

THIS IS AN ENFORCEABLE AGREEMENT BETWEEN THE CUSTOMER AND CELERITY LIMITED. THE CUSTOMER ACCEPTS ALL OF THE TERMS AND CONDITIONS APPLICABLE TO THE SOLUTION SELECTED BY THE CUSTOMER CONTAINED IN THIS AGREEMENT BY CLICKING ON THE “I ACCEPT” (OR SIMILAR) BUTTON OR CHECKBOX, OR BY ACCEPTING THE IBM PURCHASE DETAILS FORM, OR BY OTHERWISE DOWNLOADING, ACCESSING OR USING CELERITY LIMITED (AS DEFINED IN THIS AGREEMENT). THE DATE CUSTOMER ACCEPTS THIS AGREEMENT IS THE “EFFECTIVE DATE”. CAPITALIZED TERMS NOT OTHERWISE DEFINED HAVE THE MEANING SET OUT IN INTERPRETATION BELOW.

Celerity limited will provide the some or all of the Solution(s), as selected by Customer in the IBM Purchase Details Form and which may include the following:

1. CopyAssure for Power VS
2. Managed Servces for Power VS
3. Professional Services for Power VS
4. AI for Power VS

It is hereby agreed

1. INTERPRETATION

1.1 The following definitions and rules of interpretation apply in this Agreement:

Ad Hoc Services	Services requested by the Customer which are not Available Services.
Applicable Laws	all applicable laws, statutes, regulation from time to time in force.
Authorised Users	those employees, agents and independent contractors of the Customer who are authorised by the Customer to use the Services and/or the Documentation as may be named in the appropriate Service Schedule.
Available Services	the Services set out in Schedule 1.
Business Day	a day, other than a Saturday, Sunday or public holiday in England, when banks in London are open for business.
Business Hours	the period from 9.00 am to 5.00 pm on any Business Day.
Celerity Equipment	any equipment, tools, systems, cabling or facilities, provided by Celerity to the Customer and used directly or indirectly in the supply of the Services, including any such items specified in a Service Schedule, but excluding any such items which are the subject of a separate agreement between the parties under which title passes to the Customer.
Celerity IPRs	all Intellectual Property Rights subsisting in Celerity Equipment, the Software, the Deliverables and the Documentation (excluding any Customer Materials incorporated in them).



Celerity Personnel	Personnel Celerity or a Subcontractor employs or engages to perform the Services.
Change Control Notice	has the meaning given in clause 9.1
Charges	the sums payable for the Services as set out in each Service Schedule.
Customer Data	the data inputted by the Customer, an Authorised User or Celerity on the Customer's behalf for the purpose of using the Services or facilitating the Customer's use of the Services.
Customer Dependencies	those specific inputs and activities required of the Customer in respect of the applicable services as set out in the relevant Service Schedule.
Customer Equipment	any equipment, including tools, systems, cabling or facilities, provided by the Customer, its agents, subcontractors or consultants which is used directly or indirectly in the supply of the Services including any such items specified in a Service Schedule.
Contract Year	a 12-month period with the date of this Agreement or any anniversary of it.
Control	shall be as defined in section 1124 of the Corporation Tax Act 2010, and the expression change of Control shall be construed accordingly.
Controller, processor, data subject, personal data, personal data breach, processing and appropriate technical measures	has the meaning given to it in the Data Protection Legislation.
Customer Materials	all documents, information, items and materials in any form, whether owned by the Customer or a third party, which are provided by the Customer to Celerity in connection with the Services, including the items provided pursuant to clause 7.1
Data Protection Legislation	the UK Data Protection Legislation and any other European Union legislation relating to personal data and all other legislation and regulatory requirements in force from time to time which apply to a party relating to the use of personal data (including, without limitation, the privacy of electronic communications).
Delivery	the transfer of physical possession of Celerity Equipment to the Customer at its site.
Deliverables	All documents, products and materials developed by Celerity, its agents, subcontractors and personnel as part of or in relation to the Services in any form, including computer programs, data, reports and specifications (including drafts).
Documentation	the documentation describing the Software Services set out in a Service Schedule and, if applicable, related user instructions referred to in the relevant Service Schedule.



Enhanced Services

means, with respect to a particular Service Schedule, the right to use the Service additionally within the applicable Service Metrics.

Event of Insolvency

- (a) a party suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or (being a company or limited liability partnership) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 (IA 1986) as if the words "it is proved to the satisfaction of the court" did not appear in sections 123(1)(e) or 123(2) of the IA 1986;
- (b) a party commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with any of its creditors other than (being a company) for the sole purpose of a scheme for a solvent amalgamation of that party with one or more other companies or the solvent reconstruction of that party;
- (c) 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 a party (being a company, limited liability partnership or partnership) other than for the sole purpose of a scheme for a solvent amalgamation of that party with one or more other companies or the solvent reconstruction of that party;
- (d) an application is made to court, or an order is made, for the appointment of an administrator, or a notice of intention to appoint an administrator is given or an administrator is appointed, over a party (being a company);
- (e) the holder of a qualifying floating charge over the assets of a party (being a company) has become entitled to appoint or has appointed an administrative receiver;
- (f) a person becomes entitled to appoint a receiver over all or any of the assets of a party or a receiver is appointed over all or any of the assets of a party;
- (g) a creditor or encumbrancer of a party attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of that party's assets and such attachment or process is not discharged within 14 days;
- (h) any event occurs, or proceeding is taken, with respect to the party in any jurisdiction to which it is subject that has an effect

equivalent or similar to any of the events mentioned in clause a to g above (inclusive); or

- (i) a party suspends or ceases, or threatens to suspend or cease, carrying on all or a substantial part of its business.

Force Majeure Event	means an event beyond the reasonable control of the affected party which does not relate to its fault or negligence, including acts of God, epidemics, government intervention, war, hostilities, terrorist activities, local or national emergencies, floods, natural disasters, fires, explosions, strikes, lock-outs and labour disputes (except where such strikes, lock-outs or labour disputes involve the affected party's own staff or employees).
Good Industry Practice	means using practices and exercising that degree of skill and care which would reasonably be expected from a suitably skilled and experienced professional organisation engaged in the provision of services which are the same as or similar to the Services.
Go Live Date	The date on which Services enter into live use by the Customer.
Intellectual Property Rights	patents, rights to inventions, copyright and related rights, moral rights, trade marks, business names and domain names, rights in get-up, goodwill and the right to sue for passing off, rights in designs, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how and trade secrets) and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.
Implementation	the process of setting up Services for the Customer as set out in the applicable Service Schedule.
Milestone	a date identified as a milestone in a Service Schedule.
Privacy and Security Policy	Celerity's policy relating to the privacy and security of the Customer Data available at https://www.celerity-uk.com/privacy-policy or such other website address as may be notified to the Customer from time to time.
Project Plan	a project plan agreed between the parties in respect of an Implementation.
Reconciliation Credit	any sums to be credited to the Customer's account in relation to a particular Service because the Customer's use of the Service has fallen short of the Service Metric specified as included in the Charges, as set out in a Service Schedule.
Renewal Period	any period described as a 'Renewal Period' in a Service Schedule.



Services	the services to be provided by Celerity under a Service Schedule, including any Software Services, as detailed in each Service Schedule.
Service Credit	any sums payable in respect of a Service Failure as specified in a Service Schedule.
Service Failure	a failure by Celerity to deliver the Services in accordance with the Service Levels.
Service Metric	any capacity, storage, number of Authorised Users or other such metric related to a particular Service as set out in a Service Schedule.
Service Level	any service level specified in the relevant Service Schedule for a particular Service.
Service Schedule	a detailed plan, agreed in accordance with clause 3, describing the services to be provided by Celerity, the timetable for their performance and any related matters.
Service Schedule Commencement Date	in relation to each Service Schedule the date on which the Service Schedule becomes effective as specified in the Service Schedule.
Service Schedule Term	in relation to a Service Schedule, the period commencing on the Service Schedule Commencement Date and ending on the date of expiry or termination of the Service Schedule in accordance with that Service Schedule or clause 18
Software	any software (whether provided as a Software Service or otherwise) to be made available to the Customer by Celerity in connection with or as a part of any Service under this Agreement.
Software Services	any subscription services provided by Celerity to the Customer under this Agreement from time to time, via a website or portal, as more particularly described in the Documentation.
Subcontractor	a third party to whom Celerity subcontracts the performance of any of its obligations under this Agreement.
Support Service Policy	Celerity's policy for providing support as detailed in the relevant Service Schedule.
Term	has the meaning to it in clause 2.1.
UK Data Protection Legislation	all applicable data protection and privacy legislation in force from time to time in the UK including the Data Protection Act 2018 and the Privacy and Electronic Communications Regulations 2003 (<i>SI 2003/2426</i>) as amended.
VAT	value added tax or any equivalent tax chargeable in the UK or elsewhere.
Virus	any thing or device (including any software, code, file or programme) which may prevent, impair or otherwise adversely affect the operation of any computer software, hardware or network, any telecommunications service, equipment or network or any other services or device; prevent, impair or otherwise adversely affect access to or the operation of any



programme or data, including the reliability of any programme of data (whether by re-arranging altering or erasing the programme or data in whole or part or otherwise); or adversely affect the user experience, including worms, trojan horses and other similar things or devices.

- 1.2 Clause, Schedule and paragraph headings shall not affect the interpretation of this Agreement.
- 1.3 A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
- 1.4 The Schedules form part of this Agreement and shall have effect as if set out in full in the body of this Agreement. Any reference to this Agreement includes the Schedules.
- 1.5 A reference to a **company** shall include any company, corporation or other body corporate, wherever and however incorporated or established.
- 1.6 Unless the context otherwise requires, words in the singular shall include the plural and, in the plural, shall include the singular.
- 1.7 Unless the context otherwise requires, a reference to one gender shall include a reference to the other gender.
- 1.8 This Agreement shall be binding on, and ensure to the benefit of, the parties to this Agreement and their respective personal representatives, successors and permitted assigns, and references to any party shall include that party's personal representatives, successors and permitted assigns.
- 1.9 A reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time and shall include all subordinate legislation made under that statute or statutory provision.
- 1.10 A reference to **writing** or **written** includes fax and email.
- 1.11 Any obligation on a party not to do something includes an obligation not to allow that thing to be done.
- 1.12 A reference to **this Agreement** or to any other Agreement or document referred to in this Agreement is a reference of this Agreement or such other Agreement or document as varied or novated (in each case, other than in breach of the provisions of this Agreement) from time to time.
- 1.13 References to clauses and Schedules are to the clauses and Schedules of this agreement and references to paragraphs are to paragraphs of the relevant Schedule.
- 1.14 Any words following the terms **including, include, in particular, for example** or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.
- 1.15 Notwithstanding the provisions of clause 3.4 if there is any conflict between the provisions of the body of this Agreement and any Service Schedule, then the provisions of the Service Schedule shall prevail.

2. COMMENCEMENT AND DURATION

- 2.1 This Agreement shall commence on the effective date shall continue, unless terminated earlier in accordance with clause 18 (Termination), until either party gives to the other party three (3) months' written notice to terminate, provided that such notice shall only expire on the date upon which the last subsisting Service Schedule expires or is terminated (**Term**).



2.2 Each Service Schedule shall commence on its Service Schedule Effective Date and, subject to any early termination in accordance with the terms of this Agreement, shall continue in full force and effect for the relevant Service Schedule Term, following which such Service Schedule shall terminate, unless expressly stated otherwise in the relevant Service Schedule.

2.3 The parties shall not enter into any further Service Schedules after the date on which notice to terminate is served under clause 2.1

3. FRAMEWORK AGREEMENT

3.1 This Agreement is a framework agreement which sets out the terms and conditions under which Celerity shall provide the Available Services, any Software and/or Celerity Equipment to the Customer.

3.2 Where the parties agree that Celerity shall provide Services to the Customer (or, where applicable, any Software and/or Celerity Equipment), they shall complete and sign a Service Schedule for such purpose in accordance with clause 3.3. Each party acknowledges that neither party is obliged to enter into any Service Schedule.

3.3 The process for entering into a Service Schedule shall be as follows:

- (a) the Customer notifies Celerity of its interest to purchase any or all of the available services by clicking on the IBM Tile;
- (b) following such a request from the Customer, Celerity shall arrange a workshop with the Customer in order to understand the Customer requirement and shall notify the Customer of any information it reasonably requires in order to prepare the proposed Service Schedule, which the Customer shall provide;
- (c) following receipt of the additional information requested, Celerity shall provide the Customer with the proposed Service Schedule including the proposed Charges; and
- (d) both parties shall sign the proposed Service Schedule once agreed.

3.4 Once such Service Schedule has been signed by the authorised representatives of both parties it is part of this Agreement and does not form a separate contract.

4. SUPPLY OF SERVICES

4.1 Celerity shall use reasonable endeavours to:

- (a) provide the Services, and deliver the Deliverables to the Customer, in accordance with the relevant Service Schedule and this Agreement in all material respects;
- (b) meet any Go Live Dates, other performance dates and/or Milestones specified in a Service Schedule, but any such dates shall be estimates only and time for performance by Celerity shall not be of the essence of this Agreement.
- (c) provide the Services in accordance with any applicable Service Levels;
- (d) appoint a manager in respect of the Services to be performed under each Service Schedule, such person to be identified in the Service Schedule. That person shall have authority to bind Celerity on all matters relating to the relevant Service Schedule (including by signing Change Control Notices).

4.2 Celerity shall and shall procure that Celerity Personnel shall use reasonable endeavours to observe all health and safety and security requirements that apply at any of the Customer's premises and that have



been communicated to it under clause 7, provided that it shall not be liable under this Agreement if, as a result of such observation, it is in breach of any of its obligations under this Agreement.

- 4.3 The Customer may, from time to time during any relevant Service Schedule Term request Enhanced Services with respect to a particular Service Schedule and Celerity shall, subject to clauses 4.4 and 4.5 provide such Enhanced Services in accordance with the provisions of this Agreement.
- 4.4 If the Customer wishes to purchase an Enhanced Service it shall notify Celerity in writing including appropriate information in respect of its requirements. Celerity shall evaluate such request and respond to the Customer with approval or rejection of the request. Where Celerity approves the request, Celerity shall activate the Enhanced Service promptly following approval of the Customer's request.
- 4.5 If Celerity approves the Customer's request to purchase an Enhanced Service, the Customer shall, within 30 days of the date of Celerity's invoice, pay to Celerity the relevant Charges for such Enhanced Service as set out in the relevant Service Schedule and, if such Enhanced Service is purchased by the Customer part way through the relevant Service Schedule Term or any Renewal Period (as applicable), such Charges shall be pro-rated from the date of activation by Celerity for the remainder of the Service Schedule Term or Renewal Period (as applicable).
- 4.6 The Customer acknowledges that the Services may enable or assist it to access the website content of, correspond with, and purchase products and services from, third parties via third-party websites and that it does so solely at its own risk. Celerity makes no representation, warranty or commitment and shall have no liability or obligation whatsoever in relation to the content or use of, or correspondence with, any such third-party website, or any transactions completed, and any contract entered into by the Customer, with any such third party. Any contract entered into, and any transaction completed, via any third-party website is between the Customer and the relevant third party, and not Celerity. Celerity recommends that the Customer refers to the third party's website terms and conditions and privacy policy prior to using the relevant third-party website. Celerity does not endorse or approve any third-party website nor the content of any of the third-party websites made available via the Services.
- 4.7 Any rights granted under this Agreement are granted to the Customer only and shall not be considered granted to any subsidiary or holding company of the Customer.

5. PROVISION OF EQUIPMENT ON CUSTOMER SITE

- 5.1 Where Celerity Equipment or Software is to be installed on a Customer site (as set out in a Service Schedule) Celerity shall use reasonable endeavours to make Delivery by the date and time agreed between the parties provided that time is not of the essence.
- 5.2 Celerity shall install the relevant Celerity Equipment and Software at the site nominated in the relevant Service Schedule. The Customer shall, at its sole expense, provide all required materials, facilities, access and suitable working conditions to enable Delivery and installation to be carried out safely and expeditiously by Celerity including any materials, facilities, access and working conditions specified in the relevant Service Schedule.
- 5.3 Celerity Equipment shall at all times remain the property of Celerity and the Customer shall have no right, title or interest in or to Celerity Equipment (save the right to possession and use of Celerity Equipment on the terms and conditions of this Agreement).
- 5.4 Risk in Celerity Equipment shall pass to the Customer on Delivery and such Celerity Equipment shall remain at the sole risk of the Customer whilst Celerity Equipment is in the possession, custody or control



of the Customer until such time as Celerity Equipment is collected by or redelivered (as Celerity shall determine).

5.5 While risk in Celerity Equipment is with the Customer, the Customer shall obtain and maintain the following insurance policies in relation to it with a reputable insurance company:

- (a) Insurance of at least the full replacement value of Celerity Equipment against all usual risks of loss, damage or destruction by fire, theft or accident and such other risks as Celerity may from time to time nominate in writing;
- (b) Insurance for such amounts as a prudent owner or operator of such Celerity Equipment would insure for, or such amount as Celerity shall determine from time to time, to cover any third party or public liability risks whatever and however arising in relation to such Celerity Equipment; and
- (c) Insurance against such other or further risks relating to such Celerity Equipment as may be required by Applicable Law together with such other insurance as Celerity may from time to time consider reasonably necessary and advise to the Customer,

and shall provide copies of such policies to Celerity upon request.

5.6 The Customer shall give immediate written notice to Celerity of any loss, accident or damage to Celerity Equipment.

5.7 The Customer shall during the Term:

- (a) ensure that Celerity Equipment is kept and operated in a suitable environment, used only for the purposes for which it is supplied and that it is operated in a proper manner by trained competent staff in accordance with any instructions provided by Celerity;
- (b) make no alteration to or move Celerity Equipment and shall not remove any component(s) from Celerity Equipment without the prior written consent of Celerity.
- (c) permit Celerity or its duly authorised representatives access at all reasonable times to inspect and maintain such Celerity Equipment;
- (d) not part with control of, sell or offer for sale, underlet or lend Celerity Equipment or allow the creation of any mortgage, charge, lien or other security interest with respect to it;
- (e) not without the prior written consent of Celerity, attach Celerity Equipment to any land or building so as to cause it to become a permanent or immovable fixture on such land or building;
- (f) not do or permit to be done any act or thing which will or may jeopardise the right, title and/or interest of Celerity in Celerity Equipment;
- (g) not suffer or permit Celerity Equipment to be confiscated, seized or taken out of its possession or control under any distress, execution or other legal process, but if Celerity Equipment is so confiscated, seized or taken, the Customer shall notify Celerity and the Customer shall at its sole expense use its best endeavours to procure an immediate release of Celerity Equipment and shall indemnify Celerity on demand against all losses, costs, charges, damages and expenses incurred as a result of such confiscation;
- (h) ensure that at all times Celerity Equipment remains identifiable as being Celerity's property, not remove any labels from Celerity Equipment;



- (i) at Celerity's option deliver up Celerity Equipment at the end of the Term at such address as Celerity requires, or allow Celerity or its representatives access to the site where Celerity Equipment is located for the purpose of removing it; and
 - (j) not do or permit to be done anything which could invalidate the insurances referred to in clause 5.5.
- 5.8 The Customer acknowledges that Celerity shall not be responsible for any loss of or damage to Celerity Equipment, to the extent such loss or damage arises out of or in connection with any negligence, misuse, mishandling of Celerity Equipment or otherwise caused by the Customer or its personnel.
- 6. SOFTWARE**
- 6.1 Software may be provided as part of the Services or Celerity Equipment or as a standalone supply (as the case may be).
- 6.2 Where Celerity agrees to make available Software applications and/ or platforms specified in a Service Schedule on a pay-per-use basis, it shall (save to the extent set out to the contrary in a Service Schedule) grant to the Customer a non-exclusive, non-transferable right without the right to grant sub-licences, to permit the Authorised Users to use the Software Services and the Documentation during the relevant Service Schedule Term solely for the Customer's internal business operation or as otherwise specified in the relevant Service Schedule, such licence to be conditional upon
 - the Customer not:
 - (a) except as may be allowed by Applicable Law which is incapable of exclusion by agreement between the parties and except to the extent expressly permitted under this Agreement:
 - (i) attempting to copy, modify, duplicate, create derivative works from, frame, mirror, republish, download, display, transmit, or distribute all or any portion of the Software and/or Documentation (as applicable) in any form or media or by any means; or
 - (ii) attempting to de-compile, reverse compile, disassemble, reverse engineer or otherwise reduce to human-perceivable form all or any part of the Software; or
 - (b) accessing all or any part of the Software Services and Documentation in order to build a product or service which competes with the Services and/ or the Documentation; or
 - (c) using the Software Services and/or Documentation to provide services to third parties; or
 - (d) subject to clause 21, licensing, selling, renting, leasing, transferring, assigning, distributing, displaying, disclosing, or otherwise commercially exploiting, or otherwise making the Services and/or Documentation available to any third party except the Authorised Users, or
 - (e) attempting to obtain, or assist third parties in obtaining, access to the Services and/or Documentation, other than as provided under this clause.
- 6.3 Celerity undertakes that it will perform the Software Services substantially in accordance with the Documentation and with reasonable skill and care
 - but shall not be responsible for any non-conformance to the extent it is caused by use of the Software Services contrary to the Software Supplier's instructions, or modification or alteration of the Software Services by any party other than Celerity or Celerity's duly authorised contractors or agents. If the Software Services do not conform to the undertaking, Celerity will, at its expense, use all reasonable commercial endeavours to correct any such non-conformance promptly, or provide the Customer with



an alternative means of accomplishing the desired performance. Such correction or substitution constitutes the Customer's sole and exclusive remedy for any breach of the undertaking set out in this clause 6.3.

7. CUSTOMER RESPONSIBILITIES

7.1 The Customer shall:

- (a) without prejudice to its obligations under this Agreement, comply with any Customer Dependencies and carry out all other Customer responsibilities in a timely and efficient manner;
- (b) use reasonable endeavours to perform its obligations in accordance with any Project Plan;
- (c) make use of any Service Credits and Reconciliation Credits within the relevant Service Schedule Term;
- (d) devote such time and resource as is reasonably necessary to perform its obligations under this Agreement;
- (e) procure that its relevant third-party providers provide such operation and assistance to Celerity as is reasonably required to enable Celerity to perform the Services in accordance with this Agreement;
- (f) ensure that its network and systems comply with the relevant specifications provided by Celerity from time to time;
- (g) to the extent permitted by law and except as otherwise expressly provided in this Agreement, be solely responsible for procuring, maintaining and the security of its network connections and telecommunications links from its systems to Celerity's or its partners data centres, and all problems, conditions, delays, delivery failures and all other loss or damage arising from or relating to the Customer's network connections or telecommunications links or caused by the internet;
- (h) use all reasonable endeavours to prevent any unauthorised access to, or use of, the Services and/ or the Documentation and, in the event of any such unauthorised access or use, promptly notify Celerity;
- (i) co-operate with Celerity in all matters relating to the Services;
- (j) appoint a manager in respect of the Services to be performed under each Service Schedule, such person as identified in the Service Schedule. That person shall have authority to contractually bind the Customer on all matters relating to the relevant Services (including by signing Change Control Notices);
- (k) provide, for Celerity, its agents, subcontractors, consultants and employees, in a timely manner and at no charge, access to the Customer's premises, office accommodation, data and other facilities as required by Celerity including any such access as is specified in a Service Schedule;
- (l) provide to Celerity in a timely manner all documents, information, items and materials in any form (whether owned by the Customer or a third party) required under a Schedule of Services or otherwise reasonably required by Celerity in connection with the Services and ensure that they are accurate and complete in all material respects;
- (m) inform Celerity of all health and safety and security requirements that apply at any of the Customer's premises;

- (n) ensure that all the Customer's Equipment is in good working order and suitable for the purposes for which it is used in relation to the Service and conforms to all relevant United Kingdom standards or requirements and any specific requirements or specifications set out in a Service Schedule;
- (o) obtain and maintain all necessary licences and consents and comply with all relevant legislation as required to enable Celerity to provide the Services, including in relation to the installation of Celerity's Equipment (if applicable), the use of all Customer Materials and the use of the Customer's Equipment insofar as such licences, consents and legislation relate to the Customer's business, premises, staff and equipment, in all cases before the applicable Go Live Date; and
- (p) comply with any additional responsibilities of the Customer as set out in the relevant Service Schedule.

7.2 The Customer shall not access, store, distribute or transmit any Viruses or any material during the course of its use of the Services that:

- (a) is unlawful, harmful, threatening, defamatory, obscene, infringing, harassing or racially or ethnically offensive;
- (b) facilitates illegal activity;
- (c) depicts sexually explicit images;
- (d) promotes unlawful violence;
- (e) is discriminatory based on race, gender, colour, religious belief, sexual orientation, disability; or
- (f) is otherwise illegal or causes damage or injury to any person or property;

and Celerity may without liability or prejudice to its other rights to the Customer disable the Customer's access to any material that breaches the provisions of this clause 7.2

7.3 The Customer shall not introduce, or permit the introduction of, any Virus into Celerity's network and information systems.

7.4 In relation to the Authorised Users that Customer undertakes that:

- (a) the maximum number of users that it authorises to access and use the Services and/ or the Documentation shall not exceed the number of Authorised Users specified in the applicable Service Schedule;
- (b) each Authorised User shall keep a secure password for his use of the Services and Documentation, that such password shall be changed no less frequently than every 90 days and that each Authorised User shall keep his password confidential;
- (c) it shall maintain a written, up-to-date list of current Authorised Users and provide such list to Celerity within 10 Business Days of Celerity's written request at any time or times;
- (d) if any audit reveals that any password has been provided to any individual who is not an Authorised User, then without prejudice to Celerity's other rights, the Customer shall promptly disable such passwords, and Celerity shall not issue any new passwords to any such individual; and

- (e) It shall ensure that the Authorised Users use the Services and any Documentation provided in accordance with the terms and conditions of this Agreement and that it shall be responsible for any Authorised User's breach of this Agreement.
- 7.5 If Celerity's performance of its obligations under this Agreement is prevented or delayed by any act or omission of the Customer, its agents, subcontractors, consultants or employees then, without prejudice to any other right or remedy it may have, Celerity shall be allowed an extension of time to perform its obligations equal to the delay caused by the Customer.
- 7.6 Celerity shall not be in breach of its obligations under this Agreement to the extent such breach is as a result of:
 - (a) the Customer's failure to perform, or its delay in performing, any of its obligations under this Agreement (including in respect of any Customer Dependencies);
 - (b) any act or omission carried out by an applicable regulator; and/or
 - (c) compliance with specific instructions issued by an authorised representative of the Customer, (each being a "Relief Event" for the purposes of this Agreement).
- 7.7 Where reasonably practicable, Celerity shall:
 - (a) give the Customer written details of the Relief Event promptly upon becoming aware of the Relief Event; and
 - (b) use reasonable endeavours to perform its obligations under this Agreement, notwithstanding the Relief Event. Provided that Celerity shall be entitled to be reimbursed by the Customer for its directly incurred costs in doing so.

8. WARRANTIES

- 8.1 Celerity warrants (as at the date of this Agreement and during the Term):
 - (a) it will, during the relevant Service Schedule Term, provide the Services and make available any Documentation to the Customer on and subject to the terms of this Agreement;
 - (b) it will provide the Services in accordance with Good Industry Practice;
 - (c) it will provide the Services with reasonable care and skill using suitably qualified personnel;
 - (d) it will use commercially reasonable endeavours to make the Software Services available 24 hours a day, seven days a week, except for any:
 - (i) planned maintenance carried out during the maintenance window of 8pm to 10pm; and
 - (ii) unscheduled critical maintenance performed outside Business Hours, provided that Celerity has used reasonable endeavours to give the Customer at least 4 Business Hours' notice in advance.
 - (e) it will, as part of the Services in consideration of the support fees set out in the relevant Service Schedule, provide the Customer with Celerity's standard customer support services during Business Hours in accordance with Celerity's Support Services Policy. Celerity may amend the Support Services Policy in its sole and absolute discretion from time to time. The Customer may purchase enhanced support services separately at Celerity's then current rates.
- 8.2 Celerity does not warrant that:



- (a) the Customer's use of the Software Services will be uninterrupted or error-free; or
 - (b) that the Services, any Documentation provided and/or the information obtained by the Customer through the Services will meet the Customer's requirements.
- 8.3 Celerity is not responsible for any delays, delivery failures, or any other loss or damage resulting from the transfer of data over communications networks and facilities, including the internet, and the Customer acknowledges that the Services may be subject to limitations, delays and other problems inherent in the use of such communications facilities.
- 8.4 The Customer warrants and represents to Celerity that it has the authority to grant any rights to be granted to Celerity under this Agreement.
- 8.5 Except as expressly provided in this Agreement, neither party gives any representation or warranty to the other party, and each party hereby excludes, to the fullest extent permitted by law, all express and implied terms, conditions, representations and warranties concerning the subject matter of this Agreement and the performance of its obligations hereunder, including any representation, warranty, term or condition of fitness for purpose or satisfactory quality.
- 9. CHANGE CONTROL**
- 9.1 Either party may propose changes to the scope or execution of the Services, but no proposed changes shall come into effect until a relevant Change Control Notice has been signed by both parties. A Change Control Notice shall be a document setting out the proposed changes and the effect that those changes will have on:
 - (a) the Services;
 - (b) the Charges;
 - (c) any Project Plan or timetable for delivery of the Services or any Implementation; and
 - (d) any of the other terms of the relevant Service Schedule.
- 9.2 If Celerity wishes to make a change to the Services, it shall provide a draft Change Control Notice to the Customer.
- 9.3 If the Customer wishes to make a change to the Services:
 - (a) it shall notify Celerity and provide as much detail as Celerity reasonably requires of the proposed changes, including the timing of the proposed change; and
 - (b) Celerity shall, as soon as reasonably practicable after receiving the information at clause 9.3 (a) provide a draft Change Control Notice to the Customer.
- 9.4 If the parties:
 - (a) agree to a Change Control Notice, they shall sign it and that Change Control Notice shall amend the relevant Service Schedule; or
 - (b) are unable to agree a Change Control Notice, either party may require the disagreement to be dealt with in accordance with the dispute resolution procedure in clause 31 (Multi-tiered dispute resolution procedure).

10. INTELLECTUAL PROPERTY RIGHTS

- 10.1 Celerity and its licensors shall retain ownership of all Celerity IPRs and Celerity confirms that it has all the rights necessary to grant the rights it purports to grant under and in accordance with this Agreement. The Customer and its licensors shall retain ownership of all Intellectual Property Rights in the Customer Materials. Nothing in this Agreement shall be construed as an assignment of any Intellectual Property Rights. Except as expressly stated in this Agreement, this Agreement does not grant the Customer any rights to any Celerity IPRs.
- 10.2 Celerity grants to the Customer a fully paid up, worldwide, non-exclusive, royalty-free non-transferable licence to use, copy and modify the Deliverables for the Term for the purpose of receiving the Services.
- 10.3 Celerity shall grant or procure the grant of a licence to use any Intellectual Property Rights in any Celerity Equipment and/or Software provided pursuant to this Agreement on terms set out in this Master Agreement or in the relevant Service Schedule (as the case may be).
- 10.4 The Customer grants to Celerity a fully paid up, worldwide, non-exclusive, royalty-free, transferable licence to use, copy and modify the Customer Materials for the Term for the purpose of providing the Services.
- 10.5 Celerity:
- (a) warrants that the receipt and use of Celerity IPRs by the Customer in accordance with this Agreement shall not infringe the rights, including any Intellectual Property Rights, of any third party;
 - (b) shall, subject to clause 17.4, indemnify the Customer against all liabilities, costs, reasonable expenses, damages and losses suffered or incurred by the Customer arising out of or in connection with any valid claim brought against the Customer for actual or alleged infringement of a third parties Intellectual Property Rights arising out of, or in connection with, the receipt, or use of Celerity IPRs;
 - (c) shall not be in breach of the warranty at clause 11.5 (a) , and the Customer shall have no claim under the indemnity at clause 11.5 (b) to the extent the infringement arises from:
 - (i) the incorporation of any Customer Materials in what would otherwise be considered to be Celerity IPRs;
 - (ii) any modification of Celerity IPRs other than by or on behalf of Celerity; and
 - (iii) compliance with the Customer's specifications or instructions, provided that Celerity shall notify the Customer if it knows or suspects that compliance with such specification or instruction may result in infringement.
- 10.6 The Customer:
- (a) warrants that the receipt and use in the performance of this Agreement by Celerity, its agents, subcontractors or consultants of the Customer Materials shall not infringe the rights, including any Intellectual Property Rights, of any third party; and
 - (b) shall indemnify Celerity against all liabilities, costs, damages and losses and all other reasonable professional costs and expenses suffered or incurred or paid by Celerity arising out of or in connection with any claim brought against Celerity, its agents, subcontractors or



consultants for actual or alleged infringement of a third party's Intellectual Property Rights arising out of, or in connection with, the receipt or use in the performance of this Agreement of the Customer Materials.

- 10.7 If either party (Indemnifying Party) is required to indemnify the other party (Indemnified Party) under this clause¹¹, the Indemnified Party shall:
- (a) notify the Indemnifying Party in writing of any claim against it in respect of which it wishes to rely on the indemnity at clause 11.5 (b) or clause 11.6(b) (as applicable) (**IPRs Claim**);
 - (b) allow the Indemnifying Party, at its own cost, to conduct all negotiations and proceedings and to settle the IPRs Claim, always provided that the Indemnifying Party shall obtain the Indemnified Party's prior approval of any settlement terms, such approval not to be unreasonably withheld;
 - (c) provide the Indemnifying Party with such reasonable assistance regarding the IPRs Claim as is required by the Indemnifying Party, subject to reimbursement by the Indemnifying Party of the Indemnified Party's costs so incurred; and
 - (d) not, without prior consultation with the Indemnifying Party, make any admission relating to the IPRs Claim or attempt to settle it, provided that the Indemnifying Party considers and defends any IPRs Claim diligently, using competent counsel and in such a way as not to bring the reputation of the Indemnified Party into disrepute.

11. COMPLIANCE WITH LAWS

- 11.1 In performing their obligations under this Agreement, each party shall comply with Applicable Laws.
- 11.2 The parties will agree changes to the Services required as a result of changes to the Applicable Laws using the change control procedure set out in clause 9 (Change control).

12. DATA AND DATA PROTECTION

- 12.1 The Customer shall own all right, title and interest in and to all of the Customer Data that is not personal data and shall have sole responsibility for the legality, reliability, integrity, accuracy and quality of all such Customer Data.
- 12.2 Celerity shall follow its archiving procedures for Customer Data as set out in its back-up policy, as such document may be amended by Celerity in its sole discretion from time to time. In the event of any loss or damage to Customer Data, the Customer's sole and exclusive remedy against Celerity shall be for Celerity to use reasonable commercial endeavours to restore the lost or damaged Customer Data from the latest back-up of such Customer Data maintained by Celerity in accordance with the archiving procedure described in its back-up policy. Celerity shall not be responsible for any loss, destruction, alteration or disclosure of Customer Data caused by any third party (except those third parties sub-contracted by Celerity to perform services related to Customer Data maintenance and back-up for which it shall remain fully liable under this clause 13).
- 12.3 Celerity shall, in providing the Services, comply with its Privacy and Security Policy, as such document may be amended from time to time by Celerity in its sole discretion.
- 12.4 Both parties will comply with all applicable requirements of the Data Protection Legislation. This clause 13 is in addition to, and does not relieve, remove or replace, a party's obligations or rights under the Data Protection Legislation.

12.5 Without prejudice to the generality of clause 13.1, the Customer warrants that it has and will maintain in place throughout the term of his Agreement all necessary and/or appropriate consents and notices in place to enable lawful transfer of the personal data to Celerity for the duration and purposes of this Agreement.

12.6 Where a Service Schedule identifies the Customer as the controller and Celerity as the processor and sets out the scope, nature and purpose of processing by Celerity, the types of personal data and categories of data subject,

Celerity shall throughout the Term and in connection with the performance by Celerity of its obligations under this Agreement:

- (a) process that personal data only on the documented written instructions of the Customer unless Celerity is required by Applicable Laws to otherwise process that personal data. Where Celerity is relying on the laws of the UK and/or a member of the European Union or UK/European Union Law as the basis for processing personal data, Celerity shall promptly notify the Customer of this before performing the processing required by the Applicable Laws unless those Applicable Laws prohibit Celerity from so notifying the Customer;
- (b) ensure that it has in place appropriate technical and organisational measures, in accordance with the UK Data Protection Legislation, to protect against unauthorised or unlawful processing of personal data and against accidental loss or destruction of, or damage to, personal data, appropriate to the harm that might result from the unauthorised or unlawful processing or accidental loss, destruction or damage and the nature of the data to be protected, having regard to the state of technological development and the cost of implementing any measures.
- (c) ensure that all personnel who have access to and/or process personal data are obliged to keep the personal data confidential;
- (d) only transfer personal data outside the UK/European Economic Area where the following conditions are fulfilled:
 - (i) the Customer or Celerity has provided appropriate safeguards in relation to the transfer in accordance with the UK Data Protection Legislation;
 - (ii) the data subject has enforceable rights and effective legal remedies;
 - (iii) Celerity complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any personal data that is transferred; and
 - (iv) Celerity complies with reasonable instructions notified to it in advance by the Customer with respect to the processing of the personal data;
- (e) provide reasonable assistance to the Customer, at the Customer's cost, in responding to any request from a data subject and in ensuring compliance with its obligations under the Data Protection Legislation with respect to security, breach notifications, data protection impact assessments and consultations with supervisory authorities or regulators;
- (f) notify the Customer without undue delay on becoming aware of a personal data breach;
- (g) at the written direction of the Customer, delete or return personal data and copies thereof to the Customer on termination of this Agreement or any relevant Service Schedule (as the case may be) unless required by Applicable Law to store the personal data; and

- (h) maintain complete and accurate records and information to demonstrate its compliance with this clause 13 and allow for audits by the Customer or the Customer's designated auditor of such records and information upon reasonable notice and at the Customer's cost, (provided that the confidentiality of Celerity's information in particular information relating to its other Customers is not prejudiced) and immediately inform the Customer if, in the opinion of Celerity, an instruction infringes the Data Protection Legislation.

12.7 The Customer provides its prior, general authorisation for Celerity to appoint processors to process the Customer Data, provided that Celerity:

- (i) ensures that the terms on which it appoints any processor comply with Data Protection Legislation, and are consistent with the obligations imposed on Celerity in this clause 13;
- (ii) remains responsible for the acts and omissions of any processor as if they were the acts and omissions of Celerity; and
- (iii) informs the Customer of any intended changes concerning the addition or replacement of processors during the Term, giving the Customer the opportunity to object to changes provided that if the Customer objects to a change and cannot demonstrate, to Celerity's reasonable satisfaction, that the objection is due to an actual or likely breach of Data Protection Legislation, the Customer shall indemnify Celerity for any Losses incurred by Celerity in accommodating the objection.

13. CONFIDENTIALITY

13.1 Each party undertakes that it shall not at any time during the Term, and for a period of two (2) years after termination of this Agreement, disclose to any person any confidential information concerning the business, affairs, Customers, Customers or suppliers of the other party except as permitted by clause 14

13.2 Each party may disclose the other party's confidential information:

- (a) to its employees, officers, representatives or advisers who need to know such information for the purposes of exercising the party's rights or carrying out its obligations under or in connection with this Agreement. Each party shall ensure that its employees, officers, representatives or advisers to whom it discloses the other party's confidential information comply with this clause 14; and
- (b) as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.

13.3 Neither party shall use the other party's confidential information for any purpose other than to exercise its rights and perform its obligations under or in connection with this Agreement.

14. AUDIT

The Customer shall allow Celerity or its designated auditor to audit the Customer's use of the Service in order to establish such information as it may reasonably require, including to assess the correct Charges and to establish that the Services are being used in accordance with this Agreement. Each such audit may be conducted no more than once per Contract Year at Celerity's expense and in such a manner as not to substantially interfere with the Customer's normal conduct of business.



15. INSURANCE

Celerity shall for the duration of the Term and at its own expense ensure that it has in place adequate insurance in respect of its provision of the Services with a reputable insurance company. On request Celerity shall provide to the Customer copies of the insurance policies it has in place to comply with this clause.

16. LIMITATION OF LIABILITY

16.1 References in this clause 17 to liability include every kind of liability arising under or in connection with this Agreement including liability in contract, tort (including negligence), misrepresentation, restitution or otherwise.

16.2 Neither party may benefit from the limitations and exclusions set out in this clause in respect of any liability arising from its deliberate default.

16.3 Nothing in this Agreement limits any liability which cannot legally be limited, including liability for:

- (a) death or personal injury caused by negligence;
- (b) fraud or fraudulent misrepresentation; and
- (c) breach of the terms implied by section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession).

16.4 Subject to clause 17.3, Celerity's total liability to the Customer in respect of all breaches of duty occurring within any Contract Year shall not exceed one hundred and ten percent (110%) of the total Charges paid or due to Celerity in the Contract Year in which the breaches occurred.

16.5 The amounts awarded or agreed to be paid by way of Service Credit shall count towards the cap on Celerity's liability under clause 17.4.

16.6 Subject to clause 17.3 neither party shall be liable for the following types of loss:

- (a) loss of profits;
- (b) loss of sales or business;
- (c) loss of agreements or contracts;
- (d) loss of anticipated savings;
- (e) loss of use or corruption of software, data or information;
- (f) loss of or damage to goodwill; and
- (g) indirect or consequential loss.

17. TERMINATION

17.1 Without affecting any other right or remedy available to it, either party may terminate this Agreement as a whole with immediate effect by giving written notice to the other party if the other party:

- (a) commits a material breach of any term of this Agreement and such breach is irremediable or (if such breach is remediable) fails to remedy that breach within 28 Business Days of being notified in writing to do so; or
- (b) becomes subject to an Event of Insolvency.



- 17.2 Either party may terminate any Service Schedule immediately upon written notice to the other party if the other party commits a material breach of the relevant Service Schedule and such breach is irremediable or (if such breach is remediable) fails to remedy that breach within 28 Business Days of being notified in writing to do so.
- 17.3 Without affecting any other right or remedy available to it, Celerity may at its option either:
- (a) suspend provision of the Services under this Agreement;
 - (b) terminate this Agreement as a whole; or
 - (c) terminate any Service Schedule,
- with immediate effect by giving written notice to the Customer, if:
- (i) the Customer fails to pay IBM any amount due under this Agreement on the due date for payment and remains in default not less than 30 days after being notified in writing to make such payment;
 - (ii) the Customer in respect of its receipt and use of the Services is in breach of any Applicable Laws or if the continued provision of any of the Services would be in breach of Applicable Laws;
 - (iii) there is a change of Control of the Customer.
- 17.4 Where Celerity has exercised its right to suspend under clause 18.3, the Customer shall notify Celerity promptly of any rectification of the circumstances that gave rise to such right, following receipt of which Celerity shall reinstate provision of the Services as soon as reasonably practicable.

18. CONSEQUENCES OF TERMINATION

- 18.1 Termination of any Service Schedule shall not affect the validity of any other Service Schedules outstanding at the date of such termination. Termination or expiry of this Agreement as a whole shall not affect any outstanding Service Schedules then in force and the provisions of this Agreement shall continue to apply to any such outstanding Services Schedules for the applicable Service Schedule Term.
- 18.2 On termination or expiry of this Agreement or any Service Schedule:
- (a) the Customer shall immediately pay to Celerity all of Celerity's outstanding unpaid invoices and interest and, in respect of the Services supplied under the Agreement or relevant Service Schedule but for which no invoice has been submitted, Celerity may submit an invoice, which shall be payable immediately on receipt;
 - (b) all licences and rights granted under this Agreement or any Service Schedule so terminated or expired shall immediately terminate;
 - (c) the Customer shall return and make no further use of any property, Documentation and other items (and all copies of them) belonging to Celerity;
 - (d) the Customer shall, promptly return any Celerity Equipment in its possession or control. If the Customer fails to do so, then Celerity may enter the Customer's premises and take possession of Celerity Equipment. Until Celerity's Equipment has been returned or repossessed, the Customer shall be solely responsible for its safe keeping; and
 - (e) the parties shall take such steps as may be specified with respect to termination in any relevant Service Schedule.



18.3 Any provision of this Agreement that expressly or by implication is intended to come into or continue in force on or after termination or expiry of this Agreement or the relevant Service Schedule shall remain in full force and effect.

18.4 Termination or expiry of this Agreement shall not affect any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination or expiry, including the right to claim damages in respect of any breach of this Agreement which existed at or before the date of termination or expiry.

19. FORCE MAJEURE

19.1 Provided it has complied with clause 20.3, if a party is prevented, hindered or delayed in or from performing any of its obligations under this Agreement by a Force Majeure Event (**Affected Party**), the Affected Party shall not be in breach of this Agreement or otherwise liable for any such failure or delay in the performance of such obligations. The time for performance of such obligations shall be extended accordingly.

19.2 The corresponding obligations of the other party will be suspended, and its time for performance of such obligations extended, to the same extent as those of the Affected Party.

19.3 The Affected Party shall:

- (a) as soon as reasonably practicable after the start of the Force Majeure Event, notify the other party of the Force Majeure Event, the date on which it started, its likely or potential duration, and the effect of the Force Majeure Event on its ability to perform any of its obligations under the Agreement; and
- (b) use all reasonable endeavours to mitigate the effect of the Force Majeure Event on the performance of its obligations.

19.4 If the Force Majeure Event prevents, hinders or delays the Affected Party's performance of its obligations for a continuous period of more 90 days, the party not affected by the Force Majeure Event may terminate the relevant Service Schedule, or if the Force Majeure Event affects the Affected Party's ability to perform the Agreement as a whole, it may terminate the Agreement as a whole by giving 4 weeks' written notice to the Affected Party.

20. ASSIGNMENT AND OTHER DEALINGS

20.1 The Customer shall not assign, transfer, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any of its rights and obligations under this Agreement.

20.2 Celerity may at any time assign, mortgage, charge, delegate, declare a trust over or deal in any other manner with any or all of its rights under this Agreement.

21. VARIATION

Subject to clause 9 (Change control), no variation of this Agreement shall be effective unless it is in writing and signed by the parties (or their authorised representatives).

22. WAIVER

22.1 A waiver of any right or remedy under this Agreement or by law is only effective if given in writing and shall not be deemed a waiver of any subsequent right or remedy.

22.2 A failure or delay by a party to exercise any right or remedy provided under this Agreement or by law shall not constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict any further exercise of that or any other right or remedy. No single or partial exercise of any right or remedy provided



under this Agreement or by law shall prevent or restrict the further exercise of that or any other right or remedy.

- 22.3 A party that waives a right or remedy provided under this Agreement or by law in relation to one party or takes or fails to take any action against that party, does not affect its rights in relation to any other party.

23. RIGHTS AND REMEDIES

The rights and remedies provided under this Agreement are in addition to, and not exclusive of, any rights or remedies provided by law.

24. SEVERANCE

- 24.1 If any provision or part-provision of this Agreement is or becomes invalid, illegal or unenforceable, it shall be deemed deleted, but that shall not affect the validity and enforceability of the rest of this Agreement.
- 24.2 If any provision or part-provision of this Agreement is deemed deleted under clause 25.1, the parties shall negotiate in good faith to agree a replacement provision that, to the greatest extent possible, achieves the intended commercial result of the original provision.

25. ENTIRE AGREEMENT

- 25.1 This Agreement constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.
- 25.2 Each party agrees that it shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in this Agreement. Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in this Agreement.

26. NO PARTNERSHIP OR AGENCY

- 26.1 Nothing in this Agreement is intended to, or shall be deemed to, establish any partnership or joint venture between any of the parties, constitute any party the agent of another party, or authorise any party to make or enter into any commitments for or on behalf of any other party.
- 26.2 Each party confirms it is acting on its own behalf and not for the benefit of any other person.

27. THIRD PARTY RIGHTS

This Agreement does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Agreement.

28. NOTICES

- 28.1 Any notice given to a party under or in connection with this Agreement shall be in writing and shall be:
- (a) delivered by hand or by pre-paid first-class post or other next Business Day delivery service at its registered office (if a company) or its principal place of business (in any other case); or
 - (b) sent by email to commercial@celerity-uk.com <mailto:commercial@celerity-uk.com> (Celerity) and the Customer.
- 28.2 Any notice shall be deemed to have been received:
- (a) if delivered by hand, on signature of a delivery receipt or at the time the notice is left at the proper address; and



- (b) if sent by pre-paid first-class post or other next Business Day delivery services, at 9.00 am on the second Business Day after posting or at the time recorded by the delivery service (if appropriate); and
- (c) if sent email, at the time of transmission, or, if this time falls outside Business Hours in the place of receipt, when Business Hours resume.

28.3 This clause does not apply to the service of any proceedings or any documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

29. COUNTERPARTS

29.1 This Agreement may be executed in any number of counterparts, each of which when executed shall constitute a duplicate original, but all the counterparts shall together constitute the one agreement.

29.2 Transmission of an executed counterpart of this Agreement or any Service Schedule (but for the avoidance of doubt not just a signature page) by (a) fax or (b) email (in PDF, JPEG or documents executed using "DocuSign") shall take effect as delivery of an executed counterpart of this Agreement or Service Schedule.

30. GOVERNING LAW

This Agreement and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation shall be governed by and construed in accordance with the law of England and Wales.

31. JURISDICTION

Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with this Agreement or its subject matter or formation provided that either party may enforce any judgement of the courts of England and Wales in the courts of any jurisdiction.

