

**Sample**  
**&**  
**Synapse Consultants Limited**

**REF: Sample.MSA.01**

**Master Services Agreement for IT and Managed Services**

**Date: 01 January 2025**

By the signatures of their duly authorised representatives below, the Company and the Contractor, intending to be legally bound, agree to all of the provisions of this Master Services Agreement and all schedules, exhibits and addenda to this agreement. Each fully executed Service Order (entitled Service Order #1, Service Order #2, and so on) including any additional schedules, parts and exhibits (each a "**SO**") specifies one or more services to be provided by the Contractor, the fees to be paid by the Company to the Contractor for that licence and services, and any other applicable terms. For each SO, the terms set forth on the following pages shall separately apply and constitute an independent contract between the parties.

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**This Agreement** is made on the 01 January 2025 .....

- (1) **Sample Company** (000001) whose registered office is at 1 Street, City, PO1 CO2 and
- (2) **Synapse Consultants Limited** (7086257) whose registered office is at Unit 3, Building 2 The Colony, Altrincham Road, Wilmslow, SK9 4LY (**Contractor**).

THE PARTIES AGREE AS FOLLOWS:

**Whereas**

- (A) The parties wish to enter into this Master Services Agreement for the provision by the Contractor of certain services from time to time.
- (B) When the Company wishes to request the provision of services, and the Contractor is able to provide such services, the Company and the Contractor shall enter into SO (defined below) pursuant to clause 2 of this Master Services Agreement.

**1 Definitions**

1.1 In this MSA and each SO (unless the context otherwise requires) the following words and expressions shall have the following meanings:

**Acceptance Date** means (where applicable) the date on which a Deliverable is accepted by the Company in accordance with the terms of the Agreement or deemed accepted in accordance with clauses 3.5 and 3.7 below

**Acceptance Tests** means the tests detailed in the Specification which are to be carried out in relation to Deliverables (or any one of them)

**Agreement** means:

- (a) this MSA; and
- (b) for each SO, subject to clause 2.3, the SO

**Agreement Year** means each period of 12 consecutive calendar months commencing on the Commencement Date or any anniversary of the Commencement Date

**Associate** means, in relation to either party, a company which is a Subsidiary or a Holding Company of that party, or a Subsidiary of such Holding Company, in each case for the time being

**Business Day** means any day other than a Saturday, Sunday or a public or bank holiday in England

**Catastrophic Failure** has the meaning given to it in the SO

**Change** means a change or modification to the Services, Deliverables, timescales or any other matter in relation to this MSA or any SO

**Change of Control** means that there has been a direct or indirect change in ownership of the Contractor resulting in more than fifty per cent (50%) of the voting share capital or similar right of ownership of the Contractor, or legal power to direct or cause the direction of the general

management and policies of the Contractor, whether through the ownership of voting capital, by contract or otherwise

**Commencement Date** means the date of this MSA

**Company Data** means any data, including Personal Data, provided by the Company or any person under the Company's authority in connection with the Services

**Company Infrastructure Requirements** means those IT Infrastructure requirements detailed in the SO, or agreed between the parties in writing from time to time

**Contractor's Premises** means any premises in the possession or control of the Contractor and/or its Personnel including any premises from which any of the Services are provided

**Data Protection Schedule** means Schedule 2 to this MSA

**Default** means any breach by the Contractor of any of its obligations under this MSA or any SO, including a Catastrophic Failure or Persistent Failure

**Deliverables** means any deliverables which are required to be supplied to the Company as a consequence of the performance of the Services, including any and all other works of authorship and materials developed, written or prepared by the Contractor or its Personnel in relation to the Services (whether individually, collectively or jointly with the Company and on whatever media) which it is required to deliver to the Company pursuant to the Services, including, without limitation, any and all Programs, Source Materials, reports, studies, data, diagrams, charts, specifications and all drafts thereof and working papers relating thereto

**Event of Insolvency** means any of the following events:

- (a) the relevant party proposing to enter or entering into any composition or arrangement with its creditors generally or any class of creditors (other than for the sole purpose of a scheme for a solvent amalgamation or reconstruction);
- (b) the relevant party entering into liquidation whether compulsory or voluntary (other than for the sole purpose of a scheme for a solvent amalgamation or reconstruction), or a provisional liquidator being appointed in respect of the relevant party;
- (c) the relevant party ceasing or threatening to cease to carry on business, or suspending or threatening to suspend all or substantially all of its operations;
- (d) the relevant party suspending or threatening to suspend payment of its debts, or being unable to pay its debts as they fall due, or being deemed unable to pay its debts within the meaning of Section 123 of the Insolvency Act 1986;
- (e) if a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of the relevant party (other than for the sole purpose of a scheme for a solvent amalgamation or reconstruction);
- (f) if notice of intention to appoint an administrator in respect of the relevant party is filed at Court, or an application for an administration order of either party is issued by the Court, or an administrator, administrative receiver, receiver or manager is appointed in respect of the whole or any part of the relevant party's assets;
- (g) if a floating charge holder over the assets of the relevant party has become entitled to appoint or has appointed an administrative receiver;

- (h) if any event occurs or proceeding is taken with respect to the relevant party in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events referred to in paragraphs (a) to (g) above

**Fees** means the fees for the Services set out in the relevant SO

**Force Majeure** means, in relation to either party, circumstances beyond the reasonable control of that party including, without limitation, acts of God, acts of any governmental or supranational authority, war or national emergency, riots, civil commotion, fire, explosion, flood, disease, pandemic, epidemic, lock-outs (whether or not by that party) strikes and other industrial disputes (other than strikes or industrial disputes including the Contractor's Personnel) except to the extent that such circumstance could have been prevented, overcome or mitigated by that party as a result of exercising reasonable care or by exercising its business continuity and disaster recovery plan

**Group** means in relation to a party, that party, each and every Subsidiary or Holding Company from time to time of that party, and each and every Subsidiary from time to time of a Holding Company of that party

**Holding Company** shall have the meaning given in section 1159 of the Companies Act 2006 and shall include parent undertakings as defined in section 1162 of the Companies Act 2006 (each section being in force at the date of this Agreement)

**Initial Period** means the initial period set out in the SO commencing on the SO Commencement Date

**Intellectual Property Rights** means all intellectual property rights of whatever nature subsisting at any time in any part of the world including without limitation, patents, copyrights, design rights, registered designs, trademarks, service marks and know-how, rights in respect of confidential information, rights in respect of databases, the rights to apply for any of the foregoing and applications for any of the foregoing

**Key Personnel** means the Contractor's Personnel identified in the SO as key Personnel

**Knowledge Transfer** means the methodical replication of the expertise and tacit knowledge of the Contractor concerning the Company

**KPIs** means key performance indicators, as set out in each SO where relevant. Distinction is made within each SO between Material KPIs and Non-Material KPIs

**Licence** means the licence(s) which are granted to and/or procured for the Company by the Contractor under the Agreement

**Measurement Period** means the relevant period of time in which the KPIs and/or service levels are measured, as more particularly set out in the SO

**Minimum Insurance Levels** means Public Liability £5 million pounds, Employers Liability £10 million pounds and Professional Indemnity £10 million pounds

**MSA** means this master services agreement (including all schedules, exhibits and addenda incorporated into it)

**Nominated Representatives** means in respect of either party its directors, officers and employees who are nominated in writing and notified to the other party, to make decisions on each party's' behalf in respect of performance of the Agreement, or their validly appointed

successors

**Persistent Failure** has the meaning given to it in the SO

**Personal Data** has the meaning given to it in Schedule 2 (Data Protection)

**Personnel** means any employee, director, agent, contractor or sub-contractor of the Contractor engaged in providing the Services or otherwise with the performance of the Agreement

**Pre-existing Materials** means software and/or code created by the Contractor prior to the Commencement Date

**Programs** means any computer programs or software forming part of the Deliverables

**Relief Event** means an act, omission or Delay by the Company which materially and demonstrably prevents the Contractor from performing its obligations under the Agreement

**Remediation Notice** means a written notice given by the Company to the Contractor pursuant to clause 11.1 to initiate the Remediation Plan Process

**Remediation Plan** means the plan agreed in accordance with clause 11 (Remediation Plan Process) for the resolution of a Default by the Contractor

**Remediation Plan Process** means the process for resolving certain Defaults of the Contractor as set out in clause 11 (Remediation Plan Process)

**Service Level Agreement** means the service levels set out in the SO (if applicable)

**Services** means the services and associated Deliverables to be provided by the Contractor to the Company set out in a SO

**Service Components** means hardware, software and other infrastructure components used in the provision of the Services set out in a SO.

**SO or Service Order** means a statement of work signed by the Company and the Contractor, setting out the description of the Services, Fees and other matters agreed between the parties, substantially in the form set out in Schedule 1

**SO Commencement Date** means the date set out in the SO or, if no such date is specified, the date on which the SO is executed by both parties

**SO Term** means, in respect of a SO, the period beginning on the SO Commencement Date and ending on the expiry of the SO term specified in the relevant SO

**Source Materials** means all logic structures and diagrams, flow charts, orthographic representations, algorithms, routines, sub-routines, utilities, modules, file-structures, coding sheets, coding, source code listings, functional specifications and program specifications relating to the Programs and all other materials and documents necessary to enable a reasonably skilled programmer to maintain, amend, modify, adapt, enhance and translate the Programs and/or to combine the Programs with or incorporate the Programs into other software without reference to any other person or documentation and whether in eye-readable or machine-readable form

**Specification** means the specification agreed in a SO

**Subsidiary** has the meaning given in Section 1159 of the Companies Act 2006 and shall include subsidiary undertakings as defined in Section 1162 of the Companies Act 2006 (each section as being in force at the date of this MSA)

**Third Party Code** means software and/or code created by third parties (including without limitation “open source”) but excluding any third party software or code required to be delivered as part of the Services

**Timetable** means the time schedule and sequence of events for the performance of the Services set out in a SO or otherwise agreed between the parties in writing from time to time

**VAT** means Value Added Tax (**VAT**) taken to mean VAT as under the Value Added Tax Act 1994

**Warranty Period** means in relation to a Deliverable, the period commencing on the Acceptance Date and unless a longer period is agreed in a SO, ending three months thereafter

1.2 In this MSA and each SO:

- (a) references to persons shall (unless the context requires otherwise) be deemed to include any partnership, undertaking or other body of persons, whether incorporated or not incorporated and whether now existing or hereafter to be formed;
- (b) references to a party shall mean either the Company or the Contractor (and their successors and permitted assigns) and references to parties shall mean both of the parties;
- (c) a reference to any statute, enactment, order, regulation or other similar instrument shall be construed as a reference to the statute, enactment, order, regulation or instrument as amended by any subsequent statute, enactment, order, regulation or instrument or as contained in any subsequent re-enactment thereof; and
- (d) any words following the terms “including”, “include”, “in particular”, “for example” or any similar expression shall be construed as illustrative and shall not limited the sense of the words, description, definition, phrase or term preceding those terms.

## 2 This MSA and SOs

2.1 This MSA provides the general terms that will apply to the provision of Services by the Contractor to the Company. If the Company wants to obtain Services from the Contractor, then a SO will be entered into by the Company and the Contractor.

2.2 A SO will be conditional on, and not become legally binding until, it has been signed on behalf of each party to it.

2.3 Each SO will:

- (a) form a separate legal contract between the parties and incorporate the terms and conditions of this MSA; and
- (b) start on its SO Commencement Date and, if not terminated earlier in accordance with the Agreement, will continue until the end of the SO Term.

2.4 The Services will be provided in compliance with the terms and conditions of the Agreement. If there is any inconsistency between this MSA and the terms of a SO, the terms of the MSA will

prevail except where the SO specifically references a provision of this MSA and modifies or disapplies it.

### 3 Services and Deliverables

3.1 The Company hereby appoints the Contractor to provide and perform, and the Contractor hereby agrees to provide and perform, the following:

- (a) the Services; and
- (b) the Deliverables;

in each case, subject to Relief Events and events of Force Majeure in accordance with the provisions of the Agreement. The Contractor will promptly notify the Company's Nominated Representative in writing if it considers that there will or may be a delay in the Timetable or otherwise in the provision of the Services and/or Deliverables (a "**Delay**").

3.2 In the event of a Delay, the Contractor shall provide the Company with:

- (a) details of the causes for and potential impact of any such Delay;
- (b) the Contractor's proposed workaround in relation to the Delay;
- (c) what extension, if any, is being sought to the Timetable; and
- (d) if the Contractor reasonably considers the Delay results directly from a Relief Event ("**Excused Delay**").

3.3 The Contractor shall take reasonable steps to eliminate or mitigate the consequences of any Delay.

3.4 Without prejudice to the Company's other rights and remedies under the Agreement, in the event of a Delay (except for an Excused Delay):

- (a) the Contractor shall remediate the Delay at its own expense; and
- (b) the Company may:
  - (i) suspend payment of any Fees then due and any which may subsequently fall due until the Contractor remedies the Delay; and
  - (ii) where either: (i) the parties fail to agree a revised Timetable (whereby the Company will not unreasonably withhold agreement); or (ii) Contractor fails to comply with any revised Timetable, the Company may recover from the Contractor its reasonable costs and expenses (excluding costs and expenses for the value and time of its own employees) incurred as a result of the failure by the Contractor and terminate the Agreement pursuant to clause 18.1(a).

3.5 The Contractor will notify the Company when the Deliverables are ready for Acceptance Testing. Where applicable, Deliverables will be tested and accepted by the Company in accordance with the Acceptance Tests or, if no such tests have been agreed, such tests as are reasonably appropriate to determine compliance in all material respects of the Deliverables with the Specification. The Company will be deemed to have accepted the Deliverables unless within 14 days of receiving such notice, the Company notifies the Contractor to the contrary and specifies in such notice the grounds for rejection.



- 3.6 The Company will not unreasonably withhold or refuse acceptance of the Deliverables.
- 3.7 There will also be deemed acceptance of the Deliverables if they are used by the Company in a live environment (other than solely for the purposes of carrying out the Acceptance Tests).
- 3.8 In the event of valid rejection of the Deliverables, the Contractor, without additional charge, will promptly (and in any event with 14 days of the date of rejection of the Deliverables) carry out the necessary work to remedy such discrepancy and will notify Company when such Deliverable(s) is/are ready for further Acceptance Tests. The same process as set out in clause 3.5 will apply to such testing unless or until the Company terminates the Agreement pursuant to clause 3.9.
- 3.9 If the Company rejects the Deliverables (or any part of the Deliverables) two (2) or more times in accordance with clause 3.5, then, in addition to any other rights and remedies under the Agreement, the Company may:
- (a) agree in writing to an extension of time for the completion of the Acceptance Tests (subject to any terms or conditions reasonably required by the Company);
  - (b) accept the Deliverables subject to the Contractor completing, at the Contractor's sole cost, a workaround acceptable to the Company; or
  - (c) terminate the Agreement (in whole or in part) with immediate effect by giving notice to Company and receive a refund for any Fees paid.

#### **4 Term**

- 4.1 This MSA shall commence on the Commencement Date and, unless terminated earlier in accordance with the provisions of this MSA or otherwise by operation of law, shall continue in force until three (3) months (or such other period as the parties may agree in writing) after the expiry or termination of the last SO Term ("**MSA Term**").
- 4.2 Each SO shall commence on its SO Commencement Date and, unless terminated earlier in accordance with the provisions of the Agreement or otherwise by operation of law, shall continue for its SO Term.

#### **5 Fees and payment**

- 5.1 In full consideration for the provision of the Services and Deliverables, the Company shall pay the Contractor the Fees as specified in the relevant SO.
- 5.2 Where the Fees for any element of the Services are calculated by reference to out of scope professional services, these rates will not increase by more than 5% in any 12 month period. Proposed changes in rates due to (i) the promotion of any of the Contractor's Personnel; or (ii) the introduction of any new Personnel which the Contractor wishes to use from time to time must be agreed in advance and in writing with the Company.
- 5.3 Unless otherwise agreed in a SO, the Contractor shall render monthly, itemised invoices in arrears to the Company in respect of the Fees.
- 5.4 All amounts quoted in the Agreement are inclusive of expenses. Additional expenses will only be paid if expressly agreed in advance with the Company (such agreement not to be unnecessarily delayed or withheld) and where full supporting evidence for such expenses is provided.

- 5.5 Subject to clauses 5.6 and 5.7, all Fees and approved expenses shall be paid within 30 days of the date of receipt of the relevant invoice by the Company.
- 5.6 The Company may offset any sums it owes to the Contractor against any sums due from the Contractor to the Company.
- 5.7 If the Company disputes in good faith all or any part of any invoice that it receives from the Contractor, it may withhold such amount but shall notify the Contractor in writing of the amount disputed and its reasons for disputing such amount and shall pay any amount that is undisputed.
- 5.8 All amounts payable under the Agreement are exclusive of VAT, which shall be shown separately on each invoice and paid by the Company at the rate and in the manner for the time being prescribed by law, subject to receipt of a valid VAT invoice.
- 5.9 If the Company fails to make any payment when due under the Agreement and fails to remedy the default within 30 days of a written notice to the Company from the Contractor requiring remedy, then, without prejudice to any other rights or remedies available to the Contractor, the Contractor shall be entitled to suspend provision of all or part of the Service without liability until payment in full is received.

## **6 Insurance**

Subject to the limitations set out in clause 38, the Contractor shall maintain adequate insurance cover to meet any liabilities which may arise with respect to its performance or failure to perform its obligations under the Agreement and shall, at a minimum, maintain insurance cover with a reputable insurance company sufficient to meet any Minimum Insurance Levels. The Contractor agrees to furnish the Company with evidence of such insurance cover on request.

## **7 Intellectual Property Rights**

- 7.1 All Intellectual Property Rights owned by the Company (including in and to the Company Data), whether pre-existing or created by the Company or the Company Personnel during the term of the Agreement shall belong to the Company and the Contractor shall not acquire any rights to those Intellectual Property Rights, except as licensed in accordance with clause 7.2 below.
- 7.2 The Company hereby grants, or shall procure the grant, to the Contractor of a non-exclusive, personal licence to use such of the Intellectual Property Rights of the Company as may be necessary for the sole purpose of undertaking the Services, such licence to terminate immediately on termination of the Agreement for whatever reason.
- 7.3 Subject to payment of the Fees in accordance herewith, with the exception of Third Party Code, the Contractor hereby grants (or shall procure the grant of) a non-exclusive, fully-transferable, royalty-free worldwide licence in respect of all Intellectual Property Rights in the Deliverables, to the Company to use such Deliverables for the sole purpose of receipt of the Services with the intent that such licence shall take effect on any such copyright or other Intellectual Property Rights coming into existence pursuant to the provision of the Services. Use of Third Party Code will be subject to the terms imposed by the relevant third party and the Company is responsible for familiarising itself with and abiding by such terms and the Company shall indemnify and shall keep the Contractor and its Associates fully and effectively indemnified on demand against all costs, claims, demands, expenses and liabilities (including legal fees and expenses) of whatsoever nature arising out of or in connection with any claim by a relevant third party that the Company has used the Third Party Code in breach of the relevant third party terms.

- 7.4 Subject to payment of all outstanding Fees (save those that have been reasonably disputed pursuant to the terms of the Agreement) whether or not invoiced, upon the request of the Company at any time, and in any event upon the expiration or termination of the Services (otherwise than for breach by the Company), the Contractor shall at its expense promptly deliver to the Company all copies of the Deliverables then in the Contractor's custody, control or possession.
- 7.5 The provisions of this clause shall survive the expiration or termination of the Agreement.

## **8 Company Obligations**

- 8.1 The Company shall during the SO Term:
- (a) make available to the Contractor (on reasonable notice and at reasonable intervals) such access to its premises as may be reasonably necessary for the performance of the Services, provided always that the Contractor shall comply with (and shall procure that its Personnel shall comply with) the Company's reasonable instructions;
  - (b) ensure that its employees co-operate with the Personnel in relation to the provision of the Services; and
  - (c) as soon as reasonably practicable furnish the Contractor with such information and documents as it may reasonably request for the proper performance of its obligations hereunder.
- 8.2 Without prejudice to its obligations under clause 3, where the Contractor is aware or reasonably believes that the Company is failing to comply with any of its obligations in relation to the Agreement it will immediately bring this to the attention of the Company's Nominated Representative specifying the nature and anticipated consequences of the failure and suggesting ways in which the failure can be corrected and/or its effects mitigated, and both parties shall work in good faith in order to rectify such failures.

## **9 Personnel**

- 9.1 The Contractor shall ensure that all Personnel involved in the provision of the Services are properly trained and suitably skilled and experienced for the performance of the Services.
- 9.2 Subject always to the rights and obligations set out in Schedule 2 (Data Protection), the Contractor shall use its reasonable endeavours to avoid replacing any of its Personnel, if any, who are identified in the Specification as Key Personnel during the SO Term and, where reasonably practicable, shall give the Company not less than 30 days' written notice of any such proposed replacement.
- 9.3 The Company shall be entitled to request and obtain, in its discretion, the removal and replacement (upon reasonable notice) of any of the Personnel which it may designate, provided that the Company shall not exercise such right frivolously or vexatiously.
- 9.4 The Contractor shall be responsible for any costs and expenses associated with the replacement of Personnel including but not limited to those relating to Knowledge Transfer to the replacement Personnel.
- 9.5 The Contractor shall (and shall ensure that its Personnel shall) comply with the Company's codes of conduct, health and safety policies and security practices of which they have been made aware by the Company.

## **10 Service Credits**

- 10.1 Without prejudice to the Company's other rights and remedies, if the Contractor fails to achieve one or more Material KPIs in a Measurement Period, the Contractor will reduce the Fees invoiced to the Company by way of crediting the Company with a service credit in the next invoice following the relevant Measurement Period. Such service credit will be equal to 5% of the total Fees paid or payable by or on behalf of the Company during the Measurement Period.
- 10.2 Upon expiry or termination of the Agreement any accrued service credits under clause 10.1 which have not already been included in an invoice will be deducted from the Fees set out in the final invoice issued by the Contractor. If there is no such final invoice (or if for any reason such deduction (whether in whole or in part) is not made from it), a sum equal to such service credits (or the relevant part of them) will be paid by the Contractor to the Company in cleared funds within five (5) Business Days of the expiry or termination of the Agreement and the Contractor will issue the Company with a credit note for that sum.

## **11 Remediation Plan Process**

- 11.1 If the Contractor commits a Default and the Default is capable of remedy, the Company may but shall not be obliged to:
- (a) issue a Remediation Notice to the Contractor which shall specify the Default in outline and the actions the Contractor needs to take with respect to remedying the Default; and
  - (b) provide the Contractor with an opportunity to remedy the Default (without additional Fees) within a period of time and in a manner that is in accordance with the requirements of the Agreement and satisfactory to the Company (acting reasonably). For the avoidance of doubt, nothing in this clause 11.1 shall restrict the Company's ability to recover losses already incurred as a result of a Default.
- 11.2 Within five (5) Business Days of receipt of a Remediation Notice, the Contractor shall either:
- (a) submit a draft Remediation Plan to the Company; or
  - (b) inform the Company that it does not intend to submit a Remediation Plan, in which event the Company shall be entitled to escalate the matter in accordance with clause 29 (Resolution of Disputes).
- 11.3 The Company shall either approve the draft Remediation Plan pursuant to clause 11.2(a), or it shall inform the Contractor why it cannot accept the draft Remediation Plan. In such circumstances, the Contractor shall address all such concerns in a revised Remediation Plan, which it shall submit to the Company within three (3) Business Days of its receipt of the Company's comments. If no such notice is given, the Contractor's draft Remediation Plan shall be deemed to be agreed.
- 11.4 Once agreed, the Contractor shall immediately start work on the actions set out in the Remediation Plan.
- 11.5 If, despite the measures taken under clause 11.3, a Remediation Plan is not agreed within 20 Business Days of the date of the Remediation Notice then the Company may escalate the matter in accordance with clause 29 (Resolution of Disputes).
- 11.6 If a Remediation Plan is agreed between the parties, but the Contractor fails to implement or successfully complete the Remediation Plan by the required remedial plan completion date, the Company may:

- (a) give the Contractor a further opportunity to resume full implementation of the Remediation Plan;
- (b) escalate the matter in accordance with clause 29 (Resolution of Disputes);
- (c) proceed under clause 12 (Step-In); or
- (d) proceed under clause 13 (Buy-Out).

11.7 If the Contractor refuses to submit a Remediation Plan under clause 11.2(b), or a Remediation Plan is not agreed within the 20 Business Day period referred to in clause 11.5, the Company may elect in its absolute discretion to proceed under clause 12 (Step-In) or clause 13 (Buy-Out).

11.8 For the avoidance of doubt:

- (a) the rights and remedies of the Company under any provision of clauses 10 (Service Credits), 11 (Remediation Plan Process), 12 (Step-In) and 13 (Buy-Out):
  - (i) may be applied, as specified in the relevant Remediation Notice, in connection with the relevant Default and Services; and
  - (ii) are in addition to and not in replacement for any other rights or remedies available to it under the Agreement; and
- (b) the exercise of rights and remedies by the Company in accordance with clauses 10 (Service Credits), 11 (Remediation Plan Process), 12 (Step-In) and 13 (Buy-Out) shall not be considered to be a waiver of any breach by the Contractor of the Agreement.

## **12 Step-In**

12.1 Without prejudice and in addition to the provisions and process set out in Clause 11 (Remediation Plan Process), in the event of an occurrence of a Catastrophic Failure or Persistent Failure, or at the Company's election pursuant to either of clauses 11.6 or 11.7, the Company may:

- (a) suspend the Contractor's right to provide the Services which are the subject of the relevant Default and any related Services (to the extent specified by Company);
- (b) itself take the steps as envisaged in the Remediation Plan to remedy the relevant Default;
- (c) engage another supplier or suppliers to take the steps envisaged in the Remediation Plan to remedy the relevant Default;
- (d) locate one or more members of Company Personnel at the Contractor's Premises to work with the Contractor's Personnel and to oversee the provision of the Services to the extent necessary to remedy the relevant Default;
- (e) engage a sub-contractor work with the Contractor's Personnel and to oversee the provision of the Services to the extent necessary to remedy the relevant Default; and/or
- (f) itself provide the Services or engage another Contractor or providers to provide all or part of the Services to the extent necessary to remedy the relevant Default,

(each a "Step-In").

- 12.2 The Contractor shall co-operate fully and in good faith with the Company or any other person appointed by Company under clause 12.1.
- 12.3 Unless the Company has, after Step-In, terminated the Agreement or the relevant Services in accordance with the Agreement, the Company shall allow the Contractor to resume the provision of the Services as soon as reasonably practicable after:
- (a) the relevant Default has been remedied; and
  - (b) the Contractor demonstrates to the Company's reasonable satisfaction that it will be able to meet the requirements of the Agreement if it resumes provision of the Services,
- and the Company shall cease to exercise its Step-In rights.
- 12.4 If the Company exercises a Step-In right, the Contractor shall not be entitled to charge Fees for the disrupted Services during the period that the relevant Default is continuing, including the period in which Step-In applies;
- 12.5 If Step-In occurs and the Contractor has not for any reason resumed provision of such Services within 30 days after the start of the Step-In, Company may terminate the relevant Services and/or the Agreement by notice to the Contractor pursuant to clauses 13 or 18.

### **13 Buy-Out**

- 13.1 Without prejudice to any other rights or remedies set out in the Agreement,
- (a) in the event of an occurrence of a Catastrophic Failure or Persistent Failure;
  - (b) at the Company's election pursuant to either of clauses 11.6 or 11.7;
  - (c) as otherwise agreed between the parties in writing; or
  - (d) in the event of termination pursuant to clause 12.5.

the Company may exercise its right to termination the Agreement and, to the extent agreed between the parties in writing in an SO, purchase all or certain of the Service Components. Where applicable, the details of the relevant Service Components available for purchase by the Company, and the method for calculating the charges to purchase it, shall be set out in the SO.

- 13.2 In the event that the Company exercises its rights under clause 13.1, the Contractor shall, at its own expense, promptly do all such acts and execute all deeds and other documents which may reasonably be required to confirm and perfect the Company's (or its nominee's) ownership of the Service Components, including assigning to the Company (or its nominee) all licenses relating to, and Intellectual Property Rights in, the Service Components. The Contractor warrants that the transfer of ownership of the Service Components to the Company (or its nominee), and the assignment of all licences relating to, and Intellectual Property Rights in, the Services Components, shall be with full title guarantee and free from all encumbrances.

### **14 Change Control**

- 14.1 The Company may at any time request and the Contractor may at any time recommend, a Change. Any requests or recommendations for Changes shall be processed in accordance with the change control procedure set out at Schedule 3 (Change Control Procedure).

- 14.2 This clause shall not apply to any amendment, modification or alteration required as a consequence of any failure or delay on the part of the Contractor in performing its obligations hereunder (which shall remain entirely at the Contractor's cost) and shall not affect any obligation of the Contractor to comply with any relevant timescales.

## **15 Force Majeure**

- 15.1 Neither party shall be in breach of the Agreement or otherwise liable to the other party in any manner whatsoever for any failure or delay in performing its obligations under the Agreement due to Force Majeure.

- 15.2 If a party's performance of its obligations under the Agreement is affected by Force Majeure, then:

- (a) it shall give written notice to the other party, specifying the nature and extent of the Force Majeure, promptly upon becoming aware of the Force Majeure and will at all times use all reasonable endeavours to mitigate the severity of the Force Majeure;
- (b) the date for performance of such obligation shall be deemed suspended only for a period equal to the delay caused by such event;
- (c) it shall not be entitled to payment from the other party in respect of extra costs and expenses incurred by virtue of the Force Majeure event; and
- (d) if the Force Majeure in question prevents the Contractor from performing its obligations under the Agreement and prevails for a continuous period in excess of 30 days after the date on which the Force Majeure begins, or for a period exceeding 30 days when aggregated in any 60 day period, then the Company shall be entitled to terminate the Agreement.

- 15.3 In the event of any extension of time being granted pursuant to clause 15.2, the Timetable shall be amended accordingly.

- 15.4 The parties acknowledge that the consequences, impacts and effects of the Covid-19 pandemic are known by the parties, or ought to be reasonably known by the parties, as at the SO Commencement Date ("**Covid-19 Event**") and such provisions known as at the SO Commencement Date are not considered to be Force Majeure events and neither party shall be entitled to rely on this clause 15 to the extent that any delay or non-performance of its obligations under the Agreement results from a Covid-19 Event. Any such further consequences, impacts and effects of the Covid-19 which are not currently known or reasonably foreseeable will be considered to be Force Majeure.

## **16 Warranties and Indemnities**

- 16.1 The Contractor warrants to the Company and its Associates that:

- (a) it has full capacity, skills and all necessary consents to enter into and perform its obligations under this MSA and any SO;
- (b) execution of this MSA and any SO by such party does not and will not violate any applicable law and does not and will not constitute a default under or breach of any of its existing or future obligations;
- (c) the receipt, use and possession of the Services and Deliverables by the Company will not infringe the Intellectual Property Rights of any party;

- (d) for the Warranty Period, the Deliverables (including but not limited to any Programs) shall:
  - (i) in all material respects comply with the Specification or other statement of requirements agreed in writing;
  - (ii) be free from all material defects in materials, workmanship and installation; and
  - (iii) be free from viruses or equivalent harmful contaminants, and for this purpose the Contractor warrants that it shall use the most comprehensive and up to date virus protection tools and techniques available.

16.2 If the Contractor receives written notice from the Company after the Acceptance Date of the breach of any of warranties contained in clause 16.1(d) above, the Contractor shall, at its own expense and promptly after receiving such notice, remedy the defect or error in question provided that the Contractor shall have no liability or obligations under clause 16.1(d) above to the extent that the breach has arisen due to Relief Events or events of Force Majeure and unless it shall have received written notice of the defect or error in question no later than the expiry of the Warranty Period.

16.3 The Company warrants that:

- (a) the Company Data (including but not limited to any proprietary marks of the Company) stored, accessed or transmitted via the Services shall not contravene any applicable laws, legislative provisions or regulations;
- (b) the Company Data stored, accessed or transmitted via the Services shall not infringe the Intellectual Property Rights of any party; and
- (c) it will not use the Contractor equipment to interfere with or disrupt other network users or network services.

16.4 The Company shall indemnify the Contractor against loss, damage, cost or expense (including reasonable legal costs on an indemnity basis), which the Contractor incurs, suffers or becomes liable for as a result of any of the following;

- (a) the Company's breach of clause 16.3 above; or
- (b) any virus or malware originating from the Company equipment, software or Company Data.

## 17 Intellectual Property Rights Indemnity

17.1 The Contractor shall indemnify and shall keep the Company and its Associates fully and effectively indemnified on demand against all costs, claims, demands, expenses and liabilities (including legal fees and expenses) of whatsoever nature arising out of or in connection with any claim that, except in respect of the provision of Third Party Code, the receipt of Services or use or possession of the Deliverables by the Company or its Associates infringes the Intellectual Property Rights of any third party ("**Claim**").

17.2 The Company shall:

- (a) notify the Contractor in writing of any alleged infringement of which it becomes aware;
- (b) not make any admission or statement in respect of such Claim;



- (c) allow the Contractor to defend the Claim; and
- (d) provide the Contractor (at the Contractor's cost) with such reasonable assistance as it may request.

## **18 Termination**

18.1 This MSA or any SO may be terminated:

- (a) by either party with immediate effect on giving notice in writing to the other party if the other party commits a material breach of this MSA or a SO (as applicable) which:
  - (i) is not, in the reasonable opinion of the party giving notice of termination, capable of remedy; or
  - (ii) if capable of remedy, is not remedied within 30 days after the receipt of a request in writing from the other party so to do (such request to contain a warning of such party's intention to terminate);
- (b) by either party with immediate effect on giving notice in writing to the other party if the other party suffers an Event of Insolvency;
- (c) by the Company with immediate effect on giving notice in writing to the Contractor:
  - (i) where a Persistent Failure occurs;
  - (ii) where a Catastrophic Failure occurs; or
  - (iii) pursuant to clauses 12 or 13 of this MSA;
- (d) if the Contractor undergoes a Change of Control.

18.2 In addition, a SO may be terminated:

- (a) by the Company in accordance with clause 15.2(d) (Force Majeure); or
- (b) by the Company, after the Initial Period (if specified in a SO), giving to the Contractor not less than 30 days' written notice of termination (whereupon the Company shall be liable to pay only for such Services and/or Deliverables as have been validly provided up to the date of termination and any third-party costs reasonably and demonstrably incurred by the Contractor in the performance of the Services).

## **19 Consequences of termination**

- 19.1 Upon termination under clauses 18.1 and/or 18.2, the Company shall be liable to pay only for such Services and/or Deliverables as have been validly provided up to the date of termination and any third-party costs reasonably and demonstrably incurred by the Contractor in the performance of the Services to date (including but not limited to the costs relating to the Service Components).
- 19.2 Upon termination of this MSA by the Company, all of the SOs will automatically terminate. Termination of an SO will not affect the continuation of this MSA or any other SOs.
- 19.3 Any termination under clause 18.1 shall discharge the parties from any liability for further performance of this MSA and any SO (as applicable) and, in the case of a termination by the

Company under clauses 18.1 or 18.2, shall entitle the Company to be repaid forthwith any sums previously paid by it under any SOs (whether paid by way of a deposit or otherwise) for Services that have not yet been rendered or and to take action against the Contractor the amount of any loss or damage sustained or incurred by the Company as a consequence of such cause for termination.

- 19.4 Any termination of this MSA or any SO (howsoever occasioned) shall not affect any accrued rights or liabilities of either party nor shall it affect the coming into force or the continuance in force of any provision hereof which is expressly or by implication intended to come into or continue in force on or after such termination.
- 19.5 At the Company's request and expense (based on the Contractor's then current charging rates absent any contrary written agreement between the parties), the Contractor shall following termination of this MSA and any SO (howsoever arising), co-operate with and assist the Company (to the extent reasonable) in order to ensure that such termination and its consequences cause the minimum disruption to the Company's business, affairs and the performance of the Company's responsibilities.
- 19.6 Upon any termination of a SO, all Licences granted shall continue in force (for so long as the terms and conditions of the same are not breached) and all physical deliverables shall pass to (or remain with) the Company, in each case to the extent that the Company has paid for the same or shall elect to pay for the same in accordance with the Fees within 30 days of the date of such termination.

## **20 Standards of Service and Exclusions from the Services**

- 20.1 The Contractor undertakes to the Company and its Associates that it will at all times during the performance of the Services:
- (a) ensure that the Services are delivered in accordance with best industry standards;
  - (b) ensure that the Services are delivered in compliance with all applicable laws, regulations and codes of practice in force from time to time;
  - (c) provide the Services in a workmanlike and professional manner and exercise reasonable skill and care;
  - (d) provide suitably skilled and appropriately experienced Personnel;
  - (e) ensure that its Personnel comply with the terms of the Agreement;
  - (f) work in a constructive manner with employees and contractors of the Company to the extent necessary for the effective performance of the Agreement;
  - (g) make its Personnel available during its standard working hours to respond to reasonable requests from the Company for information concerning the Services and their performance;
  - (h) comply with the Service Level Agreement; and
  - (i) generally provide advice and guidance to the Company (whether or not solicited by the Company) where it is reasonable and practical to do so and such advice and guidance as is, in the reasonable opinion of the Contractor, required in order to ensure that the Company obtains the full benefit of the Services.

## 20.2 Excluded Services

Any SO entered into under this MSA does not include the following standard excluded services, unless otherwise set out in the SO:

- (a) parts, equipment or software not covered by vendor/manufacturer warranty or support;
- (b) the cost of any parts, equipment, or shipping charges of any kind;
- (c) the cost of any software, licensing, or software renewal or upgrade fees of any kind;
- (d) the cost of any third party vendor or manufacturer support or incident fees of any kind;
- (e) the cost to bring the Company's environment up to minimum standards required for Services;
- (f) service and repair made necessary by the alteration or modification of equipment other than that authorised by Contractor, including alterations, software installations or modifications of equipment made by Company's employees or anyone other than Contractor;
- (g) maintenance of software packages and applications, whether acquired from Contractor or any other source, unless as specified in a SO;
- (h) programming (modification of software code) and program (software) maintenance; or
- (i) training services expected for Knowledge Transfer that might be requested from time to time by the Company.

## 20.3 Target Resolution

Should any of the exceptions or events detailed in Clause 20.4 below occur, which directly affect Contractor's ability to provide the Services then, for the period during which the relevant Services are impacted;

- (a) the Service Level Agreement and target(s) relating to the affected Service(s) will be suspended and will be provided on a reasonable endeavours basis;
- (b) the affected Service(s) shall be reported to the Company as an exception and excluded from the Service Level Agreement target measurement; and
- (c) for the affected Service(s), the Contractor shall be exempt from the liability to pay any service credits to the Company under clause 10 (Service Credits).

## 20.4 Exceptions

- (a) A Relief Event occurs which directly prevents the Contractor from meeting its obligations and responsibilities set out in this Agreement, including the obligation to provide correct information relating to the Services.
- (b) Faults caused by hardware or software other than hardware or software supplied or licensed by, or under the control of, the Contractor or its Personnel in connection with the Services.

- (c) Where the Company invokes a change to the Services and therefore resolution needs to be rescheduled at the request of the Company.
- (d) Downtime caused as a result of the Company exceeding system capacity and specifically where the Company has been notified that either the storage, processor or memory capacity is operating in excess of 80% and fails to procure additional capacity.
- (e) Downtime due to viruses introduced by the Company.
- (f) Downtime due to Company operating system failing to meet the Company Infrastructure Requirements.
- (g) Downtime due to problems caused by Company-supplied web site content or software (e.g., faulty third party applications).
- (h) Downtime due to the Company's failure to adhere to Contractor's change management process and procedures set out at Schedule 3 (Change Control Procedure).
- (i) Downtime due to the acts or omissions of the Company, its employees, agents, third party contractors or vendors (but excluding any acts or omissions agreed to, or approved by, the Contractor or its Personnel).
- (j) Downtime caused by Force Majeure event as defined in Clause 15 of this Agreement.
- (k) Downtime in periods where Contractor is undertaking either pre-notified and planned or preventative maintenance or infrastructure changes to optimise and maximise Service availability.
- (l) The negligence or wilful misconduct of the Company or others authorised by Company to use the Services provided by Contractor.
- (m) Any failure of any component for which Contractor is not responsible, including but not limited to all Company-provided or Company-managed electrical power sources, networking equipment, computer hardware, computer software or web site content.
- (n) Any failure of Company-provided local access facilities or any failures that cannot be corrected because the Company is inaccessible or unavailable, subject to the Contractor (or its Personnel) requesting access on reasonable notice, at reasonable times and at reasonable intervals.

20.5 The Contractor shall provide support of all hardware and systems specified in a SO, provided that all hardware is covered under a currently active vendor support contract; or replaceable parts are readily available, and all software be genuine, currently licensed and vendor-supported. Should any hardware or systems fail to meet these provisions, they will be excluded from the Agreement. Should third party vendor support charges be required in order to resolve any issues, these will be passed on to the Company after first receiving the Company's authorisation to incur them.

## **21 Severance**

Each provision of this MSA and/or any SO is severable and distinct from the others and, if any provision is or at any time becomes to any extent or in any circumstances invalid, illegal or unenforceable for any reason, it shall to that extent or in those circumstances be deemed not to form part of the Agreement but (except to that extent or in those circumstances in the case of that provision) the validity, legality and enforceability of that and all other provisions of the

Agreement shall not be affected or impaired, it being the parties' intention that every provision of the Agreement shall be and remain valid and enforceable to that fullest extent permitted by law.

## 22 Whole Agreement

This MSA, each SO and the documents referred to in them contain the whole agreement between the parties, and supersedes all proposals and prior agreements, arrangements and understandings between the parties, relating to their subject matter. The Contractor acknowledges that it has not entered into the Agreement in reliance on any warranties, representations, covenants, and undertakings except in so far as they are contained in the Agreement. Nothing in this clause shall limit or exclude any liability for fraud.

## 23 Notices

All notices to be given to a party under the Agreement shall be in writing in English and shall be marked for the attention of the person, and delivered by hand or sent by first class prepaid post to the address, detailed for the party below:

(a) in the case of the Company:

Address: 1 Street, City, PO1 CO2

Attention Contact Name, Contracts Manager

(b) in the case of the Contractor;

Synapse Consultants Limited, WeWork, Synapse360, 1 St Peter's Square, Manchester, M2 3DE

Attention: Stephen Douglas

23.2 A party may change the details recorded in this clause by notice to the other in accordance with this clause 23.

23.3 A notice shall be treated as having been received:

(a) if delivered by hand between 9.00am and 5.00pm on a Business Day (which time period is referred to in this clause as **Business Hours**) when so delivered: and if delivered by hand outside Business Hours, at the next start of Business Hours; and

(b) if sent by first class post, at 9.00am on the third Business Day after posting if posted on a Business Day and at 9.00am on the fourth Business Day after posting if not posted on a Business Day.

23.4 In proving that a notice has been given it shall be conclusive evidence to prove that delivery was made, or that the envelope containing the notice was properly addressed and posted (as the case may be).

23.5 E-mailed notices are not valid for the purposes of the Agreement.

## **24 Assignment and sub-contracting**

24.1 Neither party shall be entitled to assign or charge or mortgage the whole or any part of its liabilities or obligations under this MSA or any SO, or the benefit of this MSA or SO, without the prior written consent of the other party, (which will not be unreasonably withheld).

24.2 The Contractor shall not appoint a sub-contractor to perform the whole or any part of its obligations pursuant to this MSA or any SO unless it has obtained the prior written consent of the Company. If the Company gives its consent, the Contractor shall not be relieved from any of its obligations thereunder, shall remain primarily responsible for the acts and omissions of its sub-contractors as though they were its own and shall, if requested by the Company, promptly provide the Company with copies of any sub-contracts.

## **25 Rights cumulative**

The powers, rights and remedies conferred on either of the parties under the Agreement are cumulative and are additional to and not exclusive of any powers, rights or remedies provided by law or otherwise available to it.

## **26 Survival of terms**

Any clauses which are either expressly or by implication intended to apply after the termination of the Agreement shall continue in full force and effect in accordance with their terms after termination of the same.

## **27 Waiver**

Neither the single or partial exercise or temporary or partial waiver by either party of any right, nor the failure by either party to exercise in whole or in part any right or to insist on the strict performance of any provision of the Agreement shall (except for the period or to the extent covered by any such temporary or partial waiver) operate as a permanent or full waiver of, or preclude any exercise or enforcement or (as the case may be) further or other exercise or enforcement by either party of, that or any other right or provision.

## **28 Publicity**

No announcement or information concerning the Agreement or any ancillary matters shall be made or released in any advertising, publicity, promotional or other marketing activities by either of the parties without the prior written consent of the other.

## **29 Resolution of Disputes**

In the event of any dispute between the parties arising out of the Agreement, the parties shall first each use its respective reasonable endeavours in good faith to resolve any such dispute by escalation as follows:

- (a) initially, by negotiation between all of the parties' Nominated Representatives;
- (b) if the Nominated Representatives shall fail to resolve the dispute within 14 days of the dispute being referred to them, by the referral to, and negotiation between directors of the parties; and
- (c) if the directors shall fail to resolve the dispute within 14 days of the dispute being referred to them, by the referral to, and negotiation between the managing directors of the parties;

- (d) if the managing directors shall fail to resolve the dispute within 14 days of the dispute being referred to them, by referring to a mediator approved by mutual agreement or failing mutual agreement by the President from time to time of the British Computer Society, who shall consider the resolution of the dispute in a prompt and expeditious manner. Both parties agree to co-operate fully with such mediator, provide such assistance as is necessary to enable the mediator to discharge his duties and to bear equally between them the fees and expenses of the mediator.

### **30 Counterparts**

This MSA and each SO may be executed in two counterparts, each of which shall be deemed to constitute an original and shall become effective when two counterparts have been signed by both parties and such a counterpart so signed has been delivered to each of the parties.

### **31 Variations**

No purported variation of the provisions of this MSA or any SO shall be effective unless the same is in writing, expressly refers to this MSA or the relevant SO (as applicable) and the provision(s) being varied, signed and dated by each party.

### **32 Nominated Representatives**

32.1 The parties may change their Nominated Representatives from time to time by notice thereof in writing to the other party.

32.2 All communications concerning the performance of this Agreement or any Agreement shall be conveyed between the parties' Nominated Representatives.

### **33 Confidentiality**

33.1 Subject to clauses 33.2 and 33.3 at all times during the term of this Agreement and thereafter each party shall keep secret and confidential all business and trade secrets, methods of doing business, customer lists and all other confidential information and materials disclosed by or obtained from the other in connection with the Agreement and each party undertakes not to use, otherwise than in the proper performance of its obligations or exercise of its rights hereunder, nor disclose any such material or information to any third party without the prior written permission of the other.

33.2 The obligations of confidentiality under clause 33.1 above shall not apply to any information or material which the recipient party can prove:

- (a) was already known to it prior to its receipt thereof from the disclosing party or any of the disclosing party's Associates; or
- (b) was subsequently disclosed to it lawfully by a third party who lawfully obtained the same and who was not bound by any obligation of confidence in respect thereof to the disclosing party or to any of its Associates: or
- (c) is generally available to the public at the time of receipt by the recipient or subsequently becomes generally available to the public other than by reason of the breach of the provisions of this clause or breach of any obligation of confidence owed by the recipient or by any of its Associates.

33.3 The restrictions contained in this clause 33 will continue to apply after the expiry or termination of the Agreement without limit in time.

### **34 Non-Solicitation**

- 34.1 Neither party shall, for the MSA Term and for a period of 12 months after its termination or expiry, employ or contract the services of any person who is or was employed or otherwise engaged by the other party at any time in relation to this MSA or any SO.
- 34.2 Neither party shall, for the MSA Term and for a period of twelve months after its termination or expiry, solicit or entice away from the other party any customer or client where any such solicitation or enticement would cause damage to the business of that party.

### **35 Security, Back-up and Data Protection**

- 35.1 The Contractor will establish and maintain the security, back-up and recovery measures and procedures as identified in Schedule 4 (Security) in the Specification and such other security, back-up and recovery measures and procedures as are reasonably practicable to provide for the safe custody of the Company's information and data which may come within its access or possession as a consequence of the performance of its obligations under the Agreement and to prevent the unauthorised access thereto as further detailed in Schedule 2 being the Data Protection Schedule.
- 35.2 If and to the extent that the Contractor processes any Personal Data in connection with the Services, it will comply with its obligations set out in Schedule 2 (Data Protection).

### **36 Costs**

Except as otherwise stated in the Agreement each of the parties shall bear its own costs and expenses incurred in connection with the negotiation, preparation, execution and performance by it of the Agreement.

### **37 Proper law and jurisdiction**

The provisions of this MSA and any SO shall be governed by and construed in accordance with English law and, in respect of all matters arising under this MSA and any SO, the parties shall submit to the non-exclusive jurisdiction of the Courts of England and Wales.

### **38 Liability**

- 38.1 The following provisions set out the entire liability of either party howsoever arising (whether in contract, tort (including negligence) or otherwise) under or in connection with this MSA and any SO.
- 38.2 Nothing in this MSA or any SO excludes or limits the liability of:
- (a) either party:
    - (i) for death or personal injury resulting from its own negligence or its employees', consultants', agents' or contractors' negligence;
    - (ii) for fraud or fraudulent misrepresentation; or
    - (iii) for any liability that cannot be excluded or limited as a matter of law;
  - (b) the Contractor:



- (i) for any breach of clauses 16.1(a) or 16.1(b) (Warranties and Indemnities), 20.1(b) (Compliance with applicable law) or clause 33 (Confidentiality); or
- (ii) under clause 17 (Intellectual Property Rights Indemnity).

38.3 Subject to clauses 38.2, 38.4 and 38.5, the Contractor's maximum aggregate liability to the Company arising under or in connection with this MSA and under each SO (individually) in respect of any damage to tangible property resulting from the negligence or default of the Contractor or its employees, consultants, agents or contractors shall not exceed £1 million pounds.

38.4 Subject to clauses 38.2, and 38.5, the maximum aggregate liability of either party (whether in contract, tort (including negligence) or otherwise) under or in connection with MSA and under each SO (individually) shall not exceed £10 million.

38.5 Subject to clause 38.2 above, neither party shall be liable to the other for any indirect or consequential loss or damage, loss of profit, revenue, or goodwill howsoever under this MSA or any SO or otherwise whether or not such loss has been discussed by the parties pre-contract or for any account for profit, costs or expenses arising from such damage or loss.

### **39 Progress Meetings and the Timetable**

39.1 The parties shall procure that their Nominated Representatives will meet at least once a month to discuss and minute the progress of performance under the Agreement.

39.2 The Contractor shall provide all such information as the Company shall reasonably require from time to time during the MSA Term in order to satisfactorily monitor the Contractor's performance.

### **40 Further Assurance**

Each party shall do and execute or arrange for the doing and executing of any such act and document reasonably requested of it by the other party to implement and give full effect to the terms of this MSA and any SO.

### **41 Third Party Rights**

The parties agree that the Associates of the Company may enforce those terms of this MSA and any SO which are construed for their benefit (pursuant to s1 (1)(a) of the Contracts (Rights of Third Parties) Act 1999) but the parties reserve the right, (pursuant to s2(3)(a) of that Act), to rescind or vary any part of them without the consent of such or any other person who is not a party to the Agreement. Under no circumstances shall the Contractor be liable to the Company for itself and Associates of the Company for the same loss incurred or sustained by the Company and Associates of the Company. Any liability pursuant to this provision shall be subject to the limitations on liability set forth in clause 38 and shall be taken into account when calculating the Contractor's total liability under clause 38.

## Schedule 1 : Pro Forma SO

### Service Order #

**TO MASTER SERVICES AGREEMENT DATED [INSERT] 2022 between [Insert Customer] (“Company”) and Synapse Consultants Limited (“Contractor”) (“MSA”)**

**SO Date:** [•]

This SO is entered into pursuant to the MSA and hereby incorporates by reference the terms and conditions of the MSA (and all schedules, exhibits and addenda to the MSA as applicable). Capitalised terms used in this SO shall have the meanings ascribed to them in the MSA, unless otherwise defined herein. The terms set out in this SO are in addition to the terms of the MSA which are incorporated into this SO. If there is any inconsistency between the terms of the MSA and the terms of this SO, the terms of the MSA will prevail except where this SO specifically references a provision of this MSA and modifies or disapplies it.

This SO is entered into on the SO Date set out above.

### **TERM**

**SO Commencement Date:**[•]

**Initial Term:** [•]

### **SERVICES**

**Services Description:** [•]

**Hardware:** [•]

**Timetable:** [•] (to be appended to this SO at Appendix 1)

**Locations:** [•]

**Specification:** [•] (to be appended to this SO at Appendix 2)

**Key Personnel:** [•]

### **CUSTOMER DEPENDENCIES**

**Company Infrastructure Requirements:** [•] (to be appended to this SO at Appendix 3)

### **SERVICE LEVELS**

**Service Levels and KPIs:** [•] (to be appended to this SO at Appendix 4)

**Measurement Period:** [•]

**Catastrophic Failure:** [•]

**Persistent Failure:** [•]

### **FEES**

**Fees:** [•]

**DATA PROTECTION**

This SO incorporates Schedule 2 (Data Protection) of the MSA and, if and to the extent the Contractor processes any Personal Data in connection with the Services, it will comply with its obligations set out in that Schedule.

To the extent that the Contractor processes any Personal Data for and on behalf of the Company under this SO, the parties shall agree below the details of the processing.

**Subject-matter of the Processing: [•]**

**Duration of Processing: [•]**

**Nature and purpose of the Processing:[•]**

**Types of Personal Data: [•]**

**Categories of Data Subject: [•]**

**SECURITY**

**Schedule 4 of this MSA:** [Applicable / Not Applicable]

**OTHER TERMS**

**Buy-Out Right: [•]**

- Appendix 1 : Timetable
- Appendix 2 : Specification
- Appendix 3 : Company Infrastructure Requirements
- Appendix 4 : Service Levels and KPIs

**SIGNATURES**

<b>Company</b>		<b>Contractor</b>	
<b>By:</b>	_____	<b>By:</b>	_____
<b>Print Name:</b>	_____	<b>Print Name:</b>	_____
<b>Print Title:</b>	_____	<b>Print Title:</b>	_____
<b>Date:</b>	_____	<b>Date:</b>	_____

## Schedule 2 : (Data Protection)

### Provisions relating to the Processing of Personal Data

Notwithstanding anything to the contrary in the Agreement, should any conflict arise between these terms and other Agreement terms, then these terms take precedence.

**Definitions** – for the purpose of this Schedule, the following terms have the meanings ascribed to them (and are in addition to, and shall prevail over, the definitions at clause 1.1 of the Agreement):

**Controller** shall have the meaning given to it under Data Protection Legislation;

**Company Contact Data** means the basic contact details of the Company's Personnel which are processed in connection with the negotiation, administration and execution of the Agreement (but not in connection with the Services);

**Data** shall mean the Personal Data and Special Personal Data provided by the Company to the Contractor pursuant to the Agreement or which is otherwise Processed by the Contractor on behalf of the Company pursuant to the Agreement but excluding Company Contact Data;

**Data Protection Legislation** means all applicable laws relating to the processing of personal data and privacy, in each case which are in force from time to time in any relevant jurisdiction, including UK GDPR and, where applicable, GDPR, including all law and regulations implementing or made under them, any amendment or re-enactment of them;

**Data Subject** shall have the meaning given to it under Data Protection Legislation;

**GDPR** means the General Data Protection Regulation (2016/679);

**Processor** shall have the meaning given to it under Data Protection Legislation;

**Personal Data** shall have the meaning given to it under Data Protection Legislation;

**Personal Data Breach** shall have the meaning given to it under Data Protection Legislation;

**Processing** shall have the meaning given to it under Data Protection Legislation;

**Special Personal Data** shall mean the special categories of Personal Data as set out under Data Protection Legislation;

**Sub-Processor** means as set out at Clause 1.3 of this Schedule; and

**UK GDPR** means the GDPR as it forms part of domestic law by virtue of the European Union (Withdrawal) Act 2018, with adjustments as provided in the Data Protection, Privacy and Electronic Communications (Amendments etc.) (EU Exit) Regulations 2019, and as supplemented by the Data Protection Act 2018.

### DATA PROTECTION

1.1 The parties acknowledge that:

- (a) the Company is a Controller and the Contractor is a Processor of the Data; and

- (b) they are independent Controllers of the Company Contact Data.

1.2 Each SO will set out the following information in relation to the Data:

- (a) subject matter of the Processing;
- (b) duration of Processing;
- (c) nature and purpose of the Processing;
- (d) types of Personal Data; and
- (e) categories of Data Subject.

Both parties shall review the above information no less than once every 12 months to ensure that it remains up-to-date and shall agree any changes required in writing.

1.3 The Contractor shall in relation to the Data:

- (a) process the Data only on the documented instructions of the Company as set out in the Agreement (and any variation to perform its obligations under the Agreement) and as communicated to the Contractor from time-to-time, and ensure that its staff only Process Data on instructions from the Company, unless required to do otherwise by applicable law. In the event that a legal requirement prevents the Contractor from complying with such instructions or requires the Contractor to disclose the Data to a third party the Contractor shall, unless such legal requirement prohibits it from doing so, inform the Company of the relevant legal requirement before carrying out the relevant Processing activities. If the Contractor is aware that or of the opinion that any instruction given by the Company breaches applicable law, the Contractor shall inform the Company of this giving details of the breach or potential breach as soon as reasonably practicable;
- (b) ensure that its staff who are authorised to Process Data are under obligations of confidentiality that are enforceable by the Contractor and/or the Company;
- (c) take the measures that are expressed to be obligations of the Processor in Data Protection Legislation, including Article 32 of the UK GDPR, in order to ensure the appropriate level of security for the Data. The Contractor shall maintain such security measures for as long as it is Processing the Data;
- (d) taking into account the nature of the Processing, provide commercially reasonable assistance to the Company with its obligations to comply with Data Subjects' requests and Data Subjects' rights under Data Protection Legislation, including Chapter III of the UK GDPR, through the use of appropriate technical and organisational measures;
- (e) taking into account the nature of processing and the information available to the Contractor, provide commercially reasonable assistance to the Company in ensuring compliance with the Company's obligations in Articles 32-36 of the UK GDPR and, if and to the extent applicable, Articles 32-36 of the GDPR;
- (f) at the written election of the Company and in compliance with any other terms on the Agreement relating to document retention, either:

- (i) securely destroy the Data (including all copies of it); or
- (ii) return the Data (including all copies of it) to the Company in the format required by the Company which retains the integrity of the Data,

at any time upon request by the Company and promptly upon termination or expiry of the Agreement;

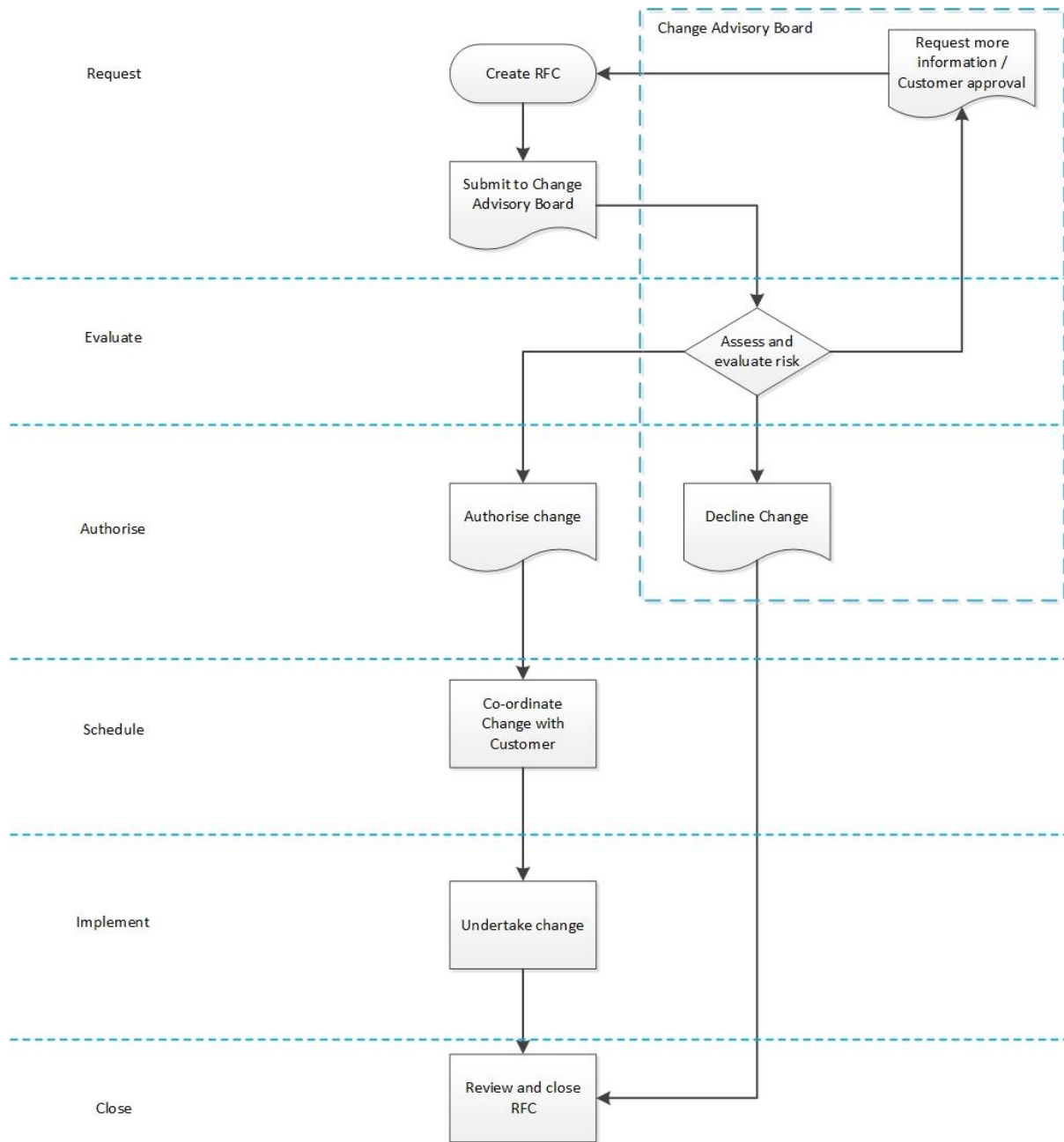
- (g) provide all information necessary to demonstrate the Contractor's and any Sub-Processor's compliance with this Clause 1.3 and allow the Company and its authorised representatives, upon reasonable prior written notice to the Contractor, and no more than once in a 12 month period, reasonable access during normal business hours to any relevant premises and documents to inspect the procedures and measures referred to in this Clause 1.3;
- (h) not Process or transfer Data outside of the UK or the European Economic Area without the prior written consent of the Company and without putting in place adequate safeguards for the protection for the Data to enable compliance by the Company and the Contractor with their obligations under the Data Protection Legislation;
- (i) perform its obligations under the Agreement (and any other agreement relating to the provision of the Services) in full compliance with Data Protection Legislation and any applicable guidelines, statutory orders, supplementary laws and codes of practice issued by relevant regulators pursuant to or in connection with Data Protection Legislation, including as may be issued by the Office of the Information Commissioner in the UK;
- (j) not appoint any third party, including consultant, sub-contractor, agent or professional adviser or other third party to Process the Data ("**Sub-Processor**") without the prior written consent of the Company. If the Company consents to the appointment of any Sub-Processor, the Contractor shall put in place in writing with any Sub-Processor contractual obligations which are at least equivalent to the data protection and confidentiality obligations imposed on the Contractor under this Clause 1.3 including obligations which provide sufficient guarantees from the Sub-Processor that the processing meets the requirements of Data Protection Legislation. The Contractor shall be liable to the Company for any failure of any such Sub-Processor to comply with such equivalent data protection obligations (including where the Contractor is in breach of its obligation to put such obligations in writing with the Sub-Processor); and
- (k) as soon as reasonably practical, and in any event within 48 hours, notify the Company of any Personal Data Breach. The Contractor shall provide the Company with reasonable assistance in the Company's compliance with Data Protection Legislation in relation to the Personal Data Breach.

1.4 The Contractor shall indemnify and keep indemnified Company against all costs, claims, losses, damages, fines and expenses (including legal expenses) suffered or incurred by the Company arising out of, or in connection with, any breach of data protection and confidentiality obligations imposed on the Contractor under the Agreement.

1.5 The Company shall ensure that any disclosure of Personal Data made by the Company to the Contractor is in full compliance with Data Protection Legislation and any applicable guidelines, statutory orders, supplementary laws and codes of practice issued by relevant regulators

pursuant to or in connection with Data Protection Legislation, including as may be issued by the Office of the Information Commissioner in the UK.

### Schedule 3 : Change Control Procedure





## Schedule 4 : Security

### 1.1 Governance

- (a) The Contractor shall assign a named Contractor Personnel with overall responsibility for information security in relation to the Service; and for the Contractor's processing of Company Confidential Information more broadly. The Contractor will notify the Company of the name and contact details of this Contractor Personnel appointed to this role.
- (b) The Contractor shall provide the Company with contact details via which the Company may escalate any operational security incidents or queries to the Contractor.
- (c) The Contractor shall not outsource the management of Service components and/or the processing of Company confidential information to any subcontractor or other third party without the Company's prior written consent, with such consent not to be unreasonably delayed or refused.
- (d) If the Company permits the Contractor to outsource the management of Service components and/or processing of Company confidential information to a subcontractor, then the Contractor shall remain responsible for the performance of such subcontractors in relation to the information security of the relevant Company Confidential Systems and/or Information.
- (e) The Contractor shall permit the Company or its agents to audit the Contractor's compliance with its security obligations set out in this Schedule 4 and a SO (at the Company's cost), subject to a minimum of 10 working days' notice.
- (f) The Contractor shall make available to the Company or its agents (on reasonable notice but subject to a minimum of 10 working days and at the Company's cost) such Contractor Personnel and documentation as are required to enable the Company to conduct an audit in accordance with paragraph 1(e) above.

### 1.2 Information Security Policy

- (a) The Contractor will, and will ensure that its Personnel, at all times, comply with the Contractor's Information Security Management Policy (Synapse ISM Policy V2.2 shared with Company by Contractor on 05/05/2020) and any future revisions when providing support services to the Company.
- (b) The Contractor shall review and update the Information Security Management Policy at least annually. The Contractor will provide the Company with a copy of any updated version of the Information Security Management Policy within 5 Business Days of any updates being made.

### 1.3 Awareness and Training

- (a) The Contractor shall notify all Contractor Personnel that have access to the production environment, or to the environments within which the Contractor supports and/or stores or processes Company confidential information, of their general and specific responsibilities in relation to information security.

- (b) The Contractor shall issue regular information security awareness communications to all Contractor Personnel that have access to Company Confidential Information, or the environment(s) within which the Contractor stores or processes Company Confidential Information.
- (c) The Contractor shall ensure all Contractor Personnel who have access to Company confidential information, or the environment(s) within which the Contractor stores or processes Company confidential information complete annual information security awareness training.
- (d) The Contractor shall require Contractor Personnel to:
  - (i) Take reasonable care to protect Company systems and services, confidential information, and the environment(s) within which the Contractor stores or processes Company Confidential Information, from unauthorised access.
  - (ii) Not share authentication credentials for any system which stores, processes or otherwise provide access to Company confidential information with any other person(s).
  - (iii) Not connect unauthorised devices or media to any system which stores, processes or otherwise provides access to Company confidential information.
  - (iv) Not share Company confidential information with any unauthorised person(s).
  - (v) Not store or process Company confidential information using any personal device, personal e-mail account or personal file backup/transfer/synchronisation service.

#### 1.4 System Administration

- (a) The Contractor shall restrict system administration of the Company's environment, and any other environment(s) within which the Contractor stores or processes Company confidential information, to authorised users performing authorised system administration activities, using authorised devices and tools.
- (b) The Contractor shall ensure that changes to the production service or production environment, or any other environment(s) within which the Contractor stores or processes Company confidential information, are only made by authorised Personnel in accordance with documented change management procedures and using approved systems and tools.
- (c) The Contractor shall, as soon as reasonably practicable, and in any event within 24 hours, revoke all access to the production environment, and any other environment(s) within which the Contractor stores or processes Company confidential information, by any Contractor Personnel that are no longer involved in delivering the Service or otherwise no longer require access (e.g. by virtue of a change in their role, moving off the Company account, or change in employment status).
- (d) The Contractor shall notify the Company, as soon as reasonably practicable, and in any event within 24 hours, of any Contractor Personnel that are no longer involved in delivering the Service or otherwise no longer require access (e.g. by virtue of a change

in their role, moving off the Company account, or change in employment status) where the Company is responsible for the account administration so that the appropriate action can be taken.

#### 1.5 Solution Delivery

- (a) The Contractor shall provide the Company with a copy of the security controls that were used to setup the Company's production environment, and any other environment(s) within which the Contractor stores or processes Company Confidential Information, to ensure that the controls implemented are aligned to industry standard best practices.
- (b) The Contractor shall, as part of the low-level design stages of the Services being delivered to the Company's production environment, as set out in the relevant SO, work with the Company to agree the security controls that will be implemented to harden the solution and define the security responsibilities for each component aligned to a shared responsibility matrix, so that the responsibilities are clearly understood. The finalisation and agreement of the security controls will form part of the low-level design sign-off for each SO. Once agreed and finalised, the parties will at all times comply with the agreed security controls in respect of the relevant Services. In addition to ensuring the security of the Services, this will enable the Company to provide the correct accounts and services so that the Contractor to be able to securely support the solution.

#### 1.6 Security Monitoring

- (a) The Contractor shall support the Company in the implementation of appropriate security audit logging, including user activity pertaining to the production Services to enable the Company to correctly log events in to its own SOC. This requirement is in addition to the monitoring provided by the Contractor within the Contractor's NOC, at the Company's cost where such works fall outside the scope of the Service.

#### 1.7 Security Incident Management

- (a) The Contractor shall notify the Company promptly of any security risks, breaches or incidents which represent a material threat to the confidentiality, integrity or availability of the Services or to the Company's confidential information supported by the Contractor, at the Company's cost where such works fall outside the scope of the Service.
- (b) The Contractor shall prioritise security incidents on the basis of their potential impact to the Company and the Company's Associates, and shall resolve incidents on the basis of such prioritisation. This is provided at the Company's cost where such works fall outside the scope of the Service.
- (c) The Contractor shall support, where applicable, post-incident root-cause analysis in relation to any information security incident which has a material impact on the security of the Company's confidential information, and shall share this root-cause analysis with the Company. This is provided at the Company's cost where such works fall outside the scope of the Service.

**SIGNED** as an **AGREEMENT** by the parties below on the date set out at the start of this document

<b>Sample Company</b>	<b>Synapse Consultants Limited</b>
<b>By:</b> _____	<b>By:</b> _____
<b>Print Name:</b> _____	<b>Print Name:</b> <u>Stephen Douglas</u>
<b>Print Title:</b> _____	<b>Print Title:</b> <u>Managing Director</u>