export license or the withdrawal or suspension of such license; any other government or other legal or regulatory authority action or inaction: fires; floods; wars or threats of war; riots; national labor disputes; acts of terrorism; disruption of essential services such as electrical power; extreme weather; quarantine or any government or regulatory authority mandated precautions against contagious disease, epidemics or pandemics. The Supplier's economic hardship or changes in market conditions are not considered Force Majeure Events.

"HIPAA" means the Health Insurance Portability and Accountability Act of 1996, as amended by the Health Information Technology for Economic and Clinical Health Act provisions of the American Recovery and Reinvestment Act of 2009, Pub. Law No. 111-5 (the "HITECH Act"), and any and all implementing regulations, including the Privacy Standards (45 C.F.R. Parts 160 and 164), the Electronic Transactions Standards (45 C.F.R. Parts 160 and 162), the Breach Notification Standards (45 C.F.R. Parts 160 and 164) and the Security Standards (45 C.F.R. Parts 160, 162 and 164), as amended by the final HIPAA omnibus regulations (78 Fed. Reg. 5,566 et seq., Jan. 25, 2013) and as may be further amended.

"Information" means any commercial, financial, technical, or operational information, know-how, trade secrets or other information of or in the possession of a Party in any form or medium (including all data, know-how, calculations, designs, drawings, methods, processes, systems, explanations and demonstrations) which has been or may be disclosed or otherwise made available to the other Party, whether orally or in written, electronic or other form, including any copies or reproductions of such information in any form or medium, and any part or parts of the same, including the provisions and subject matter of the Contract and any other documents or agreements executed by the Parties in connection with the Contract.

"Insolvency Event" means an event where a person: (a) is deemed to be or states in writing that it is insolvent; (b) is subject to any types of bankruptcy, insolvency or collective judicial or administrative proceedings (including interim proceedings), in which its assets are subject to control or supervision by any courts or other governmental entity for purposes of dissolving, liquidating or reorganizing that person or its assets, (c) otherwise files a petition for bankruptcy or commences or has commenced against it proceedings relating to bankruptcy, receivership, reorganization or assignment for the benefit of creditors, (d) otherwise proposes to enter or enters into any composition or arrangement with its creditors generally or any class of creditors, (e) suspends or declares in writing its intention to suspend payments to creditors generally or any class of creditors, or suspends or ceases all or substantially all of its business, (f) any other steps are taken to enforce any encumbrance over all or part of that persons assets and/or undertaking, (or (g) takes steps, or is subject to actions, analogous to the items specified in (a) to (f) above.

"IPR" means patents (whether design or utility), patent applications, provisional patents, registered designs, trademarks, service marks (in each case, whether registered or not), domain names, copyright, design rights, database rights, moral rights, trade secrets, know-how, metatags, petty patents, utility models and all similar or equivalent property rights including those subsisting in any part of the world in inventions, designs, drawings, computer programs, business or trade names, IP addresses, goodwill, 'get-up' and the style and presentation of goods or services and in applications for protection of the same and any continuations, re-issues or divisions relating to them in any part of the world.

"Law" means all applicable statutes, regulations, rules, by-laws, ordinances, subordinate legislation and other laws (regardless of their source), including any judicial or administrative interpretation of them, in force from time to time.

“**Losses**” means any and all: (a) claims, demands, awards, suits, judgments (however obtained), payments by way of settlement and orders; and (b) taxes, losses, liabilities, damages, costs and expenses including legal expenses (however described and characterized or classified and whether direct or indirect), including loss of profits or revenues, costs of unwinding funding arrangements, liability for professional fees and expenses.

“**Non-Conformance**” means as set out in clause 6.1.

“**Order**” means a purchase order, scheduling agreement or any other form of purchase document issued by the Buyer that sets out (by reference or otherwise) the service being purchased and incorporates these ST&C (by reference or otherwise).

“**Parties**” means the Buyer and the Supplier and a “**Party**” means one of them.

“**Personal Data**” means (a) any information from which a Data Subject can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person;

“**Processing**” means any operation or set of operations which is performed on personal data or on sets of personal data, whether or not by automated means, such as collection, recording, organisation, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction.

“**Rectification Notice**” means as set out in clause 6.1.

“**Service Start Date**” means as set out in clause 3.1(a).

“**Services**” means those services that the Supplier has agreed to provide the Buyer as specified in, or referenced in, the Order.

“**ST&C**” means this document and its contents.

“**Staff**” means any employees, officers and individuals contracted to the Supplier and involved to any extent in the performance of the Services and/or performance of the Contract.

“**Successor Supplier**” means each and any supplier who the Buyer or any Affiliate, appoints to provide any service equivalent to, or substantially the same as, the Services (or any part of the Services) immediately after the termination or expiration of the Contract (whether in whole or in part) or after any occasion of the termination of the Services (whether in whole or in part).

“**Supplier**” means the entity accepting the Order.

“**WARN Act**” means the federal Worker Adjustment and Retraining Notification Act of 1988, and similar state, local, and foreign Law related to plant closings, relocations, mass layoffs, or employment losses.

2. CONSTRUCTION

2.1 In these ST&C, unless the context otherwise requires:

- (a) an “amendment” including an amendment, supplement, novation, re-enactment, replacement, restatement or variation and “amend” will be construed accordingly;
- (b) “include”, “includes”, “including” or similar terms will not be construed as exclusive or limiting examples of the matter in questions and will mean “including, without limitation”
- (c) a “person” includes any individual, partnership, consortium, joint venture, trust, company, corporation, government, state, agency, committee, department, authority or other bodies, corporate or unincorporated whether having distinct legal personality or not;
- (d) a “regulation” includes any regulation, rule, official directive, request or guideline in each case whether or not having the force of law but, if not having the force of law, being of a type the compliance with which is in accordance with the general practice of the persons to whom it is addressed of any governmental, intergovernmental or supranational body, agency, department or regulatory, self-regulatory or other authority or organization;
- (e) words imparting the singular include the plural and vice versa;
- (f) “days” is a reference to calendar days.

2.2 The headings in these ST&C do not affect its interpretation.