

1. Interpretation

1.1 Definitions

In this Agreement, unless the context otherwise requires, the expressions and terms listed in below shall have the following meaning;

“Agreement” means this agreement (including the Purchase Order and any statement of work).

“AI Technologies” means any artificial intelligence, machine learning, generative AI, large language models, neural networks, automated decision-making systems, or any other similar technologies or systems that use algorithms to generate content, make decisions, or perform tasks without direct human control or supervision;

‘Applicable Law’ means all applicable laws and regulations or requirements of all relevant Regulators;

‘Business Day’ means a day (other than a Saturday or a Sunday) on which banks in London are normally open for general business;

‘Confidential Information’ means all information whether conveyed orally, in writing, in machine readable form or otherwise which relates to a party’s business, equipment, services, developments, trade secrets, know-how, personnel, suppliers and customers (whether or not designated as “confidential information” by the disclosing party) together with all information derived from the above, the existence and terms of this Agreement and all information designated as confidential or which ought reasonably to be considered confidential;

‘Customer’ means a customer of Red Consultancy;

‘Deliverables’ means all deliverables specified in a Statement of Work and any and all ideas, concepts, products, drawings, photographs, reports, documents, specifications, artwork, software, interface, design, or other material developed, created, provided and delivered by or on behalf of the Supplier during the course of or arising out of the performance of the Services;

‘Effective Date’ means the date of this Agreement;

‘Intellectual Property Rights’ means copyright and related rights, trade marks and service marks, trade names and domain names, patents, rights to inventions, rights in get-up, rights to goodwill and to sue for passing off and unfair competition, rights in designs, rights in computer software, the “look and feel” of any websites, database rights, rights in confidential information (including know-how and trade secrets) and any other intellectual property rights, in each case whether registered or unregistered and including all applications (and rights to apply) for, and renewals or extensions of, 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;

‘Losses’ means all claims, demands, actions, losses, damages, expenses, liabilities, judgments, awards, fines, sanctions, penalties, taxes plus any amounts paid in settlement and shall include, without limitation, reasonable costs, fees and expenses of lawyers, experts, accountants, appraisers, consultants, witnesses, investigators and any other agents reasonably appointed;

‘Purchase Order’ means a purchase order signed or issued to the Supplier by Red Consultancy under which Red Consultancy orders the Services;

‘Services’ means any services agreed between the parties in writing and which may include (but are not limited to) the services set out in the Statement of Works;

‘Supplier’ means the supplier of goods or Services to Red Consultancy;

‘Red Consultancy’ means Red Consultancy and its Affiliates

1.2 Construction of certain references

In this Agreement where the context admits:

- (A) references to statutory provisions shall be construed as references to those provisions as amended or re-enacted or as their application is modified by other provisions of which they are re-enactments (whether with or without modification);
- (B) references to Clauses and Schedules are references to clauses and schedules of and to this Agreement and references to paragraphs are, unless otherwise stated, references to paragraphs of the Schedule in which the reference appears;
- (C) use of the singular includes the plural and vice versa;
- (D) references to a person include an individual, a body corporate and an unincorporated association of persons;
- (E) references to a party to this Agreement include references to the successors or assigns (immediate or otherwise) of that party; and
- (F) general words introduced or followed by the word “other” “including” or “in particular” shall not be given restrictive meaning because they are followed or preceded (as the case may be) by particular examples intended to fall within the meaning of the general words.

1.3 Headings

The headings and sub-headings are inserted for convenience only and shall not affect the construction of this Agreement.

1.4 Schedules

Each of the Schedules shall have effect as if set out herein.

2 Term

This Agreement shall commence on the Effective Date and (unless terminated at an earlier date in accordance with the terms of this Agreement) shall continue in force for the Period of Engagement.

3 Goods, Services and Deliverables

Each of the Services and Deliverables shall be as set out per the Purchase Order (the statement of work) as agreed between the parties.

4 Performance of the Services and provision of Deliverables

4.1 In consideration of the payment of the Agreed Fee, the Supplier shall provide the Goods and Services and deliver the Deliverables in accordance with:

- (A) the terms of this this Agreement and the details set out in the Statement of Work;
- (B) the performance levels as may be set out under this Agreement;
- (C) an expeditious manner using all due skill, diligence and care of a leading provider of services similar to the Services;
- (D) best industry practice and standards;
- (E) all Applicable Laws and in a manner which does not place the Red Consultancy in breach of any Applicable Laws; and
- (F) a manner which does not or could not in any way bring the Red Consultancy into disrepute or otherwise damage the brand or reputation of the Red Consultancy.

4.2 The Supplier shall:

- (A) act in willing co-operation with agencies and other suppliers appointed by Red Consultancy from time to time when performing its obligations under this Agreement;
- (B) comply with all reasonable requests or directions issued by Red Consultancy in connection with the delivery of the Goods, Services and Deliverables;
- (C) use all reasonable endeavours to obtain the best rates and terms and conditions available in the market at the relevant time;
- (D) except as authorised by Red Consultancy in writing, not act in a way which will incur any liabilities on behalf of Red Consultancy;

- (E) immediately inform and promptly credit Red Consultancy with any payment or refund received directly or indirectly in connection with monies provided or payable by or on behalf of Red Consultancy; hold all monies provided by Red Consultancy and/or paid or refunded to the Supplier on trust for Red Consultancy, including any funds returned or refunded by third parties, in a standalone account separate from its own funds for the benefit of and to the order of Red Consultancy and shall not use such funds otherwise than as directed by Red Consultancy, and not allow any form of charge, security, lien or other interest whatsoever over such funds;

- (F) provide to Red Consultancy the benefit of all commissions, discounts and rebates derived from the handling by the Supplier of the accounts under this Agreement; and
- (G) negotiate to obtain the best possible discounts against published rates for advertising in all media. Whatever commission is allowed by media, the media charge passed on by the Supplier to Red Consultancy will be no more than is required to give the Supplier the applicable commission.

- 4.3 The Supplier acts in all its contracts as a principal at law.

- 4.4 Risk of damage to or loss of Goods and Deliverables shall pass to Red Consultancy upon delivery to Red Consultancy. For the purpose of this clause delivery shall mean the point at which the Deliverables are approved by Red Consultancy.

- 4.5 Without prejudice to any right of rejection which may accrue to Red Consultancy under this Agreement, and subject to the terms of this Agreement, the property (including without limitation title) in the Deliverables shall pass to Red Consultancy upon creation.

5 Delays and non-performance

Delays

- 5.1 Where the Supplier fails to meet a delivery date for the Services or Deliverables as set out in the Statement of Work Red Consultancy may:

- (A) cancel the relevant Goods, Services and/or Deliverables, and/or
- (B) recover from the Supplier the sums paid for the Goods, Services and/or Deliverables in delay or recover from the Supplier liquidated damages as may be set out in the Statement of Works, or as agreed between the parties.

- 5.2 The Supplier acknowledges and agrees that Red Consultancy shall be entitled to recover sums due pursuant to Clause 5.1 by reduction, withholding or set-off against any sums payable by Red Consultancy under this Agreement, provided that if these sums are insufficient to satisfy the Supplier’s liability under Clause 5.1, the Supplier shall promptly pay the balance of that liability within 20 (twenty) Business Days of the date of Red Consultancy’s written notice to the Supplier requiring the same.

- 5.3 The sum or sums of money to be paid under this Clause 5 are a genuine pre-estimate of Red Consultancy’s loss in the event of delay and shall not be treated as a penalty, but shall be paid as liquidated damages owing and payable by the Supplier to Red Consultancy in respect of the loss or damage sustained by reason of such delay.

Non-performance

- 5.4 If any Goods or Deliverables are not supplied or any Services are not performed in accordance with this Agreement, then Red Consultancy shall be entitled to require the Supplier to replace the Goods and/or Deliverables or re-perform the Services to the extent of any such deficiency so that they comply with this Agreement within 7 (seven) days or such other time period agreed by the parties, at the Supplier’s own expense.

- 5.5 Subject to any specific remedies to rectify any non-compliance in respect of the performance levels as may be set out under this Agreement and without prejudice to any other remedy Red Consultancy may have, if the Supplier fails to replace the Goods and/or Deliverables or re-perform the Services in accordance with Clause 5.4, Red Consultancy shall be entitled at Red Consultancy’s sole option to:

- (A) have the Services re-performed or Goods and/or Deliverables replaced to the extent of any such deficiency by an appropriately qualified third party at the Supplier’s expense;
- (B) accept the Supplier’s breach and terminate this Agreement and the Supplier shall repay Red Consultancy any sums paid for the terminated Services, Goods and/or Deliverables;
- (C) stipulate a new date for replacing the Goods and/or Deliverables and/or re-performing the Services;
- (D) accept the failed Services, Goods and/or Deliverables subject to a reduction of the Fees agreed between the parties (acting reasonably and in good faith), such reduction to be an amount that is reasonable taking into account the circumstances;
- (E) reject the failed Services Goods and/or Deliverables and the Supplier shall promptly refund to Red Consultancy such part of the Fees as may have been paid by Red Consultancy as at that date and which are reasonably requested by Red Consultancy to reflect the failed Services Goods and/or Deliverables;
- (F) recover from the Supplier liquidated damages as may be set out in the Schedule.

6 Approval and acceptance

- 6.1 The Services, Goods and Deliverables shall:

- (A) comply with the description, specifications and Red Consultancy requirements; and
- (B) be subject to the approval of Red Consultancy, such approval not to be unreasonably withheld.

7 Warranties

- 7.1 The Supplier represents, warrants and undertakes to Red Consultancy that the Services, Goods and Deliverables will:

- (A) be of satisfactory quality and fit for purpose;
- (B) comply with the applicable Statement of Work;
- (C) prior to delivery to Red Consultancy, be screened using up-to-date virus checking software for viruses, trojan horses or similar destructive, disruptive or nuisance programs and the Supplier will not knowingly introduce to any equipment or system of Red Consultancy any computer viruses, trojan horses or similar destructive, disruptive or nuisance programs nor cause damage of any kind to such equipment or system.

- 7.2 The Supplier represents, warrants and undertakes to Red Consultancy that:

- (A) it will comply with all applicable laws, regulations and codes (including <https://www.redconsultancy.com/supplier-code-conduct/>) applicable to the Services and Deliverables in the United Kingdom and any EC regulations applicable to the provision of the Services in the United Kingdom and any advertising regulations issued, made or given by any advertising regulator in the UK, such as, but not limited to the Advertising Standards Authority BCAP and CAP codes and in accordance with all applicable laws, regulations and codes required by Ofcom and it will not cause Red Consultancy to be in breach of the same;
- (B) the Services will be performed by appropriately qualified and trained personnel, with due care and diligence and to such standard of quality as it is reasonable for Red Consultancy to expect from a competent supplier of such services;
- (C) it has the knowledge, ability and expertise to carry out and perform all the obligations, duties and responsibilities set out in this Agreement and acknowledges that Red Consultancy relies on the Supplier’s knowledge, ability and expertise in the performance of its obligations under this Agreement;
- (D) subject to any third party rights or rights of the Supplier notified in writing and acknowledged in writing by Red Consultancy, it or Red Consultancy shall be the owner or valid licensee of any Intellectual Property Rights required to be used in the performance of this Agreement;

- (E) neither the design, manufacture, supply, installation nor use of the Deliverables in the UK and of the statement of work and any applicable licence of Intellectual Property Rights owned by the Supplier or a third party will constitute an infringement of any Intellectual Property Rights enforceable against Red Consultancy or its Customers. In addition the Supplier shall, prior to delivery of the Deliverables to Red Consultancy, ensure that it has secured the necessary licences, releases or permissions (as applicable) signed by all relevant persons, in order for Red Consultancy to use the Deliverables, in accordance with the provisions of this Agreement; and
- (F) there will be no mortgages, charges, liens, security interests or other encumbrances and/or obligations over or affecting the Services or Deliverables, except as disclosed to and agreed in writing with Red Consultancy.
- 8 Charges and payment**
- 8.1 In consideration of the Supplier's supply of the Services, Goods and Deliverables in accordance with the terms of this Agreement, Red Consultancy will pay the Supplier the Agreed Fee within sixty (60) days from the date of receipt of the invoice.
- 8.2 Payment of any invoices by Red Consultancy will not be deemed approval or acceptance by Red Consultancy of any Services or Deliverables in respect of which the invoice is issued and such payment is without prejudice to Red Consultancy's rights and remedies under this Agreement or at law or in equity in respect of any failure or delay on the part of the Supplier to perform its obligations.
- 8.3 Notwithstanding the above provisions, Red Consultancy has the right to withhold disputed charges and therefore shall not be subject to any interest on the outstanding disputed amount.
- 9 Confidentiality**
- 9.1 Subject to Clauses 9.2 and 9.3, each party will and procure that its directors, officers, employees and Affiliates will treat as confidential all Confidential Information and will not disclose such Confidential Information to any third party person, firm or company.
- 9.2 The provisions of Clause 9.1 shall not apply to any information which:
- (A) the disclosing party agrees in writing may be disclosed;
 - (B) is already in the possession of the recipient party prior to its receipt provided the recipient party is not bound by any existing obligation of confidentiality in respect of such information;
 - (C) can be shown by documentary evidence to have been created by one party to this Agreement independently from the Services or this Agreement;
 - (D) is in the public domain other than by default of the recipient party;
 - (E) is obtained by the recipient party from a bona fide third party having free right of disposal of such information and without breach by the recipient party;
 - (F) is properly disclosed as required by law, court order or other authority of competent jurisdiction or pursuant to and in accordance with a relevant statutory or regulatory obligation or to obtain or maintain any listing on a Stock Exchange.
- 9.3 Each party which receives Confidential Information from the other party shall only use it for the purpose of performing its obligations and asserting its rights under this Agreement.
- 9.4 Confidential Information received by a party pursuant to this Agreement may be disclosed to professional advisers, auditor, bankers, agents and sub-contractors of the parties on a need to know basis provided that each party does so on terms protecting the information substantially the same as the terms of this Clause 9.
- 9.5 The provisions of this Clause 9 shall survive termination of this Agreement for any reason.
- 10 Data Protection**
- 10.1 Each party acknowledges that it is a controller of the personal data of the other party's employees that have been disclosed to it for the purposes of performing this Agreement. Each party warrants to the other that it shall comply with all of the obligations imposed on a controller under applicable Data Protection legislation (including without limitation the Data Protection Act 2018), in respect of such personal data. Without limitation to the foregoing, Red Consultancy processes personal data in accordance with its privacy policy which is available at <https://accordence.com/privacy/>. Where the Supplier processes any other personal data received by it from Red Consultancy or on Red Consultancy's behalf (including without limitation personal data of any Customer), the parties shall enter into a separate data processing addendum to govern the terms of such processing (and any such addendum shall be deemed incorporated into, and shall form part of, this Agreement).
- 11 Intellectual Property Rights**
- 11.1 Subject to Clauses 11.2 to 11.6, the Supplier acknowledges and agrees that the Intellectual Property Rights in the Deliverables shall immediately upon creation vest in and shall be owned by and shall be the exclusive property of Red Consultancy and the Supplier hereby assigns to Red Consultancy by way of present and future assignment all Intellectual Property Rights in the Deliverables with full title guarantee throughout the world free of all encumbrances.
- 11.2 The Supplier shall retain ownership of all Intellectual Property Rights owned by the Supplier in materials in existence prior to the commencement of this Agreement and which were created independently of the Services ("Supplier Materials"). To the extent that part or all of such material forms a part of a Deliverable, upon delivery of the Deliverable the Supplier hereby grants Red Consultancy (and any third parties authorised by Red Consultancy) a perpetual, irrevocable, non-exclusive, transferable, royalty-free, worldwide licence to use, copy and modify such Supplier Materials for such purposes as Red Consultancy or any third party authorised by Red Consultancy may require and permit persons contracted to provide services to Red Consultancy or to a Red Consultancy Affiliate to use the Supplier Materials to the extent reasonably necessary for the performance of such services.
- 11.3 The relevant third party owner shall retain ownership of all Intellectual Property Rights in Intellectual Property Rights in the Deliverables which are owned by a third party ("Third Party Materials"). If and to the extent that any Deliverable comprises Third Party Materials, the Supplier undertakes to advise Red Consultancy of its intention to use Third Party Materials and the terms of any usage restrictions applicable to such Third Party Materials in advance of such use. The Supplier shall then procure for Red Consultancy a perpetual, irrevocable, non-exclusive, transferable, royalty-free, worldwide licence to use, copy and modify such materials. Red Consultancy undertakes to comply with any usage restrictions applicable to the Third Party Materials previously notified to and agreed by Red Consultancy as may be set out in a Statement of Work, or as otherwise notified by the Supplier and agreed by Red Consultancy in writing.
- 11.4 The Supplier acknowledges and agrees that all Intellectual Property Rights of Red Consultancy and its licensors subsisting on the effective date and all information and materials supplied by Red Consultancy to the Supplier together with all Intellectual Property Rights contained in Red Consultancy Materials shall remain vested in Red Consultancy or its licensors and that, no licence is granted and no transfer, assignment or licence of rights shall be deemed to have arisen or implied in any Intellectual Property Rights of Red Consultancy or its licensors.
- 11.5 The Supplier hereby waives all moral rights in the Deliverables in so far as they relate to the Supplier and confirms that it has obtained all waivers of moral rights and consents from any agent or subcontractor or other third party necessary to comply with its obligations hereunder.
- 11.6 Where the Intellectual Property Rights in a Deliverable are assigned to Red Consultancy under the provisions of this Clause 11 then, to the extent that such Deliverables comprise of software, the Supplier agrees that the source code related to that part of the Deliverable assigned and any accompanying technical documentation related to that part of the Deliverable shall vest in and be the exclusive property of Red Consultancy.
- 12 Intellectual Property Rights indemnity**
- 12.1 The Supplier shall indemnify Red Consultancy and any Red Consultancy Affiliate (and their respective employees, officers, and directors) from and against all Losses arising out of or incurred by reason of any infringement or alleged infringement of any Intellectual Property Rights of any kind whatsoever by the use or possession of the Deliverables or performance or receipt of the Services.
- 12.2 If the Supplier fails to conduct such litigation with appropriate diligence and/or becomes subject to any insolvency event as specified in Clause 13 Red Consultancy shall be entitled to conduct and/or settle all negotiations and litigation as it/they sees fit. The costs incurred or recovered in such negotiations or litigation shall be for the Supplier's account.
- 12.3 Notwithstanding Clause 12.1, if at any time any allegation of infringement of third party Intellectual Property Rights is made in respect of the Deliverables and/or the Services or in the Supplier's reasonable opinion is likely to be made, the Supplier may at its own expense:
- (A) modify or replace the affected Deliverables without in any way affecting the quality, performance or functionality of such Deliverables, so as to avoid the infringement; and making good to Red Consultancy any Losses suffered by Red Consultancy during modification or replacement, so as to avoid the infringement; or
 - (B) procure for Red Consultancy the right to retain and continue to use the Deliverables.
- 12.4 If the Supplier does not exercise any of the options set out in Clause 12.3 within 20 (twenty) Business Days of the date it receives notice of any such allegation, or such other time period agreed by the parties then, without prejudice to any other rights or remedies Red Consultancy may have hereunder or at law, Red Consultancy shall be entitled to:
- (A) procure for itself the right to retain and continue to use the Deliverables, and any incremental costs incurred by Red Consultancy which would not have been incurred had the affected Deliverables been properly licensed by the Supplier, shall be borne by the Supplier; or
 - (B) procure for the Supplier the right to continue to perform the Services for Red Consultancy, and any incremental costs incurred by Red Consultancy which would not have been incurred had the affected Deliverables been properly licensed by the Supplier shall be borne by the Supplier.
- 13 Termination**
- 13.1 Without prejudice to any other rights or remedies, Red Consultancy may, by written notice to the Supplier, terminate this Agreement or any Statement of Work (in each case, in whole or in part) with immediate effect on the happening of any of the following events:
- (A) Supplier commits a material breach of this Agreement or a Statement of Work;
 - (B) the Supplier commits a material breach of this Agreement or a statement of work which is capable of remedy and fails to remedy such material breach within 48 hours or such period as Red Consultancy requires after receiving written notice requiring it to remedy that material breach;
 - (C) in the circumstances set out in Clause 5.5(B);
 - (D) in the circumstances set out in Clause 21;
 - (E) the Supplier suspends, or threatens to suspend payment of its debts or is deemed unable to pay its debts within the meaning of section 123(1) of the Insolvency Act 1986; suspends or ceases, or threatens to suspend or cease, to carry on all or a substantial part of its business; commences negotiations in relation to, or enters into, any arrangement, compromise or composition with its creditors or any class of them (with or without first having sought or obtained a moratorium); and/or a petition is presented on bona fide grounds, or a resolution is passed, or a non-venetious order is made, for the winding up or provisional winding up of the Supplier, other than for the sole purpose of a solvent amalgamation or solvent reconstruction of that Supplier; a receiver, administrative receiver, administrator or any similar officer is appointed in respect of the Supplier, or any step is taken towards the appointment of any such officer; and/or
 - (F) any event occurs, or proceeding is taken, with respect to the Supplier in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in this Clause 13.1
- Red Consultancy may, by written notice to the Supplier, terminate this Agreement or any statement of work (in each case, in whole or in part) with immediate effect if an act or omission of the Supplier damages or risks damaging (in the opinion of Red Consultancy) the reputation of Red Consultancy, or any goodwill in any brand or trading name of Red Consultancy or any Red Consultancy Affiliate, or any client of Red Consultancy.
- 13.2 Red Consultancy may, without any liability or obligation on its part, cancel any Creative Brief, Scope of Works and/or any statement of work at any time by giving one (1) day's written notice to the Supplier.
- 14 Consequences of Termination**
- 14.1 Upon termination or expiry of this Agreement or any Statement of Work all rights and obligations of the parties under the Agreement and/or the Statement of Work (as applicable) shall immediately cease to have effect except that expiry or termination shall not affect:
- (A) the accrued rights and obligations of the parties at the date of expiry or termination; and
 - (B) the coming into force or the continuation in force of any provisions of this Agreement which are expressly or by implication intended to come into force or continue in force on or after such expiry or termination, and any provisions of this Agreement necessary for the interpretation or enforcement of this Agreement.
- 14.2 Promptly following expiry or termination of this Agreement or statement of work the Supplier shall promptly:
- (A) return to Red Consultancy any Red Consultancy Materials, relevant documents and other materials provided by Red Consultancy or created from information supplied by Red Consultancy, including any copies thereof, or, upon Red Consultancy's instructions destroy the same; and
 - (B) at Red Consultancy's option, deliver up or destroy all work in progress at the time of termination or expiry and any and all Deliverables and other items in the Supplier's possession or control relating to this Agreement, including all copies thereof.
- 14.3 Upon termination of this Agreement in its entirety, any Statements of Work shall immediately terminate. Termination or expiry of any Statement of Work shall not give rise to the termination of any other then subsisting and any statements of work which shall continue in force subject to the terms of this Agreement.
- 14.4 Notwithstanding termination of this Agreement for whatever reason, Clauses 4, 5, 6, 8, 9, 10, 11, 12, 15, 21 shall continue to apply in accordance with their terms.
- 15 Limitation of Liability**
- 15.1 Neither Red Consultancy nor the Supplier excludes or limits its liability for:
- (A) fraud;
 - (B) death or personal injury due to its own negligence or its employees' or agents' negligence whilst acting in the course of their employment; or
 - (C) any breach of any obligations implied by Section 12 of the Sale of Goods Act 1979 or Section 2 of the Supply of Goods and Services Act 1982.
- 15.2 The Supplier does not exclude or limit its liability for:
- (A) damage to real property or tangible personal property;
 - (B) breach of confidentiality obligations (as set out under Clause 9 hereunder);
 - (C) breach of Intellectual Property obligations under Clause 11 or in respect of the Intellectual Property Rights indemnity under Clause 12;
 - (D) any direct loss of profits;
 - (E) any loss of business or goodwill;
 - (F) fines and penalties;
 - (G) all indemnities;
 - (H) any data protection breaches;
 - (I) any breaches of law by the Supplier;
 - (J) any loss or corruption of data including costs of rectification;
 - (K) any breach of Clause 21 (Artificial Intelligence Restrictions); or
 - (L) anticipated savings.
- 15.3 In addition to the above, the following types of losses are recoverable from the Supplier:
- (A) additional administrative and operational costs and expenses;
 - (B) expenditure or charges rendered unnecessary;
 - (C) costs of procuring replacement Services;

- (D) loss or corruption of data including costs or rectification of the data (including but not limited to, inputting and re-creating the data);
- (E) any fines and penalties; and
- (F) damage to Red Consultancy's reputation (including but not limited to, public relations costs of repairing such damage).

15.4 The Supplier's liability in respect of any loss of profits (whether direct or indirect) incurred by any third party and claimed against Red Consultancy is not excluded under this Agreement and is not subject to any limitation of liability.

15.5 The Supplier agrees to indemnify and hold harmless Red Consultancy (and its employees, officers, and directors) in full against all losses incurred or paid by Red Consultancy as a result of or in connection with any breach of any provision of this Agreement or any negligent act or omission of the Supplier or its employees, agents or sub-contractors.

15.6 Red Consultancy's liability under or arising out of this Agreement shall in each Contract Year not exceed the amount of the fees paid and payable by Red Consultancy under this Agreement.

15.7 Subject always to the provisions of Clause 15.1, Red Consultancy shall not be liable under or in connection with this Agreement including breach of contract, any representation, statement or tortious act or omission (including negligence) or for breach of statutory duty or otherwise for any type of special, incidental, indirect or consequential loss or for any loss of profit (whether direct or indirect) or anticipated savings even if such loss was reasonably foreseeable or that party had been advised of the possibility of the other incurring the same.

15.8 Where the Supplier is required to indemnify Red Consultancy pursuant to any provision of this Agreement, then Red Consultancy shall:

- (A) promptly notify the Supplier in writing of the existence of and in reasonable detail, the facts of any claim or allegations of claim of which it has notice as soon as reasonably practicable after its receipt of such claim, and will not make any admissions nor compromise any such claim without the Supplier's written consent;
- (B) at the Supplier's request and expense allow the Supplier the sole right to conduct and/or settle all negotiations and litigation resulting from such claim; and
- (C) at the request of the Supplier, afford all reasonable assistance with such negotiations or litigation, and shall be reimbursed by the Supplier for any reasonable costs in so doing.

The availability of an indemnity under this Agreement shall be without prejudice to each party's rights and remedies arising other than in accordance with such indemnity.

16 Bribery Act 2010 compliance and indemnity

The Supplier shall comply and shall procure that its directors, officers, agents and sub-contractors comply with the Bribery Act 2010 and all applicable anti-bribery and corruption statutes and regulations. The Supplier shall fully indemnify Red Consultancy on demand in respect of any loss, damage, expense or penalty arising out of any breach of this obligation.

17 Force majeure

Neither party is liable to the other as a result of any delay or failure in the performance of its obligations under this Agreement if and to the extent that such delay or failure is caused by a Force Majeure Event.

18 Assignment and subcontracting

The Supplier may neither assign licence sub-licence, transfer mortgage charge pledge or sublet the agreement nor any of its rights or obligations under the agreement nor purport to do any such things.

19 Notices

All notices which are required to be given hereunder shall be in writing and shall be sent to the address of the recipient set out in the agreement (or such other address in England as the recipient may designate by notice given in accordance with the provision of this clause) and also (if the recipient is a limited company incorporated in England and Wales) the registered office for the time being of the recipient, any such notice may be delivered personally or by first class pre-paid letter or by facsimile transmission and shall be deemed to have been served if by hand when delivered if by first class post 48 hours after posting and if by facsimile transmission when dispatched

20 Entire agreement

20.1 This Agreement, together with any documents referred to in it, constitutes the whole agreement between the parties relating to its subject matter and supersedes and extinguishes any prior drafts, agreements, undertakings, representations, warranties and arrangements of any nature, whether in writing or oral, relating to such subject matter.

20.2 Each party acknowledges that it has not been induced to enter into this Agreement by any representation (whether negligent or innocent), statement or warranty other than those expressly contained in this Agreement and, having negotiated and freely entered into this Agreement, agrees that the only remedy in respect of any misrepresentation or untrue statement made to it shall be a claim for breach of contract under this Agreement, except in the case of fraud.

20.3 No variation of this Agreement shall be effective unless made in writing and signed by each of the parties.

21 Artificial Intelligence Restriction

21.1 The Supplier shall not use, deploy, or incorporate any AI Technologies in the provision of any Goods or Services under this Agreement or on behalf of Red Consultancy or its clients without the prior written consent of Red Consultancy's Chief Executive Officer or Finance Director.

21.2 For the avoidance of doubt, this restriction applies to all AI Technologies whether developed by the Supplier, licensed from third parties, or otherwise accessed or utilised in connection with the performance of this Agreement.

21.3 The Supplier acknowledges and agrees that any breach of this AI restriction shall:

- (A) constitute a material breach of this Agreement;
- (B) entitle Red Consultancy to terminate this Agreement immediately without notice; and
- (C) render the Supplier liable for all Losses (including but not limited to direct, indirect, consequential, and special losses, loss of profits, loss of reputation, regulatory fines and penalties, legal costs, and all other damages, costs, and expenses) suffered or incurred by Red Consultancy, its affiliates, or its clients arising from or in connection with such breach, without any limitation or cap on the Supplier's liability and without being subject to any exclusion or limitation set out elsewhere in this Agreement (including without limitation Clause 15), regardless of whether such losses were foreseeable; and
- (D) require the Supplier to indemnify and hold harmless Red Consultancy and its clients against any and all claims, liabilities, damages, losses, and expenses (including reasonable legal fees) arising from the unauthorised use of AI Technologies.

21.4 The Supplier shall maintain adequate records to demonstrate compliance with this AI restriction and shall provide such records to Red Consultancy upon request. The Supplier shall immediately notify Red Consultancy in writing if it becomes aware of any actual or suspected breach of this AI restriction.

22 General

This Agreement does not create any right or benefit enforceable by any person not a party to it (within the meaning of the Contracts (Rights of Third Parties) Act 1999).

Subject to the specific exclusions and limitations and express provisions to the contrary set out in this Agreement, the rights, powers, privileges and remedies provided in this Agreement are cumulative and are not exclusive of any rights, powers, privileges or remedies provided by law or otherwise.

The exercise or waiver, in whole or in part, of any right, remedy, or duty provided for in the Agreement will not constitute the waiver of any prior, concurrent or subsequent right, remedy, or duty within the Agreement.

No single or partial exercise of any right, power, privilege or remedy under this Agreement shall prevent any further or other exercise thereof or the exercise of any other right, power, privilege or remedy.

At any time after the date hereof each of the parties shall, at the request and cost of another party, execute or procure the execution of such documents and do or procure the doing of such acts and things as the party so requiring may reasonably require for the purpose of giving to the party so requiring the full benefit of all the provisions of this Agreement, subject to any express restrictions in this Agreement on the extent of either party's obligations under this Agreement.

Invalidity

If any provision of this Agreement is held by any court or competent authority to be illegal, void, invalid or unenforceable under the laws of any jurisdiction, the legality, validity and enforceability of the remainder of this Agreement in that jurisdiction shall not be affected, and the legality, validity and enforceability of the whole of this Agreement in any other jurisdiction shall not be affected.

In these circumstances, the parties shall meet to discuss the affected provision and shall substitute a lawful and enforceable provision which so far as possible results in the same economic effects.

Counterparts

This Agreement may be executed in any number of counterparts, which shall together constitute one Agreement. Any party may enter into this Agreement by signing any such counterpart.

Relationship of the parties

Nothing in this Agreement shall constitute, or be deemed to constitute, a partnership between the parties nor shall it constitute, or be deemed to constitute, any party the agent of any other party for any purpose except as expressly provided.

Subject to any express provisions to the contrary in this Agreement, the Supplier shall have no right or authority to and shall not do any act, enter into any contract, make any representation, give any warranty, incur any liability, assume any obligation, whether express or implied, of any kind on behalf of Red Consultancy or bind Red Consultancy in any way.

23 Governing law and jurisdiction

23.1 English law

This Agreement and any non-contractual obligations arising from or connected with it shall be governed by English law and this Agreement shall be construed in accordance with English law.

23.2 Jurisdiction

Each of the parties irrevocably submits to the exclusive jurisdiction of the English courts and waives any objection to Proceedings in such courts on the grounds of venue or on the grounds that Proceedings have been brought in an inappropriate forum. This Clause 23.2 shall not prevent any Party from applying for provisional measures (including interim injunctive relief) in the courts of any other competent jurisdiction.