

ONBOARDING AGREEMENT (MAIN TERMS)

EFFECTIVE DATE:

PARTIES:

a) **Williams Lea Ireland Limited**, a company registered in the Republic of Ireland with company number 309685, whose registered office is at Ground Floor, 71 Lower Baggot Street, Dublin, Dublin, D02 P593 Ireland. (the “**Company**”)

b) _____ a company incorporated and registered in _____ whose
 company number is _____ and having its registered address _____

, (the “**Supplier**”)

Each a **Party**, together the **Parties**.

TERMS AND CONDITIONS (“Terms”)

MAIN TERMS

1. Background

- 1.1. These Terms govern the relationship between the Company and the Supplier as it relates to the procurement by the Company from the Supplier of goods and/or services.
- 1.2. The Agreement comprises these Main Terms together with any Appendices applicable to the goods and/or services being delivered by the Supplier. The Supplier’s appointment is strictly on a non-exclusive basis and subject to the Supplier passing the Company’s Vetting Process (in accordance with Appendix 7) unless the Company states otherwise in writing.

2. Definitions

- 2.1. The following terms have the meanings set out alongside them:

“Agreement”	means this onboarding agreement including all Appendices together with the contents of the Purchase Order;
“Applicable Law”	means laws, rules, regulations, regulatory guidance, regulatory requirements and any form of secondary legislation, resolution, policy, guideline, concession or case law of the relevant jurisdiction from time to time and relevant to the provision, receipt or use of the Goods and/or Services or relevant to the business of the Company or a member of the Company’s Group;
“Applicable Software”	means the software “Colour Lab” or any other applicable colour quality and management software provided by the Company from time to time;
“Approved Subcontractor”	means a subcontractor of the Supplier (if any) that has been approved in writing by the Company, at the Company’s sole and unfettered discretion;
“Authorised Users”	means those employees, agents, clients and customers, suppliers and independent contractors of the Company and of the Client and/or other person nominated by the Company or the Client who are authorised to use the Software through the Services under these Terms;

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CONFIDENTIAL

"Business Activities"

the Supplier's supply to the Company of the Goods and/or Services;

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“Business Day”	means a day other than a Saturday, Sunday or public holiday in England when banks in the city identified in the Particulars are open for business;
“Business Hours”	means 09:00hrs – 18:00hrs or the times during which the Supplier is otherwise open for business as notified to the Company in writing ;
“Client”	means a customer of the Company from time to time that has a requirement for the Goods and/or Services as part of its business operations;
“Confidential Information”	means all information of whatever nature (including any copies made of that information) however disclosed whether directly or indirectly including, any Intellectual Property Rights, documents, artwork, data, ideas, flowcharts, computer programs, specifications, plans, drawings, pricing, usage information and includes without limitation all and any financial, technical, commercial, marketing or product information of the Company, any member of its Group, any of the Company's Group's partners, clients, prospective clients, suppliers, prospective suppliers, data processes, specifications; drawings; designs; computer software; know-how; trade secrets; customer lists and prospective customer lists, supplier lists, prospective supplier lists; pricing and sales policies; manuals; business plans, forecasts and business opportunities or ventures being considered or pursued; intellectual property details including but without limitation artwork and brands; plans, designs, computer files, software and formulae; research that is being carried on into any products; network sensitive information; and any other material bearing or incorporating Confidential Information and whether disclosed visually, orally, or in the form of drawings, recordings, written material, or computer software, information relating to marketing or clients and customers or suppliers, or information relating to market opportunities and business affairs, the Company and its Group's Data, Personal Data; the Company's policies; Work Product; or other information marked as or which by implication is confidential or information of a competitive nature relating to a Party, the Company's Group, clients and suppliers;
“Colour Quality Programme”	the Company's colour quality assurance program containing modules, which includes the Applicable Software;
“Commencement Date”	means the date specified in the Purchase Order upon which the Supplier begins to provide the Services;
“Company Data”	means the data inputted by the Company, Authorised Users, or the Supplier on the Company's behalf for the purpose of using the Services or facilitating the Company's use of the Services;
“Company System”	means computer hardware, firmware, middleware, protocols and software and other hardware, peripheral equipment, networks, communications systems and other equipment of whatever nature belonging to or under the control of the Company, a Client or a Company customer or supplier;
“Documentation”	means the document(s) made available to the Company by the Supplier which sets out a description of the Services along with any user instructions (where relevant);
“Fees”	means the fees set out in the any Purchase Order;

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“Force Majeure”	has the meaning set forth in Clause 7.1;
“Goods”	means the goods/items set out in any Purchase Order issued under this Agreement;
“Good Industry Practice”	means the use of the standards, practices, methods and procedures the exercise of the skill, care, diligence, prudence, foresight and judgment which would be expected from a skilled, qualified and experienced person or body engaged in a similar undertaking under similar circumstances seeking in good faith to comply with their obligations;
“Group Company”	means any subsidiary or holding company from time to time of the Company, and any subsidiary from time to time of a holding company of the Company (and for the purposes of these Terms the phrases "subsidiary" and "holding company" shall be construed in accordance with section 1159 of the Companies Act 2006);
“Intellectual Property” or “Intellectual Property Rights”	means patents, rights to Inventions and Works, current and future copyright and related rights, trade-marks, trade names and domain names, rights in get-up, rights in goodwill or to sue for passing off, rights in designs, rights in computer software, 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 (or rights to apply) for, and renewals or extensions of, such rights and all similar or equivalent rights or forms of protections which may now or in the future subsist in any part of the world;
“Inventions”	means inventions, ideas and improvements, whether or not capable of being registered as an Intellectual Property Right, and whether or not recorded in any medium;
“Late Payment Fee”	means the fee equal to 1% of the overdue fee owed by the Company to the Supplier;
“Maintenance Window”	means the period of time during which the Supplier shall carry out planned maintenance services;
“Material Adverse Event”	means any event outside of either party’s control which results in: (i) a substantial adverse impact on a party’s ability to perform the agreement in accordance with its terms and the law; and/or (ii) an increase in the costs incurred by a party in performing the Agreement of at least + or - 5% since the price for the Services was last agreed;
“Open Source Software”	means software licensed under terms which require, as a condition of use, modification or distribution of such software or other software incorporated into, derived from or distributed with such software, the granting of a royalty-free licence to any person or the making available of the source code for such software to any person;
“Poor Service”	means an inadequate level of Services that entitles the Company to terminate the Agreement;
“Purchase Order”	means any document governed by and issued pursuant to this Agreement which serves as a requisition for Services from the Supplier;
“Service Credits”	means service credits payable in accordance with a Purchase Order;
“Service Failure”	means any failure by the Supplier to deliver any Services in accordance with the Service Levels;
“Service Levels”	means the service levels applicable to the delivery of the Services;
“Services”	means the services described in a Purchase Order;

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“Software”

means the solution and online software applications provided by the Supplier as part of the Services as described in Appendix 2 and/or the applicable Purchase Order;

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“Software Services”	means the software support and/or maintenance services as described in the Purchase Order;
“Supplier Account Manager”	means the member of Supplier Personnel identified by the Supplier to the Company as such in writing;
“Supplier Permitted Locations”	means the locations (if any) specified in the relevant Purchase Order for providing the Services and Software Services (as applicable);
“Supplier Personnel”	means all employees, staff, other workers, agents and consultants of the Supplier and of any Approved Subcontractors who are engaged by the Supplier from time to time to meet its obligations under these Terms;
“User Subscriptions”	means the user subscriptions purchased by the Company pursuant to these Terms which entitle Authorised Users to access and use the Software Services and the Documentation in accordance with these Terms;
“Virus”	means any form of computer code whether known or unknown, including “electronic possession”, “logic bombs” “viruses”, “Trojan horses”, “worms”, “spyware”, “malware”, and “adware” (such expressions shall have meanings as they are generally understood within the computing industry), which could, in any way, disable, disrupt, harm, impede or modify the performance or functionality of all or any part of any system, program, equipment, network or data;
“Company”	means (i) with respect to these Terms, the legal entity entering into these Terms as stated in the Particulars; and (ii) with respect to a Purchase Order, any Group Company which enters into that Purchase Order;
“Work Product”	means an output or deliverable of the Services arising from the Company’s or its Authorised Users’ use of the Services; and
“Works”	means all records, reports, documents, papers, drawings, designs, transparencies, photos, graphics, logos, typographical arrangements, software, and all other materials in whatever form, including but not limited to hard copy and electronic form.

3. Interpretation

- 3.1 In these Terms, references to Clauses, Schedules, Annexes and Purchase Orders are to the clauses, schedules, of these Terms; references to paragraphs are to paragraphs of the relevant schedule to these Terms; a person includes an individual, corporate or unincorporated body (whether or not having separate legal personality) and that person’s legal and personal representatives, successors or permitted assigns; a reference to a company shall include any company, corporation or other body corporate, wherever and however incorporated or established; unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular; unless the context otherwise requires a reference to one gender shall include a reference to the other genders; a reference to writing shall not include email, unless otherwise stated; a reference to a statute or statutory provision is a reference to it as it is in force as at the date of these Terms; a reference to an obligation on the Supplier shall also be construed to mean an obligation to procure the Supplier Personnel’s compliance with such obligation and a reference to a “third party” means a person that is not a Party or a Group Company.
- 3.2 In the event of any conflict between the provisions contained in these Terms and the Appendices, the following order of precedence shall apply:
- 3.2.1 these Main Terms, together with Appendices 5, 6 and 7;
- 3.2.2 any other selected Appendix.

4. Services and Fees

- 4.1 Subject to the Supplier’s provision of the Goods and/or Services (as applicable) in accordance with these Terms, the Company shall pay the undisputed part of any Fees to the Supplier **within sixty (60) days** after receipt of a correct and valid invoice. Where the Company identifies reasons to dispute an invoice or specific amounts therein, the Company shall notify Supplier promptly in writing, setting out such reasons. In the event that the invoices remain disputed for a period of 60 days from the date that the Company first raised the applicable dispute, the

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Procedure set out in Clause 26.

Parties shall refer to such dispute to the Escalation Process

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- 4.2 The Supplier's invoices must be complete and include the correct details, in accordance with Appendix 8 otherwise they will be returned, and payment will be delayed.
- 4.3 If any undisputed Fees remain unpaid 60 days after the due date pursuant to Clause 4.1 and the Escalation Procedure described in Clause 26 has been completed, the Supplier may suspend the provision of the Services in respect of the Purchase Order to which the outstanding Fees relate. The Supplier's remedies under this Clause 4.3 are the Supplier's sole and exclusive remedy for delayed payment.
- 4.4 The Company reserves the right to refuse payment of any invoices which are submitted more than six months after the specific provision of the Software, the Services or Software Services that the applicable invoice relates to were performed, or that were otherwise submitted in non-compliance with Clause 4.2.
- 4.5 If, upon examination at any time, the Company determines that any charges, prices, costs or expenses exceed the amounts properly chargeable to, or recoverable from, the Supplier shall, within 7 days refund to the Company the amount over-charged plus interest at the applicable statutory rate.
- 4.6 Subject to Appendix 1 if incorporated, the Fees shall remain fixed during the Term. The Fees are inclusive of all travel, subsistence and other incidental expenses incurred by the Supplier and the Supplier Personnel in respect of the provision of the Services. The Supplier shall only be permitted to charge for expenses if expressly authorised to do so in the applicable Purchase Order and provided that the Company's prior written consent has been obtained by the Supplier prior to the relevant expenses being incurred.
- 4.7 If Value Added Tax (VAT) is applicable:
- 4.7.1 the Supplier's invoice shall comply with all the requirements of Article 226 of the European Union Council Directive 2006/112/EC. the Company shall not be required to pay any invoice which fails to meet the requirements of Article 226 referred to above; and
- 4.7.2 the Services provided by the Supplier shall be taxable where the Company is established, according to the terms of Article 56.1 (c) of the European Union Council Directive 2006/112/EC.
- 4.8 If any Service Credits have been issued by the Supplier between invoices rendered by the Supplier, the Supplier shall reduce the Fees charged in the later invoice by an amount equal to the value of the Service Credits.
- 4.9 The Company may set off sums due to the Supplier. The Supplier may not set off sums due from the Company to it under these Terms against sums due from it to the Company.

5. Confidentiality

- 5.1. Where the Company is required to disclose Confidential Information to the Supplier, such disclosure shall be in accordance with the provisions of this Clause 5.
- 5.2. The parties agree that the Company shall disclose such Confidential Information as it deems necessary or useful in furtherance of the Business Activities.
- 5.3. The Supplier undertakes for a period of five (5) years from the date of disclosure or such other period as specified by the Company to:
- 5.3.1. not, without prior written consent of the Company, disclose any such Confidential Information to any person or body other than its employees, agents, professional advisors or sub-contractors ("**Representatives**") on a need to know basis relating to the Business Activities, to treat such Confidential Information as confidential, secret, take all necessary precautions to effect and maintain, to the highest standards, security measures to safeguard such Confidential Information from unauthorised use and prevent its unauthorised, negligent or inadvertent disclosure and not use, copy, reproduce or reverse-assemble such Confidential Information only for the Business Activities provided if specified by the Company in writing, and never for his/her/its personal gain;
- 5.3.2. bring to the immediate attention of the Company any known or suspected breaches of its obligations under these Terms; and
- 5.3.3. execute such documents or agreements that the Company may require from time to time in respect of the Confidential Information.
- 5.4. The Confidential Information shall remain the property of the Company at all times and no licence in the Intellectual Property is either granted or implied, nor any trade mark, patent, copyright or other intellectual property right by the conveying of Confidential Information to the Supplier. No Confidential Information disclosed shall constitute any representation, warranty, assurance, guarantee or inducement by the Company, in particular with respect to its accuracy, completeness nor the non-infringement of trademarks, patents, copyrights or other intellectual property right, or other rights of third parties.
- 5.5. In terms of any Intellectual Property Rights in any Works and/or Inventions created by the Supplier in the provision of the Services to the Company, the Supplier:
- 5.5.1. shall promptly disclose to the Company or its group companies all works including, without limitation, all inventions and/or works embodying Intellectual Property Rights originated, conceived, developed, written or made by the Supplier whether alone or with others during the Supplier's engagement with the Company which relate, or could relate, to the business of the Company or its group companies (as applicable) and shall (to the extent that they do not automatically vest in the Company or its group companies (as applicable) by operation of law) hold them in trust for the Company or group companies until such rights have been fully and absolutely vested in the Company or its group companies (as applicable);
- 5.5.2. agrees to waive any moral rights in the Inventions and Works to which it (or any of its staff) is now or may at any future time be entitled under Chapter IV of the Copyright Designs and Patents Act 1988 or any similar provisions of law in any jurisdiction, including (but without limitation) the right to be identified, the

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right of integrity and the right against false attribution, and agrees not to institute, support, maintain or permit any action or claim to the effect that any treatment, exploitation or use of such Works or Inventions or other materials, infringes the Individual's moral rights;

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- 5.5.3. agrees that the Company shall (without limitation) be entitled to make such additions to, deletions from or alternatives to or adaptations of any of the Inventions and Works;
- 5.5.4. acknowledges that, except as provided by law, no further remuneration or compensation other than that provided for in these Terms is or may become due to the Supplier (or any of its employees) in respect of the performance of the obligations under this Clause;
- 5.5.5. agrees to (at any time during or after the provision of such services) do all acts necessary to confirm that absolute title in all Intellectual Property Rights in the Inventions and Works has passed, or will pass, to the Company including but not limited to executing all documents, making all applications and do all acts and things as may, in the opinion of the Company be necessary or desirable to vest the Intellectual Property Rights in, and to register them in, the name of the Company and to defend the Company against claims that works embodying Intellectual Property Rights or Inventions and Works infringe third party rights, and otherwise to protect and maintain the Intellectual Property Rights in the Inventions; and
- 5.5.6. grants an irrevocable power of attorney to the Company to be the Supplier's attorney in the Supplier's name and on his/her/its behalf to execute, sign all such deeds or instruments and do all things and to generally use his/her/its name for the purpose of giving to the Company or his/her/its nominee the full benefit of the provisions of this Clause 5, and the Supplier acknowledges in favour of a third party that a certificate in writing signed by any authorised signatory of the Company that any instrument or act falls within the authority conferred by this Clause 5 shall be conclusive evidence that such is the case.
- 5.6. The Supplier shall not:
- 5.6.1. make or permit others to make any reference to the disclosing or receiving of the Confidential Information or use the name or branding of the Company or any Client in any public announcements, promotional, marketing or sales materials without the prior written consent of the Company; and
- 5.6.2. from the date of these Terms and for a period of six (6) months after the date upon which these Terms expires, without the prior written agreement of the Company, offer employment to, enter into a contract for the services of, or attempt to entice away from the Company any individual who is at the time of the offer and was during the Supplier's engagement, an employee, or an officer of the Company, or procure or facilitate the making of any such offer or attempt by any other person (other than by means of an advertising campaign for genuine vacancies open to all comers and not specifically targeted at such employees or officers of the Company).
- 5.7. Unless the Company has agreed otherwise in writing, upon completion of the purpose for which Confidential Information has been disclosed, the Supplier shall either return or destroy (as the Company may elect) any Confidential Information and all copies made of it within fourteen (14) days of a request for the same by the Company. If the Company asks the Supplier to destroy the Confidential Information, the Supplier at its own cost must provide a confirmation declaration, signed by one of its directors, confirming that such destruction has been completed in accordance with these Terms.
- 5.8. The Supplier acknowledges and understands that the Confidential Information is of great value and importance to the success of Company business. Any unauthorized use or disclosure of the Confidential Information would cause serious and irreparable injury to the Company. Money damages may not be a sufficient remedy for a breach of these Terms and the Company is entitled to specific performance and/or injunctive or other equitable relief and remedies for such breach, without the necessity of showing any irreparable injury or special damages
- 5.9. The Supplier and/or any person engaged by the Supplier, including any group, affiliate company, and or any of their employees, agent or subcontractor, undertakes and warrants that it shall not use, share and or disclose any of the Company's Confidential Information, other than for the specific purposes outlined and agreed by this Agreement and never at any time for the solicitation of any business from any third parties and or in any manner to compete with the Company or its parents or subsidiary companies in any way in any manner whatsoever.
- 6. Termination**
- 6.1. The Company may terminate these Terms and/or any Purchase Order in whole or in part at any time and for convenience without penalty upon serving thirty (30) days' written notice to the Supplier.
- 6.2. All individual Purchase Orders shall terminate immediately upon termination or expiry of these Terms, unless otherwise agreed in writing between the Parties. In the event of agreement between the Parties that a particular Purchase Order shall survive these Terms, they shall continue in full effect to govern that Purchase Order for the remainder of the Term of that Purchase Order.
- 6.3. If the Company determines that the Supplier has committed a Relevant Breach (as defined below), the Company may immediately upon giving written notice to the Supplier (at its option) and without liability:
- 6.3.1. terminate these Terms; and/or
- 6.3.2. terminate only the Purchase Order in respect of which the Relevant Breach has occurred.
- 6.4. For these purposes below a "**Relevant Breach**" is one or more of the following. The Supplier has:
- 6.4.1. committed a material breach of these Terms (if such material breach has not been remedied within a period of ten (10) Business Days of a request from the Company to remedy it);
- 6.4.2. committed material breach of these Terms, which is not capable of remedy;
- 6.4.3. not complied with any remediation plan agreed in writing between the Parties;
- 6.4.4. provided Poor Service;
- 6.4.5. contravened Clause 23.3; or
- 6.4.6. failed to comply with Clause 5 or Appendix 4, 6 or 7.

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- 6.5. Either Party may terminate these Terms upon giving written notice to the other:
- 6.5.1. upon the other Party passing a resolution for winding up (save for the purposes of amalgamation or reconstruction where the successor to the Party agrees to adhere to these Terms) or suffering a winding-up order being made against it; or
 - 6.5.2. if the other Party is generally unable to pay its debts or ceases or threatens to cease to carry on its business; or
 - 6.5.3. within six (6) months of distress or execution being levied against any property of the other Party; or
 - 6.5.4. if the other Party claims Force Majeure and the period of the Force Majeure has lasted longer than thirty (30) days.
- 6.6. On termination of these Terms and/or any Purchase Order for any reason:
- 6.6.1. all licences granted under these Terms or the applicable Purchase Order shall immediately terminate unless expressly agreed otherwise;
 - 6.6.2. each Party shall return and make no further use of any equipment, property, Documentation and other items (and all copies of them) belonging to the other Party;
 - 6.6.3. the Supplier shall,
 - 6.6.3.1. in respect of the terminated Purchase Orders, immediately deliver up to the Company the Company Data and all other relevant data in its most recent form (whether or not backed up) and all other property of the Company then in its possession at no additional cost; and
 - 6.6.3.2. return any amounts pre-paid by the Company to the Supplier for the future provision of the Services which would have been provided but for the termination of these Terms or the applicable Purchase Orders; and
 - 6.6.4. any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination, including the right to claim damages in respect of any breach of these Terms which existed at or before the date of termination shall not be affected or prejudiced.
- 6.7. If a Material Adverse Event occurs, the impacted party may:
- 6.7.1. require the other party to negotiate in good faith an amendment to the Agreement to alleviate the Material Adverse Event; and
 - 6.7.2. if no such amendment is made to the Agreement within 30 days, terminate the Agreement by giving the other party not less than 30 written notice. On termination under this clause, clause 6.6 shall apply.
- 7. Force Majeure**
- 7.1. Without prejudice to Clause 11, neither Party will be liable for delay or failure in performing obligations if the delay or failure resulted from circumstances beyond its reasonable control (such circumstances hereinafter referred to as “**Force Majeure**”), including but not limited to: acts of God, governmental acts (other than the exiting of a European Union member state from the European Union), flood, fire, explosion, accident, civil commotion, and impossibility of obtaining materials. For the avoidance of doubt, the Company shall not be required to pay for any non-provision of Services as a result of the Force Majeure and any Fees charged in connection for such non-provided services shall either be waived, reimbursed or credited to the Company (at the Company’s direction).
- 7.2. The Party whose performance is affected by Force Majeure shall:
- 7.2.1. upon becoming aware of same give notice forthwith in writing to the other Party, together with documentary evidence; and
 - 7.2.2. use all reasonable endeavours to resolve the condition or to provide temporary workarounds or alternative solutions.
- 7.3. Force Majeure shall not be deemed to include any failure by a third party to perform its obligations to one of the Parties, unless agreed otherwise or unless the relevant Party shows that the non-performance of that third party was due to Force Majeure.
- 8. Relationship between the Parties**
- 8.1 The relationship of the Supplier (and the Supplier Personnel) to the Company shall be that of independent contractor and nothing in these Terms shall render it (nor the Supplier Personnel) an employee, worker, agent or partner of the Company and the Supplier shall not hold itself out as such and shall procure that the Supplier Personnel do not hold themselves out as such. The Supplier shall have no right, power or authority to act as agent for the Company for any purpose and shall not enter into any contract or make any warranty or representation as to any matter or create any obligation, express or implied, or make any representation on behalf of the Company or any Client; or any authority to incur any expenditure in the name of or for the account of the Company.
- 9. Vetting**
- 9.1. Where appropriate to the services the Company shall conduct vetting on the Supplier in accordance with Appendix 7. The Supplier acknowledges and warrants that its personnel consent to the Company (and its suppliers) processing their Personal Data solely for the purposes of the delivery of any Goods and/or Services pursuant to this Agreement.
- 10. Audit of Supplier’s Performance**
- 10.1. The Supplier shall forthwith following receipt of written notice from the Company, allow and/or procure the Company and any auditors of, or other advisers to the Company, to access the Supplier’s premises or business premises of

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any Supplier Personnel at which the Supplier or Supplier Personnel holds any the Company Data or the Company's Confidential Information relating to the Services and to access such personnel and relevant records specifically relating to the Services provided herein, as may be reasonably required in order to:

10.1.1 fulfil any request from any regulatory authority or made by virtue of any Applicable Law; and

10.1.1.1. verify that:

10.1.1.1.1. any amounts payable pursuant to these Terms are accurate or identify suspected fraud;

10.1.1.1.2. the Services are being provided in accordance with these Terms (including any Appendices or Addenda);

10.1.1.1.3. the Supplier's systems protect the integrity, operational availability, confidentiality and security of the Company's Confidential Information and data; and

10.1.1.2. ensure compliance with the Supplier's obligations under Clause 5, Appendix 4, 5, and 6

10.1.1.3. where the Services include Software or IT related Services, ISO 20000; and

10.1.1.4. subject to the Company's obligations of confidentiality, provide the Company (and its auditors and other advisers) with all reasonable co-operation, access and assistance in relation to each audit.

10.2. The Company shall use reasonable endeavours to ensure that the conduct of each audit does not disrupt the Supplier or delay the provision of the Services by the Supplier and provide at least ten (10) Business Days' notice of its intention to conduct an audit unless such audit is conducted in respect of a suspected fraud, in which event no such notice shall be required.

10.3. The Parties shall bear their own costs and expenses incurred in respect of compliance with their obligations under this Clause 10, unless the audit identifies a material default by the Supplier in complying with its obligations under these Terms, in which case the Supplier shall reimburse the Company for all reasonable costs and expenses incurred in the course of the audit.

10.4. If an audit identifies that the Supplier is failing to comply with any of its obligations under these Terms then, without prejudice to the other rights and remedies of the Company, the Supplier shall take the necessary steps to comply with its obligations at no additional cost to the Company within ten (10) Business Days of written notice from the Company, or the Company has overpaid any Fees payable under these Terms, the Supplier shall pay to the Company the amount overpaid within ten (10) Business Days from the date of receipt of an invoice or notice to do so.

10.5. Notwithstanding Clause 5 (Confidential Information), the Supplier hereby agrees that in respect of documents relating to the audit including audit results ("**Audit Documentation**") the Company has the right to share any such Audit Documentation with its relevant Clients subject always to the Client complying with confidentiality obligations substantially similar to those set out in these Terms.

10.6. This Clause shall survive termination of these Terms, however arising, for a period of up to six (6) years following the date of termination of these Terms.

11. Disaster Recovery and Business Continuity

11.1. The Supplier undertakes that it has and shall continue to have in place and keep up-to-date disaster recovery plans and business continuity plans and processes in accordance with the minimum standards prescribed from time to time by Applicable Law and without limiting the generality of the foregoing, in accordance with Good Industry Practice.

12. Liability

12.1. The following provisions set out the entire financial liability of the Parties (including liability for the acts or omissions of their employees, agents and sub-contractors) in respect of any breach of these Terms and any representations, statements or tortious acts or omissions including negligence arising under or in connection with these Terms.

12.2. The Supplier does not limit its liability (if any) in respect of any of the following:

12.2.1. fraud or fraudulent misrepresentation;

12.2.2. the death of, or personal injury to, any person caused by negligence;

12.2.3. any losses caused by the Supplier's wilful misconduct or intentional default;

12.2.4. any loss of the Company Data; and

12.2.5. causes of action brought under Clause 23 (Infringement of Third Party Rights),

12.3. Subject to Clause 12.2 above:

12.3.1. the total aggregate liability in contract, tort (including negligence or breach of statutory duty), misrepresentation or otherwise for either Party arising in connection with the performance or contemplated performance of the Services shall be limited to 125 per cent of the total value of the sums paid or payable under these Terms or £1,000,000 (one million pounds sterling) whichever is the greater; and

12.3.2. neither Party shall be liable to the other for any indirect or consequential loss or damage (including loss of business, loss of profit, or loss or depletion of goodwill (howsoever caused)) which arise out of or in connection with these Terms. The Parties agree that the following losses are deemed as direct losses:

12.3.2.1. loss of profits, loss of reputation, loss of goodwill, loss of contracts, loss of business opportunity or loss of revenue;

12.3.2.2. the cost of selecting, procuring, implementing and operating any alternative or replacement systems or services whether internally or through or with a third party;

12.3.2.3. reasonable administrative costs (including but not limited to postage) and management time incurred by the Company; and

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12.3.2.4. the cost of additional checks relating to security breaches.

12.4. For the avoidance of doubt, the Company entity that is party to the applicable Purchase Order is solely responsible for its acts and/or omissions under such Purchase Order and no Group Company shall otherwise be liable to the Supplier in connection with such Purchase Order.

13. Insurance

13.1. The Supplier shall:

13.1.1. at all times be insured on an each and every claim basis (but without limiting its obligations and responsibilities under these Terms), with a reputable insurer, against all liabilities for which it is able to insure under these Terms, including without prejudice to the foregoing:

13.1.1.1. public liability insurance for a minimum amount of cover of £5 million (five million pounds sterling);

13.1.1.2. products liability insurance for a minimum amount of cover of £5 million (five million pounds sterling);

13.1.1.3. employers' liability insurance for a minimum amount of cover of £5 million (five million pounds sterling);

13.1.1.4. property insurance for a minimum amount of cover of £2 million (two million pounds sterling); and

13.1.1.5. professional indemnity liability insurance for a minimum amount of cover of £5 million (five million pounds sterling);

13.1.2. provide all facilities, assistance and advice required by the Company or its insurers for the purpose of contesting or dealing with any action, claim or matter arising out of the Supplier's performance, or purported performance of, or failure to perform, these Terms;

13.1.3. maintain such insurance whilst these Terms is in force and for a period of twelve (12) months after termination or expiry of these Terms (howsoever arising) and shall do nothing to vitiate such insurance; and

13.1.4. upon request furnish the Company with proof of cover of the above insurance, through the provision of valid certificates of insurance.

14. Severability

If any provision of these Terms is held invalid, illegal, or unenforceable for any reason, such provision shall be severed and the remainder of the provisions hereof shall continue in full force and effect as if these Terms has been executed with the invalid provision eliminated.

15. Waiver

No single or partial exercise of, or failure or delay by a Party to exercise any right or remedy provided under these Terms or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy.

16. Cumulation of Remedies

Subject to the specific limitations set out in these Terms, no remedy conferred by any provision of these Terms is intended to be exclusive of any other remedy except as expressly provided for in these Terms and each and every remedy shall be cumulative and shall be in addition to every other remedy given hereunder or existing at law or in equity by statute or otherwise.

17. Whole Agreement

These Terms (including all Appendices and any document specifically referred to herein) form the entire agreement between the Parties and any other terms and conditions included in or specified by any other document exchanged between the Parties are fully excluded.

18. Amendment

These Terms may only be amended by written agreement of the Parties.

19. Notices

19.1. Notices hereunder shall be validly given if delivered by hand or post (recorded delivery) to the address identified in the Parties Clause and deemed to have been served if delivered by hand at the time of delivery and if posted: before 5 pm, on the next Business Day. or after 5 pm, on the second Business Day afterwards.

20. Publicity

20.1. Except with the prior written consent of the Company, which the Company may withhold in its absolute discretion, the Supplier shall not:

20.1.1. make any press announcements regarding the arrangements agreed between the Parties, or any Client; or

20.1.2. otherwise publicise these Terms or any part hereof in any way; or

20.1.3. refer to its role hereunder in any market material or presentations whatsoever, whether as a site reference or otherwise.

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20.2. The Company shall be entitled to recover from the Supplier any expenses it has incurred arising from or incurred by it enforcing the compliance by the Supplier of Clause 20.1.

21. Assignment and Subcontracting

21.1. Subject to Clause 21.3, neither Party may assign or transfer these Terms in whole or in part without the other Party's prior written consent.

21.2. The Supplier shall not subcontract these Terms in whole or in part to any third party unless prior written authorisation is provided by the Company and it remain responsible for the acts and omissions of any Approved Subcontractor as if such acts and omissions were deemed to be those of the Supplier.

21.3. The Company may assign or novate its rights and obligations under these Terms to a Group Company or a legal entity established or authorised to take over and operate on a continuing basis all or the relevant parts of its business and Supplier shall enter into such documents as are reasonably necessary for this purpose.

21.4. These Terms are binding on and shall vest to the benefit of the Parties, their successors in title and permitted assigns.

22. Third Party Rights

These Terms do not confer any rights on any person or party (other than the Parties to these Terms and, where applicable, their successors and permitted assigns) pursuant to the Contracts (Rights of Third Parties) Act 1999 other than in respect of any Group Company.

23. Infringement of Third-Party Rights

23.1. The Supplier shall fully indemnify and keep indemnified the Company (and for the avoidance of doubt any Group Company) against all actions, proceedings, damages, costs, claims, charges and expenses arising from or incurred by reason of any infringement or alleged infringement of any Intellectual Property Rights arising from the provision of the Goods and/or Services by the Supplier by or on behalf of a member of the Company's Group and the Company as soon as practicable notify the Supplier in writing of any alleged infringement of which the Company becomes aware and make no admission without the Customer's prior written consent.

23.2. The Company shall if the Supplier so reasonably requests, allow the Supplier to conduct any negotiations or litigation and/or settle any claim and give the Supplier all reasonable assistance (at the Supplier's cost).

23.3. If at any time an allegation of infringement of Intellectual Property Rights is made in respect of the Software, Services and or Documentation or if in the Company's reasonable opinion such an allegation is likely to be made, the Supplier may, at its own expense, modify or replace the Goods and/or Services so as to avoid the infringement without detracting from the overall performance the Supplier making good to the Company and any applicable member of the Company's Group any loss of productivity or use during modification or refund to the Company and any applicable member of the Company's Group all sums paid in respect of the infringing item.

23.4. If the above remedies fail after all reasonable efforts by the Supplier within a reasonable period, without prejudice to any other remedies available to the Company the Company may, at the expense of the Supplier, procure an alternative solution from a third party to satisfy its requirements relating to the Services and/or the Supplier shall refund the Fees paid for Goods and/or Services found to be or alleged to be infringing as well as any payment made for any related Goods and/or Services which have not been delivered or performed.

24. Counterparts

These Terms may be entered into in any number of counterparts and by the Parties to it on separate counterparts each of which when so executed and delivered shall be an original, but all these counterparts together shall constitute one and the same instrument.

25. Waiver

No failure or delay in exercising any right, power or privilege hereunder shall operate as a waiver thereof, nor shall any single or partial exercise preclude any other or future exercise thereof. Waivers are only binding if in writing and signed by an authorised representative of the Party giving the waiver.

26. Escalation and Dispute Resolution Process

26.1. The Parties shall meet and use their reasonable endeavours to resolve any dispute in accordance with the Dispute Resolution Procedure set out in this Clause 26 before escalating the dispute to court proceedings.

26.2. The Parties may relax the timescales referred to in this Clause 26 by mutual agreement (such agreement not to be unreasonably withheld or delayed).

26.3. The Parties' representatives to resolve the dispute shall be a director or senior manager within either Party who is authorised to make decisions on behalf of the Party and contractually bind the Party (including the settlement of any disputes) or the persons holding the relevant title, its equivalent or any successor title from time to time. If any of the representatives are unable to attend a meeting, a substitute may attend provided that such substitute has at least the same seniority or reasonably comparable managerial or directorial responsibility and is authorised to settle the unresolved matter.

26.4. As soon as either Party becomes aware of a disputed matter it shall refer the dispute to the representative best placed to deal with the dispute (taking into account the nature of the dispute). If the dispute cannot be resolved by good faith negotiations between the Parties within 10 Working Days of a written request from either Parties

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("Dispute Notice"), the Dispute shall be further escalated in accordance with the escalation process set out in Clause 26.3.

- 26.5. If the Dispute is not resolved within a further thirty (30) days from the date of the Dispute Notice, the Parties shall mutually agree to resolve the Dispute by mediation in accordance with Clause 27.

27. Mediation

- 27.1. The following provisions shall apply to any such reference to mediation:

27.1.1. it shall be a reference under the Model Mediation Procedure ("MMP") of the Centre of Dispute Resolution ("CEDR") for the time being in force;

27.1.2. both Parties shall, immediately on such referral, co-operate fully, promptly and in good faith with CEDR and the mediator and do all such acts and sign all such documents as CEDR or the mediator may reasonably require to give effect to such mediation, including an agreement in, or substantially in, the form of CEDR's Model Mediation Agreement for the time being in force; and

27.1.3. to the extent not provided for by such agreement of the MMP the mediation shall:

- i. commence by either Party serving on the other written notice setting out, in summary form, the issues in dispute and calling on that other Party to agree the appointment of a mediator; and
- ii. be conducted by a sole mediator (which shall not exclude the presence of a pupil mediator) agreed between the Parties or, in default of Agreement, appointed by CEDR.

28. Applicable Law and Jurisdiction

- 28.1. Unless specified to the contrary between the Parties in writing, these Terms and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England and Wales as applied within the courts of Ireland.

- 28.2. Unless specified to the contrary between the Parties in writing, each Party irrevocably agrees that the courts of Ireland shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with these Terms or its subject matter or formation (including non-contractual disputes or claims).

29. Incorporation

Whether or not signed by both parties, the Supplier shall be deemed to accept the provisions of this Agreement if, following receipt of this Agreement, it supplies any Goods and/or Services to the Company.

For the avoidance of doubt, this Agreement (formed of the Terms, any applicable Appendices and any subsequent Purchase Orders) shall govern the Supplier's supply of Goods and/or Services to the Company and shall take precedence over any other terms and conditions issued on subsequent documentation, quotes or invoices unless explicitly agreed by the Parties (within in such documents) to supersede and replace this Agreement or any part of it.

IN WITNESS WHEREOF THIS AGREEMENT, has been entered into the day and year first before written by the Parties named below

SIGNED for and on behalf of WILLIAMS LEA

SIGNED for and on behalf of

IRELAND LIMITED by:

the SUPPLIER by:

Signature:

Signature:

Position:

Position:

Name:

Name:

Date:

Date:

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