

B.W.O.C. Limited's
Telematics General Terms and Conditions
dated [01/02/2022]
(“GTCs”)

1. Definitions and Interpretation

1.1 In these GTCs, the following terms have the corresponding meanings:

Affiliates means with respect to any party, any other entity controlling, controlled by or under common control with such party. The terms “control”, “controlling” and “controlled”, as used in this definition shall mean the legal, beneficial or equitable ownership, directly or indirectly, of more than 50% of the issued share capital or more than 50% of the voting rights, or the power, directly or indirectly, to appoint a member of the board of directors or similar governing body of such entity;

Agreement means collectively the agreement for the supply and purchase of certain Services and/or Products from Reseller and/or Service Provider to the Customer incorporating B.W.O.C. Limited's Telematics General Terms and Conditions, the Charges Schedule, and the Confirmation;

Service Provider means the respective third party service providers, including but not limited to: Kinesis, Kinesis Fleet, Radius Telematics Limited and its and/or their network and communication providers;

Confidential Information means information of commercial, proprietary or other value disclosed by one party to the other party which is identified as confidential or might reasonably be considered to be confidential and that has not come into the public domain or been independently developed;

Charges Schedule means the charges set out at <https://www.bwoc.co.uk/KinesisTelematicsChargesSchedule.pdf> as amended, varied, updated, or replaced from time to time;

Commencement Date means the date specified as such in the Confirmation is issued;

Confirmation means the sales order confirmation sent per email by the Reseller to the Customer;

Customer means the entity purchasing, renting or licensing the Products (as applicable) and/or the purchaser of Services;

Data Reports means visual and other representations of telematic data accessible through the Website;

Firmware means the Service Provider's proprietary tracking unit management and control software;

Fleet means the vehicles, assets or personas to be tracked or traced via the Services;

Force Majeure Event means an event, or a series of related events, that is outside the reasonable control of the party affected (including, but not limited to, power failures, industrial disputes, changes to the law, disasters, explosions, fires, floods, riots, terrorist attacks and wars);

Hardware means the Service Provider's vehicle telematics units and associated peripherals which may or may not include Firmware, SIM card and network airtime and Onboard Unit;

Initial Term the first-time period of a grant of a licence to use the Services and/or Products and paid for by the Customer as set out in the Confirmation;

Installation means fitting the Hardware into the Fleet;

Intellectual Property means any patent, registered or unregistered design right, trademark or other proprietary rights inherent in the Services and/or Products any copyrights and database rights, all other similar or equivalent intellectual or commercial rights or property subsisting under the laws of each and every jurisdiction throughout the world whether registered or not, and whether vested, contingent or future and all reversions, renewals, revivals and extensions of any of the foregoing, and all rights under licences, consents, orders, statutes or otherwise in relation to any of the foregoing;

Kinesis Platform means the IT systems of the respective Service Provider that run the Service;

Location Data means data on the geographical position of the Fleet and other messages sent to or by the Fleet;

Non-Return Fee: means the amount set out on the Charges Schedule;

Mobile Communication Services means the mobile electronic communication services used for transmitting Location Data;

Onboard Unit means an electronic device that can be used for obtaining, capturing and transmitting Location Data and other driver behaviour events via satellite tracking and for sending and receiving such data;

Prices means the prices stipulated for certain Services and/or Products in respectively: the Confirmation; and/or Charges Schedule;

PAYGO Customer means an entity who is supplied certain Services and/or Products on a rolling monthly basis;

Products means the Hardware which is purchased or rented by the Customer and where applicable the Software and Firmware;

Renewal Period shall be on a rolling quarterly basis as the set out in the Confirmation; **Reseller** means BWOC Limited, a limited company incorporated in England and Wales (registration number 03256076) having its registered office at Mabanaf Ltd C/O Myo, 2nd Floor, 123 Victoria Street, London, England, SW1E 6DE;

Services means the delivery of such services as agreed with the Customer from time to time as specified in the Confirmation;

SIM means Subscriber Identity Module card providing network airtime;

Software means the Service Provider's proprietary application software and third party licensed software where applicable in existence at the Commencement Date or developed as a product of the Services;

Statistical Data has the meaning given in clause 10.5;

Termination Fee means an amount equal to the equivalent of six times the monthly Prices;

and

Website means the content (including all and any displayed materials and graphics such as databases, maps, photographs, and other images) of the Service Provider's websites at www.velocitycardmanagement.com and www.kinesisfleet.com which shall contain the Data Reports.

- 1.2 The ejusdem generis rule is not intended to be used in the interpretation of the Agreement; it follows that a general concept or category utilised in the Agreement will not be limited by any specific examples or instances utilised in relation to such a concept or category.
- 1.3 The singular shall include the plural and vice versa and words denoting persons shall include bodies corporate and unincorporated associations of persons.

2. Scope

The GTCs shall apply to all agreements for the sale and purchase of the Products and/or Services by Reseller and Customer to the exclusion of all other terms and conditions including but not limited to any terms or conditions which the Customer may purport to apply under any purchase order confirmation of order or similar document, counter offer, and/or which are implied by trade, custom, practice or course of dealing.

3. Basis of Contract

- 3.1 Each order for Services and/or Products given by the Customer to the Reseller will be deemed to be an offer by the Customer to purchase or rent (and in the case of Software and Firmware, licence) Services and/or Products from the Reseller subject to the Agreement and the Agreement shall become effective if and upon the Reseller sending a Confirmation to the Customer.
- 3.2 Notwithstanding the above, use of the Services and/or Products will, in any event, constitute acceptance of the Agreement by the Customer and a legally binding agreement will come into force between the Parties on the basis of the Agreement.

4. Delivery & Installation

- 4.1 Unless otherwise agreed in writing and signed by each party:
 - 4.1.1 all Hardware will be delivered by the Service Provider to the Customer's premises or to such other address as may be agreed by the Parties in writing;
 - 4.1.2 risks of loss and damage in the Hardware shall pass from the Reseller to the Customer when the Services and/or Products are the earliest of delivered to or installed for the Customer;
 - 4.1.3 subject to clause 10.1, where the Customer installs the Hardware or appoints another person to install the Hardware, the Reseller shall not be liable for any loss or damage whatsoever, arising directly or indirectly, as a result of any negligence or failure to comply with the Service Provider's instructions in installing the Hardware;
 - 4.1.4 where the Customer requests Installation of the Hardware by the Reseller, an Installation date will be agreed with the Customer and the Installation may be performed by the Service Provider.

5. Title

- 5.1 Where the Customer purchases the Hardware from the Supplier, legal and equitable title to the Hardware (excluding where applicable, Firmware and SIM card) shall pass from the Reseller to the Customer upon the latest of:
 - 5.1.1 delivery of the Hardware to Customer; or
 - 5.1.2 receipt by the Reseller of all amounts due from the Customer to the Reseller.
- 5.2 Until title to the Hardware (excluding where applicable Firmware and SIM card) has passed to the Customer:
 - 5.2.1 the Customer will hold the Hardware as fiduciary agent and bailee of the Reseller;
 - 5.2.2 the Customer will as applicable: (i) store the Hardware in a secure, safe, dry and clean environment separately from other products and goods; (ii) ensure that the Hardware is easily identifiable as belonging to the Service Provider; (iii) not deface, destroy, alter or obscure any identifying mark on the Hardware or their packaging; (iv) ensure that no charge, lien or other encumbrance is created over the Hardware; and (v) immediate return delivery of the Hardware to the Reseller upon first demand.
- 5.3 Where a Customer has not paid for the Hardware, the Customer's right to possession of the Hardware shall terminate immediately in the event of:

- 5.3.1 the Customer being the subject of a bankruptcy order or it making an arrangement or composition with its creditors, or it entering into any form of liquidation or other form of insolvency as within the meaning of section 123 of the Insolvency Act 1986;
- 5.3.2 the Customer ceases to trade; or
- 5.3.3 the Customer seeks to or does encumber or in any way charge the Hardware.
- 5.4 The Reseller may bring an action for the price of the Hardware, and any other amounts due, notwithstanding that title to the Hardware has not passed to Customer.

6. Undertakings and obligations of the Customer

- 6.1 The Customer shall:
 - 6.1.1 only use the Services and/or Products for their purpose and in a careful and proper manner in compliance with the Reseller's or the Service Provider's instructions and specifications;
 - 6.1.2 comply with all applicable, rules, regulations, decrees and/or official government orders of the United Kingdom, the European Union and the United States of America or any other relevant jurisdiction relating to anti-bribery and anti-money laundering and that they shall each respectively take no action which would subject the other to fines or penalties under such laws, regulations, rules or requirements.

7. Prices and Payment

- 7.1 The applicable Prices in respect of the Services and/or Products provided to the Customer by the Reseller and/or the Service Provider shall be as set out in the Confirmation and the Changes Schedule respectively.
- 7.2 Each purchase of Services and/or Products by the Customer under a Confirmation shall be subject to the GTCs. In the event of a conflict between the provisions of the GTCs and any Confirmation, the Confirmation shall prevail in all respects.
- 7.3 No order shall be deemed to be accepted by the Reseller unless and until the Confirmation has been signed by a duly authorised officer or employee of the Reseller and its signature has been notified to the Customer.
- 7.4 The Customer shall pay the Prices, via direct debit, to the Reseller in accordance with this clause and as specified in an applicable Confirmation and/or Charges Schedule as applicable. Unless otherwise specified in the Confirmation, payment of all amounts due shall be made by the Customer within 9 (nine) days of the date of respective invoice.
- 7.5 All Prices payable under the Agreement are exclusive of all value-added and other taxes and duties applicable to the sale, licencing and supply of the Services and/or Products or provision of the Services which will be payable solely by the Customer.
- 7.6 If the Customer does not pay any amount properly due to the Reseller under or in connection with the Agreement on or before the due date, the Reseller may:
 - 7.6.1 charge the Customer interest on the overdue amount at the rate of 8% per year above the UK base rate of Barclays Bank Plc from time to time (which interest will accrue daily until the date of actual payment and be payable on demand); or
 - 7.6.2 claim interest and statutory compensation from the Customer pursuant to the Late Payment of Commercial Debts (Interest) Act 1998.
- 7.7 Unless agreed otherwise in writing, all Prices can be changed by the Reseller upon giving the Customer 30 days written notice.
- 7.8 The Customer shall make all payments properly due under the Agreement without any deduction whether by way of set off, counterclaim, discount, abatement or otherwise.

8. Warranty

8.1.1 The Reseller warrants the Customer that on delivery, and for a period of 12 months from the date of delivery ("**Warranty Period**"), the Services and/or Products shall be of satisfactory quality (within the meaning of the Sale of Goods Act 1979).

8.2 Subject to clause 8.3, if:

8.2.1 the Customer gives notice in writing to Reseller during the Warranty Period within 10 Business Days of discovery that some or all of the Services and/or Products do not comply with the warranty set out in clause 8.1.1; and

8.2.2 the Reseller is given a reasonable opportunity of examining such Services and/or Products; and

8.2.3 the Customer (if asked to do so by the Supplier) returns such Services and/or Products to the Supplier's place of business at the Customer's cost,

the Reseller shall, at its option, repair or replace the defective Services and/or Products, or refund the price paid for the defective Services and/or Products in full minus wear and tear (where the Customer has purchased such Services and/or Products).

8.3 The Reseller shall not be liable for the Services and/or Products' failure to comply with the warranty in clause 8.1.1 if:

8.3.1 the Customer makes any further use of such Services and/or Products after giving a notice in accordance with clause 8.2;

8.3.2 the defect arises because the Customer failed to follow the Supplier's oral or written instructions as to the storage, installation, commissioning, use or maintenance of the Services and/or Products or (if there are none) good trade practice;

8.3.3 the Customer alters or repairs such Services and/or Products without the written consent of the Supplier;

8.3.4 the defect arises as a result of wear and tear, wilful damage, negligence, or abnormal working conditions;

8.3.5 the Services and/or Products differ from their description as a result of changes made to ensure they comply with applicable statutory or regulatory standards.

8.4 Reseller shall use all reasonable endeavours to ensure that during the Contract Term:

8.4.1 the Airtime Service (provided via the Service Provider) is accessible by Customer within the range of base stations making up the Communication Provider's network supporting the Airtime Service on a 24 hour, 7 days a week basis; and

8.4.2 subject to clause 8.4.3, Customer's access to and use of the Airtime Service (provided via the Service Provider) functions effectively.

8.4.3 Notwithstanding any other provisions of the Agreement, Reseller shall have no liability in respect of any person's (including Customer's) inability to access or errors in the functioning of the Airtime Service and/or the Services to the extent that it is attributable to operator error; provision of incomplete and/or incorrect information by the Customer; power failures; malicious interference; any downtime or outages from any subcontractor or other lack of coverage of the Service Provider's network used for the purpose of providing the Airtime Service and/or the Services.

8.4.4 The Airtime Service is provided through an Service Provider's independent, third-party provider and cannot and does not provide any warranty or guarantee in relation to the quality of the Airtime Service, including, but not limited to, availability, signal quality, faults and interruptions to the Airtime Service.

- 8.4.5 The Services and/or Products and Airtime Service rely on GPS (Global Positioning System) for location information. GPS is a system of satellites and receiving stations used to compute positions on the planet Earth. The Services and/or Products contains components that allow it to be tracked by GPS within limits. These limits will vary according to a number of factors outside of Supplier's reasonable control. Reseller accepts no liability for the inaccuracy or quality or otherwise of GPS data.
- 8.5 the Agreement shall apply to any repaired or replacement Services and/or Products supplied by the Reseller under clause 8.2.

9. Website

- 9.1 Subject to and in accordance with the provisions of the Agreement, the Reseller grants to the Customer for the duration of the Initial Term (and any Renewal Period thereafter) a personal, non-exclusive right to: access and browse the contents of the Website; and download and print Data Reports or any part thereof from the Website on the basis that no graphics on the Website shall be used separately from the corresponding text; and Customer shall not utilise the Supplier's trademarks or trade names in any way without the express written consent of the Reseller save that the Customer shall ensure that the Supplier's copy right and trademark notices appear in all copies. No part of the Website may be reproduced or stored in any other website or included in any public or private electronic retrieval system or service.
- 9.2 The Customer shall comply with any reasonable instructions or conditions relating to its use of the Website as may be posted on the Website or otherwise communicated to the Customer from time to time by the Supplier.
- 9.3 The Reseller shall supply the Customer with a unique, personalised username and password to enable the Customer to access the Website and thereby use the Service. The Customer agrees that responsibility for the security of any user name or password issued pursuant to this clause 9.3 rests with the Customer;
- 9.4 The Reseller shall make the Kinesis Data Reports and the Location Data in respect of any data received from the Customer's Onboard Unit available on the Website.
- 9.5 The Customer acknowledges and agrees that the availability of the Website (or relevant parts thereof) is dependent upon systems, technologies and other factors which are beyond the Supplier's control including but not limited to Mobile Communication Services operated by third party providers and the Internet and interconnected systems. Due to the nature of such technologies, systems and other factors, problems including but not limited to, outages, link failures, power difficulties, network overloads, signal degradation and topographic, electromagnetic and other interferences and government intervention may have an adverse effect on the availability of the Website. The Reseller does not warrant that the features made available on the Website will continue to be supported by Mobile Communication Services or that the Customer will be able to use the features made available on the Website as part of the Services for the intended use, due to the fact that such depends partly on circumstances beyond the Supplier's reasonable control.
- 9.6 The Reseller shall have the right at any time to temporarily suspend access to the Website for the purposes of maintaining or repairing the Website or any part thereof by the Service Provider; and to make changes to the functionality, presentation, features, modes of access and material content in relation to the Website at any time without notice to the Customer
- 9.7 The Reseller will provide the Customer with SIM cards for each Onboard Unit that the Customer is entitled to use in accordance with the Agreement, which the Customer shall use solely:
- 9.7.1 in combination with the Onboard Units; and
- 9.7.2 for transmitting Location Data between the Fleet and the Supplier's platform as permitted as part of the Services.

10. Intellectual property rights and data

- 10.1 All Intellectual Property Rights in or arising out of or in connection with the Services and/or Products (including the Hardware, Firmware and Data Reports) shall be owned by the Supplier. Neither the Reseller nor Customer shall acquire any right, title or interest in the other's Intellectual Property Rights related to the Services and/or Products rented and/or supplied under the Agreement.
- 10.2 The Customer acknowledges that, in respect of any third party Intellectual Property Rights in Services and/or Products, the Customer's use of any such Intellectual Property Rights is conditional on the Reseller obtaining a written licence from the relevant licensor on such terms as will entitle the Reseller to license such rights to the Customer.
- 10.3 The Reseller and the Service Provider own all data generated by or related to the operation or performance of the Services (including the Data Reports and Location Data). This operational and performance data does not include any Personal Data (which, for the avoidance of doubt, shall be dealt with subject to the provisions of clause 13).
- 10.4 The Customer owns all data provided by or on behalf of the Customer to the Reseller in connection with the Services. The Reseller or the Service Provider may use this data as required for the purpose of performing the Services.
- 10.5 The Customer authorizes the Reseller and the Service Provider to retain and use a copy of the data referred to clause 10.4 above, in anonymized aggregated form (such that the identity of the Customer and any Data Subject is not ascertainable) for the purpose of carrying out data analytics in relation to the services provided to its customers and otherwise developing new products and services ("**Statistical Data**").
- 10.6 The Customer hereby grants the Reseller and the Service Provider a non-exclusive, royalty free, fully-paid, irrevocable worldwide right and licence to access, review, analyse, use, manipulate, copy, and modify the Statistical Data for its own purposes, including but not limited to using the information to produce and distribute reports, analyses and data based upon the Statistical Data. However, except as regards such anonymization and use of the Statistical Data, the Reseller shall not use for its own purposes or disclose to any third parties Statistical Data that identifies the Customer or any of the drivers of the Customer's vehicles. It being understood, however, that the foregoing restriction shall not apply to disclosures of Statistical Data that are:
 - 10.6.1 required by law in response to request from law enforcement authorities;
 - 10.6.2 made in connection with a court order or other similar demand;
 - 10.6.3 made in connection with a contemplated merger, acquisition or similar transaction;
 - 10.6.4 made to the Supplier's Affiliates or related companies; or
 - 10.6.5 made to the Supplier's service providers for delivering the Services, on behalf of the Supplier.

11. Liability

- 11.1 Nothing in the Agreement shall be deemed to exclude or limit any party's liability in respect of:
 - 11.1.1 death or personal injury resulting from negligence; or
 - 11.1.2 fraud or fraudulent misrepresentation.
- 11.2 Subject to clause 11.1, in no event, whether in contract, tort (including in either case negligence), misrepresentation (other than fraudulent misrepresentation), breach of statutory duty or otherwise pursuant to the Agreement, shall the Reseller be liable for any

loss of profits, income, revenue, use, production or anticipated savings, loss of business, contracts or commercial opportunities, loss of or damage to goodwill or reputation, any loss or corruption of any data, database or software or in respect of any special, indirect or consequential loss or damage whatsoever.

- 11.3 Subject to clauses 11.2 and 11.3, the Supplier's maximum aggregate liability under the Agreement or otherwise shall be limited to the lowest between the net price paid or the price to be paid by the Customer in the first twelve months in the year in which the loss or damage occurred.
- 11.4 If a party is prevented or delayed in the performance of any of its obligations under the Agreement by a Force Majeure Event, then that party will be excused from the performance or punctual performance, as the case may be, of its obligation, to the extent that such Force Majeure Event continues and agrees to use all reasonable endeavours to overcome or work around the Force Majeure Event so as to be able to perform its obligations under the Agreement.

12. Term and Termination

- 12.1 The Agreement will come into force on the Commencement Date, and will continue in force until, in case of:
 - 12.1.1 a fixed term including the supply of Services, the later of completion of: (i) performance of all Services; and (ii) the receipt by the Reseller of all amounts due to the Reseller under the Agreement;
 - 12.1.2 a fixed term for rental of the Services and/or Products, the later of completion of: (i) the relevant rental period as set out in the Confirmation; and (ii) the receipt by the Reseller of all amounts due to the Reseller under the Agreement; or
 - 12.1.3 a PAYGO Customer Contract, when terminated by either party.
- 12.2 In the case of either:
 - 12.2.1 a fixed term including the supply of Services; or
 - 12.2.2 a fixed term for rental of the Products and the supply of Services,
if neither party terminates the Agreement, the Agreement shall automatically roll on for the Renewal Period and subsequent Renewal Periods until terminated by either party in accordance with clause 12.
- 12.3 The Reseller may, without prejudice to any of its other rights arising under the Agreement, on giving written notice, terminate the Agreement:
 - 12.3.1 on not less than 14 calendar days' notice, such notice to expire on the last day of any calendar month; or
 - 12.3.2 with immediate effect, if:
 - 12.3.2.1 the Supplier's agreement with the Service Provider relating to the Services and/or Products is terminated for any reason; or
 - 12.3.2.2 the Customer fails to observe or perform any material term or condition hereof, including in any event non-payment, and such default or breach (if capable of remedy) shall not be remedied within 10 calendar days after notice in writing, specifying the breach and requiring the same to be remedied, has been given; or

- 12.3.2.3 any of the following events occur: (i) the presentation of a petition for winding up of the Customer; (ii) the Customer is the subject of an order or an effective resolution is passed for winding up the Customer; (iii) the application for an order or application for the appointment of a receiver (including an administrative receiver), administrator, trustee or similar officer in respect of the Customer; (iv) if a receiver, administrative receiver, administrator or similar office is appointed over all or any part of the assets or undertaking of the Customer; (v) the Customer making a composition or arrangement with its creditors generally or an assignment for the benefit of its creditors or other similar arrangement; (vi) the Customer goes into liquidation; (vii) the Customer becoming unable to pay its debts or otherwise becoming insolvent, or (viii) the Customer ceasing, or threatening to cease, to carry on business; or
- 12.3.2.4 there has been any delay or failure in performance under the Agreement resulting from any event of Force Majeure, which delay or failure shall have continued for a period of three months.
- 12.4 In the event of termination in accordance with clause 12.3, the Customer shall pay any unpaid fees covering the remainder of the Initial Term and any subsequent Renewal Period.
- 12.5 In event that a PAYGO Customer terminates its Agreement with the Supplier, the PAYGO Customer shall pay the Reseller the Termination Fee in accordance with the payment terms set out in clause 7.
- 12.6 Upon the expiry of the Term and/or the Services are terminated, the Customer will continue to be charged for the Services until the Hardware is received back by Supplier. In the event that a Customer confirms that they are not able to return the Hardware to the Reseller in good marketable condition within sixty (60) days of the expiry or termination of the Services, the Customer shall pay the Reseller the Non-Return Fee in accordance with the Charges Schedule.

13. Data Protection

For the purposes of this clause 13, "personal data", "process/processing", "data controller", "data processor", "data subject", and "personal data breach" shall have the same meaning as in the Data Protection Laws. "Data Protection Laws" means in relation to any Personal Data which is Processed in the provision of the Services, the General Data Protection Regulation ("UK GDPR"), the Data Protection, Privacy and Electronic Communications Regulations 2019 ("DPEEC") and the Data Protection Act 2018 ("DPA").

- 13.1 The Parties will each observe all provisions of the Data Protection Laws, insofar as the violation of such provisions affects the interests of the other party and/or the data subject involved. This includes the obligation of the Customer to duly inform involved data subjects about the processing of their personal data by the Reseller under the instruction of the Customer.
- 13.2 The parties acknowledge that, in respect of any personal data which the Reseller processes on behalf of the Customer in connection with the Agreement, including but limited to the data generated by or related to the operation or performance of the Services (including the Data Reports and Location Data), the Customer shall be the data controller and the Reseller and the Service Provider shall be the data processor.
- 13.3 The Reseller shall only collect, process, store, and use personal data, and the Location Data:
- 13.3.1 as required to meet the Customer's lawful, documented, and reasonable instructions (which shall unless otherwise agreed be to process personal data to the extent that such is necessary for the performance of the Agreement and the improvement of the Kinesis Service); and

- 13.3.2 as required to comply with the UK GDPR to which Reseller is subject, in which case Reseller shall (to the extent permitted by law) inform the Customer of that legal requirement before processing that personal data.
- 13.4 The Customer instructs the Reseller to collect, process, store and use the personal data for the purpose as included under clause 13.3 above.
- 13.5 The Customer hereby consents to the Supplier's appointment of subprocessors who may from time to time be engaged by the Reseller in support of the Supplier's provision of the Services to the Customer, including, but not limited to, in relation to the outsourcing by the Reseller of the hosting of its data centres to a Service within the European Economic Area. The Reseller warrants that such third parties shall be legally bound to the relevant provisions of the Agreement and to their respective obligations under the provisions of the data protection law as a data processor.
- 13.6 The Customer may revoke its consent for the processing of personal data in relation to the Agreement at any time. Such revocation must be presented to the Reseller in writing and shall not affect the Agreement and will leave the Customer's obligations (including payment obligations) under the Agreement intact. The Customer acknowledges that as a result of such revocation the Reseller may not be able to provide the Services
- 13.7 The Reseller shall implement appropriate technical and organizational measures to protect any personal data collected under the Agreement against accidental or unlawful destruction or accidental loss, alteration, unauthorized disclosure or access, in particular where the processing involves the transmission of data over a network, and against all other unlawful forms of processing. Having regard to the state of the art and the cost of their implementation, such measures shall ensure a level of security appropriate to the risks represented by the Processing and the nature of the data to be protected.
- 13.8 Upon becoming aware of a personal data breach, the Reseller shall:
- 13.8.1 notify the Customer without undue delay and in any event within 72 hours; and
- 13.8.2 co-operate with the Customer and take such reasonable commercial steps as are directed by the Customer to assist in the investigation, mitigation and remediation of that personal data breach, provided in each case that the Customer shall reimburse Reseller in full for all costs (including for internal resources and any third party costs) reasonably incurred by Reseller in performing the obligations under this clause 13.8 to the extent the personal data breach was not caused by Supplier.
- 13.9 The Reseller shall:
- 13.9.1 ensure that its employees who may have access to the personal data are subject to confidentiality undertakings or professional or statutory obligations of confidentiality;
- 13.9.2 cease processing the personal data within 120 days upon the termination or expiry of the Agreement or, if sooner, the Service to which it relates and as soon as possible thereafter, either return, or securely wipe from its systems, the personal data and any copies of it or of the information it contains. For the avoidance of doubt this shall not apply to the Statistical Data which the Reseller shall be entitled to retain; and
- 13.9.3 to the extent permitted by law, make available to the Customer such further information and (as applicable) co-operate in the conduct of any audit or review exercise, as the Customer may reasonably require to provide assurance that Reseller are in compliance with the obligations set out in this clause 13, provided always that this requirement shall not oblige Reseller to provide or permit access to information concerning (i) Reseller internal pricing information; (ii) information relating to Supplier's other customers (including any pricing information); (iii) any of Reseller non-public external reports; (iv) any internal reports prepared by Reseller internal audit function; (v) any intellectual property rights of the Supplier; or (vi) any information which would infringe the UKGDPR or other protection provisions. Further a maximum of one audit or review may be activated under this clause

in any twelve (12) month period and provided always that the parties shall (acting reasonably) agree a mutually convenient date for the audit or review to take place.

13.10 The Customer as data controller warrants that:

13.10.1 It has all authority and consents necessary to enable the Reseller or the Service Provider to process the personal data in accordance with the Data Protection Laws for the purposes of the Agreement;

13.10.2 It has complied with and shall, during the Agreement, continue to comply with the obligations of a data controller under the Data Protection Laws.

13.11 The Customer shall indemnify the Reseller and keep the Reseller indemnified against all claims, demands, actions, proceedings, damages charges, costs and expenses which may be brought against the Reseller in respect of or in connection in any way arising out of or in connection with a breach by the Customer of clause 13.10.

13.12 The Parties acknowledge that they have agreed that the Customer will respond to enquiries from data subjects, any governmental and/or judicial body concerning the processing of personal data by the Reseller and the Customer should have sufficient processes in place to handle such enquiries.

13.13 The Annex to the Agreement sets out the subject matter and duration of the processing, the nature and purpose of the processing, the type of personal data and categories of data subject as required by Article 28(3) of GDPR or equivalent provisions of any Data Protection Laws. As between the Parties, nothing in the Annex confers any right or imposes any obligation on either party.

14. Confidential Information

14.1 Each party agrees that for the duration of the Agreement and for a subsequent period of three years they will at all times keep any Confidential Information of the other party as confidential and shall not permit the same to be copied, used, disclosed or disposed of except in accordance with the Agreement. The provisions of this clause 14 shall not apply to Confidential Information which is already in the public domain or becomes so at a future date other than by breach of the Agreement.

15. General

15.1 No breach of any provision of the Agreement will be waived except with the express written consent of the party not in breach.

15.2 If any provision of the Agreement is determined by any court or other competent authority to be unlawful and/or unenforceable, the other provisions of the Agreement will continue in effect. If any unlawful and/or unenforceable provision would be lawful or enforceable if part of it were deleted, that part will be deemed to be deleted, and the rest of the provision will continue in effect (unless that would contradict the clear intention of the Parties, in which case the entirety of the relevant provision will be deemed to be deleted).

15.3 Subject to clause 15.4, The Agreement may not be varied except by a written document signed by or on behalf of each of the Parties.

15.4 Without the consent of Customer, the Service Provider and Reseller may update, amend, vary, or replace (in whole or part) the contents of its website and/or the GTCs or the like by way of publication on its or their respective websites, which amendments shall enter into force on the date that the Customer is notified thereof and apply to all Agreements entered into after that date.

15.5 The Reseller may freely assign its rights and obligations under the Agreement without the Customer's consent. The Customer may not without the prior written consent of the Reseller assign, transfer, charge, license or otherwise dispose of its rights and obligations under the Agreement.

- 15.6 The Agreement is made for the benefit of the parties and is not intended to benefit any third party. The right of the parties to terminate, rescind, or agree any amendment, waiver, variation or settlement under or relating to a Contract is not subject to the consent of any third party. No term of the Agreement shall be enforceable under the Contracts (Rights of Third Parties) Act 1999 by a person who is not a party hereto, but this does not affect any right or remedy of a third party which exists or is available apart from under that Act.
- 15.7 The Agreement constitutes the entire agreement between the parties in relation to its subject matter, and supersedes all previous agreements, arrangements and understandings between the parties in respect of that subject matter, provided always that the usage of the Website by the Customer shall be governed by the Website Terms and Conditions.
- 15.8 Failure or delay by either party in enforcing or partially enforcing any provision of the Agreement will not be construed as a waiver of any of its rights under the Agreement. Any waiver by one party of any breach of, or any default under, any provision of the Agreement by the other party will not be deemed a waiver of any subsequent breach or default and will in no way affect the other terms of the Agreement.
- 15.9 The formation, existence, construction, performance, validity and all aspects of the Agreement shall be governed by English law and the Parties submit to the exclusive jurisdiction of the English courts.