MASTER SERVICES AGREEMENT

1. INTERPRETATION

1.1 The definitions and rules of interpretation in this clause apply in this Agreement.

Agreement means the terms and conditions in this agreement, the Order, the Statement of Work(s), Project Plan, eQuote and any other documents agreed between the parties and as may be varied between the parties in writing from time to time.

Applicable Laws means:

a) To the extent the UK GDPR applies, the law of the United Kingdom or of a part of the United Kingdom.

b) To the extent EU GDPR applies, the law of the European Union or any member state of the European Union to which the Inbay is subject.

Applicable Data Protection Laws means:

a) To the extent the UK GDPR applies, the law of the United Kingdom or of a part of the United Kingdom which relates to the protection of personal data.

b) To the extent the EU GDPR applies, the law of the European Union or any member state of the European Union to which the Supplier is subject, which relates to the protection of personal data**.**

Assumptions has the meaning given in clause 13.3.

Audit Service means the audit service described in the Statement of Work to be performed by Inbay in accordance with this Agreement.

Background Materials means all Intellectual Property Rights, know-how, information, methodologies, techniques, tools, schemata, diagrams, ways of doing business, trade secrets, instructions manuals and procedures (including, but not limited, to software, documentation, and data of whatever nature and in whatever media) owned, developed or controlled by Inbay which may have been created outside the scope, or independently of, the Services and/or this Agreement, and including all updates, modifications, derivatives or future developments thereof.

Business Day means a day other than a Saturday, Sunday or public holiday in England when banks in London are open for business.

Business System means the information technology and communication systems, including networks, hardware, software and interfaces owned by, or licensed to, the Client or any of its agents or contractors.

Client is Inbay's counterparty as set out in the contract between Inbay and the Client.

Client Customer means a customer of the Client to whom Inbay provides the Services.

Client-side Equipment means the Client's computing environment (consisting of hardware and software) that is to be used by the Client in connection with its use of the NOC Services and Service Desk Services and which interfaces with Inbay's System in order for the Client to receive the NOC Services and Service Desk Services.

Client Operating Environment means any equipment located or to be located on a Client Site but controlled or to be controlled exclusively by Inbay as part of the Services.

Client Services Manager means the Services Manager appointed by the Client in accordance with clause 8.1.

Client Site means the locations where the Services are provided as identified in the Order or Statement of Work or any other location agreed by the parties in writing from time to time.

Change Request means any request to alter the Services pursuant to this Agreement as set out in clause 12.

Commencement Date means the date of this Agreement or as otherwise specified in the relevant Order or Statement of Work (as the case may be).

Commissioner means the Information Commissioner (see section 114, Data Protection Act 2018).

Confidential Information means all information, whether technical or commercial, specifications, drawings and designs, disclosed in writing, on disc, orally or by inspection of documents or pursuant to discussions between the parties or between any Client Customer and Inbay, where the information is identified as confidential at the time of disclosure; or ought reasonably to be considered confidential given the nature of the information or the circumstances of disclosure.

Client Personal Data means any personal data which Inbay processes in connection with this Agreement, in the capacity of a processor on behalf of the Client or any Client Customer.

Deliverable means all Documents, products and materials developed by Inbay or its agents, subcontractors, consultants and employees in relation to the Services in any form, including computer programs, data, reports and specifications (including drafts).

Document means, in addition to any document in writing, any drawing, map, plan, diagram, design, picture or other image, tape, disk or other device or record embodying information in any form.

eQuote means the document setting out the Fees for the Services.

EU GDPR means the General Data Protection Regulation ((EU) 2016/679).

Fees means the fees payable by the Client to Inbay, as described in the Order or the eQuote, as may be varied from time to time pursuant to the terms of this Agreement.

Force Majeure Event means any cause preventing either party from performing any or all of its obligations which arises from or is attributable to acts, events, omissions or accidents beyond the reasonable control of the party so prevented including, without limitation, acts of God, terrorism, war, riot, computer viruses and malware, epidemics, pandemics, civil commotion, compliance with any law or governmental order, rule, regulation or direction, fire, flood or storm, power outage or electrical failure, theft of computers or related equipment, telecommunications failures, non-availability of third party data centres and/or services, or default of suppliers or subcontractors save that strike or lock out of the party's own staff shall not entitle that party to claim that to be a Force Majeure Event.

Go live Date means the date specified in the Order, Statement of Work or as otherwise agreed between the parties in writing.

Good Industry Practice means the standards that fall within the upper quartile of a skilled and experienced provider of business-critical managed services similar or identical to the Services, having regard to factors such as the nature and size of the parties, the Service Level Agreement, the term, the pricing structure and any other relevant factors.

Hardware means all physical telecommunications, networking and computer equipment (including switches, routers, cables, servers, racks, cabinets and peripheral accessories) provided and used by Inbay to deliver the NOC Services and the Service Desk Services to the Client.

Inbay means Inbay Limited (registered in England under number 6729741), whose registered office is at Unit 3 Crewkerne Business Park, Crewkerne, Somerset, UK, TA18 7HJ.

Inbay's System means the system to be used by Inbay in performing the NOC Services and Service Desk Services, including the Hardware, any Third Party Services, the Client-side Equipment and communications links between the Hardware and the Client-side Equipment and the Client's Operating Environment.

Initial Term means the initial term as set out in the Order or relevant Statement of Work.

Intellectual Property Rights or **IPR** means any and all intellectual property rights of any nature, whether registered, registerable or otherwise, including the Software, patents, utility models, trademarks, registered designs and domain names, applications for any of the foregoing, trade or business names, goodwill, copyright and rights in the nature of copyright, design rights, rights in databases, moral rights, know-how and any other intellectual property rights that subsist in computer software, computer programs, websites, documents, information, techniques, business methods, drawings, logos, instruction manuals, lists and procedures and particulars of customers, marketing methods and procedures and advertising literature, including the "look and feel" of any websites, and in each case all rights and forms of protection of a similar nature or having equivalent or similar effect to any of these that may subsist anywhere in the world, in each case for their full term, together with any future rights and renewals or extensions.

IPR Claim means a claim arising from the infringement of IPR belonging to third parties.

Licence Agreement means all licence agreements that may have to be entered into by Inbay and/or the Client in respect of Third Party Services used. Such Licence Agreement terms shall be set out in the relevant Statement of Work.

Local System Components means equipment supplied by the Client such as routers, switches, PCs, thin client devices, smart phones, wireless controllers and access points.

Maintenance Release means release of the Software that corrects faults, adds functionality or otherwise amends or upgrades the Software, but which does not constitute a new version.

Maintenance Service means where applicable, the maintenance service described in the Statement of Work where Inbay has agreed to perform this as part of the NOC Services in accordance with this Agreement.

Normal Business Hours means unless otherwise set out in the Statement of Work, 09.00am to 5.30pm local UK time on Business Days.

Out of Scope means those out of scope services specified as such in the Statement of Work together with any other services which are not detailed in the Order or the Statement of Work.

NOC Services means the network operations centre services described in the Statement of Work to be performed by Inbay in accordance with this Agreement.

NOC Services Commencement Date means the date specified in the Order, Statement of Work or as otherwise agreed between the parties in writing.

Order means an order for the Services.

Project means the project described in the Order and/or the Statement of Work.

Project Plan means the plan to be developed by Inbay and/or agreed between the parties (as the case may be) setting out the Project Services to be provided by Inbay.

Project Services means the professional services described in the Order, Statement of Work, Project Plan and any other documents agreed between the parties, to be performed by Inbay in accordance with this Agreement.

Project Services Commencement Date means the date specified in the Order, Statement of Work or as otherwise agreed between the parties in writing.

Purpose means the purposes for which the Client Personal Data is processed, as set out in the Schedule.

Schedule means the Statement of Works.

Service Desk Services (**SDS**) means the technical helpdesk services described in the Statement of Work to be performed by Inbay in accordance with this Agreement.

SDS Commencement Date means the date specified in the Order, Statement of Work or as otherwise agreed between the parties in writing.

Service Level Agreement means the service level arrangements set out in the Statement of Work.

Services means the NOC Services (including the Maintenance Service if applicable), the Service Desk Services, the SOC Services, the Project Services, the Audit Services and any additional services to be performed by Inbay for the Client in accordance with this Agreement.

Services Manager means the representative nominated by each party in accordance with this Agreement.

SOC Services means the security operations center-as-a service described in the Statement of Work to be performed by Inbay in accordance with this Agreement.

SOC Services Commencement Date means the date specified in the Order, Statement of Work or as otherwise agreed between the parties.

Software means the software set out in the applicable Statement of Work.

Statement of Work means the service proposal and any other services specification for the Services as set out under separate cover and agreed between the parties.

Third Party Services means any services, goods, code or software programs written or provided by Third Party Suppliers which are used by the Client during the provision of the Services.

Third Party Supplier means any third party that supplies Third Party Services to Inbay and/or the Client (as the case may be) during the provision of the Services.

UK GDPR means the EU GDPR as it applies in the UK after the end of the transition period (as set out in Article 126 of the EU-UK Withdrawal Agreement) by virtue of section 3 of the European Union (Withdrawal) Act 2018.

Virus means any program which contains malicious code or infiltrates or damages a computer system without the owner's informed consent or is designed to do so or which is hostile, intrusive or annoying to the owner or user and has no legitimate purpose.

Vulnerability means a weakness in the computational logic (for example, code) found in software and hardware components that, when exploited, results in a negative impact to confidentiality, integrity, or availability, and the term Vulnerabilities shall be construed accordingly.

1.2 Clause, Schedules and paragraph headings shall not affect the interpretation of this Agreement.

1.3 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.

1.4 A reference to a company shall include any company, corporation or other body corporate, wherever and however incorporated or established.

1.5 Unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular.

1.6 Unless the context otherwise requires, a reference to one gender shall include a reference to the other genders.

1.7 A reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time.

1.8 A reference to a statute or statutory provision shall include all subordinate legislation made from time to time under that statute or statutory provision.

1.9 A reference to writing or written includes e-mail.

1.10 Any phrase introduced by the words including, includes, in particular or for example, or any similar phrase, shall be construed as illustrative and shall not limit the generality of the related general words.

1.11 References to clauses are to the clauses of this Agreement and the Schedule.

1.12 A person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).

1.13 A reference to this Agreement or to any other agreement or document referred to in this Agreement is a reference to 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.

1.14 In the event of any conflict or inconsistency between the clauses, an Order, the Statement of Work, and the Licence Agreements (including any changes or variations to each of the clauses, an Order, the Statement of

Work, and the Licence Agreements), the following order of precedence shall apply (in decreasing order) to the extent of such conflict or inconsistency:

(a) the Order;

(b) Statement of Work;

(c) the Licence Agreements, to the extent applicable to the respect Services; and

(d) the clauses.

2. PROVISION OF SERVICES

2.1 The Agreement sets out the terms and conditions under which Inbay shall provide the Services to the Client.

2.2 The Agreement shall (i) be in substitution for any prior oral or other prior arrangements between Inbay and the Client in connection with the purchase of the relevant Services; and (ii) prevail over any of the Client's inconsistent terms or conditions contained in, or referenced in, any order confirmation or other acknowledgement, quotation, purchase order(s), delivery note, invoice or similar document or implied by law, trade custom or practice.

2.3 No addition to, variation of or other amendment or purported amendment to any Order, Project Plan, Statement of Work, eQuote or this Agreement shall be binding on the parties unless expressly stated as such, made in writing and signed by or acknowledged by a duly authorised representative of both parties.

2.4 Any quotation or proposal given by Inbay:

(a) shall not constitute an offer, and is only valid for a period of twenty (20) Business Days from its date of issue unless otherwise agreed by Inbay in writing; and

(b) shall only become binding upon the signing of an Order or Statement of Work.

2.5 Inbay shall:

(a) provide the Services in accordance with the terms of this Agreement, the Order, the Statement of Work and/or Project Plan;

(b) use its reasonable endeavours to meet any performance dates set out in any Statement of Work and/or Project Plan but unless otherwise expressly agreed in writing, any dates shall be estimates only and time shall not be of the essence for the provision of any Services and/or Deliverables;

(c) commit sufficient resources to the provision of the Services to enable their delivery in accordance with the Agreement;

(d) co-operate with the Client in all matters relating to the Services and shall appoint a Services Manager, as the contact throughout the Services;

(e) provide the Services with due care, skill and ability in accordance with Good Industry Practice;

(f) take such steps as may be required to fulfil its obligations under the Agreement;

(g) utilise suitably skilled, qualified, experienced, supervised and vetted employees, agents, representatives and authorised sub-contractors who will exercise all reasonable skill and care;

(h) provide reasonable notice to the Client of any change in its senior personnel engaged as part of the Services. Where relevant, Inbay shall replace any senior personnel who are removed with another appropriately skilled person;

(i) notify the Client promptly if Inbay is unable to comply with any of the terms of the Agreement or any of the Licence Agreements (if applicable);

(j) observe and ensure that its personnel observe all health and safety rules and regulations and any other security requirements that apply at any of the Client Sites and which have been communicated to it in writing a week prior to the Services commencing, where Inbay is required to be on such Customer Sites for the provision of the Services; and

(k) maintain a business continuity and disaster recovery plan, which it shall test on a regular basis and promptly implement any actions or remedial measures which it considers to be necessary as a result of those tests.

2.6 Inbay does not assume any responsibility for any services or products provided by the Client, any Third Party Suppliers or other third parties.

2.7 The Client confirms that Inbay may engage sub-contractors without seeking the prior consent of the Client. Notwithstanding the foregoing, Inbay shall at all times be responsible for and liable in respect of the performance of all obligations under the Agreement, whether such obligations are performed by Inbay itself, or any sub-contractor engaged by Inbay. For the avoidance of doubt, Inbay shall not be held liable for the actions or omissions of any Third Party Suppliers or other third parties that are not its sub-contractors.

2.8 Inbay agrees to take all reasonable measures to protect the Client's computer systems from any Virus or Vulnerability, including installation and maintenance of the latest versions of anti-virus and anti-spyware software. The Client acknowledges, however, that whilst Inbay shall use all reasonable endeavours to prevent any Virus and Vulnerability in accordance with Good Industry Practice, the Client acknowledges that Viruses and Vulnerabilities may be outside Inbay's reasonable control and thus amount to a Force Majeure Event. The Client, therefore, assumes all risk of Virus and Vulnerabilities and will not hold Inbay responsible. The Client is responsible for the costs of materials and labour (where applicable) required to remove any Virus and Vulnerability.

2.9 Inbay does not and cannot control the flow of data to or from its network and other portions of the internet. Such flow depends in large part on the performance of internet services provided or controlled by third parties. At times, actions or omissions of such third parties can impair or disrupt connections to the internet (or portions thereof). Whilst Inbay will use commercially reasonable efforts to take all actions it deems appropriate to remedy and avoid such events, Inbay cannot guarantee that such events will not occur. Accordingly, Inbay disclaims any and all liability resulting from or related to such events.

3. NOC SERVICES, SERVICE DESK SERVICES AND SOC SERVICES

3.1 Inbay will provide the NOC Services, Service Desk Services and SOC Services during the term set out in the applicable Order or Statement of Work unless earlier terminated for any reason.

3.2 Inbay shall provide the NOC Services, Service Desk Services and SOC Services in accordance with the Service Level Agreement as stated in the Statement of Work.

3.3 The NOC Services, Service Desk Services and SOC Services are provided to the Client or to a Client Customer on the Client's behalf as the Client's subcontractor.

3.4 The Client shall remain responsible for the use of the NOC Services, Service Desk Services and SOC Services under its control including any use by third parties (whether fraudulent or authorised by the Client).

3.5 The Client must take reasonable measures to ensure it does not jeopardise services supplied to third parties on the same shared access infrastructure as notified to the Client by Inbay in writing. This includes informing Inbay promptly in the case of a denial-of-service attack, distributed denial-of-service attack or other Virus or Vulnerability. In the event of any such incident, Inbay will work with the Client to alleviate the situation as quickly as possible. The parties shall discuss and agree appropriate action (including suspending the NOC Services, Service Desk Services and SOC Services).

3.6 The Client acknowledges that certain conditions outside of Inbay's control may adversely impact the ability of Inbay to perform functions of the NOC Services, Service Desk Services and SOC Services. Examples of such conditions are listed below:

(a) failure of Client Hardware, software or operating system;

(b) partial or full failure of Third Party Services including any upgrades to Third Party Services which the Client has not adhered to and does not use the latest upgrades. The NOC Services, Service Desk Services and SOC Services may either be limited or restricted depending on how many previous upgrades the Client did not adhere to. For the avoidance of doubt, Inbay excludes any and all liability in relation to the NOC Services, Service Desk Services and SOC Services in the event the Client has not complied with any requirement to upgrade the Third Party Services and the NOC Services, Service Desk Services and SOC Services fail as a consequence of this;

(c) network connectivity issues between Local System Components and Inbay's platform; and

(d) network connectivity issues between Local System Components and its third party's servers.

3.7 Inbay reserves the right to:

(a) modify Inbay's System, its network, system configurations or routing configuration; or

(b) modify or replace any hardware or software in its network or in equipment used to deliver any NOC Services, Service Desk Services and SOC Services over its network,

provided that this has no adverse effect on Inbay's obligations or performance under this Agreement and its provision of the NOC Services, Service Desk Services and SOC Services or the Service Level

Agreement. If such changes will have an adverse effect, Inbay shall notify the Client as soon as reasonably practicable.

3.8 Inbay may:

(a) occasionally, for operational reasons, introduce or withdraw NOC Services, Service Desk Services and SOC Services features, introduce process changes to improve the quality of the NOC Services, Service Desk Services and SOC Services, change the technical specification of the NOC Services, Service Desk Services and SOC Services including, without limitation, service upgrades upon giving not less than twenty eight (28) days' notice, provided that any such changes do not have a materially adverse effect on the performance or provision of the NOC Services, Service Desk Services and SOC Services; or

(b) give the Client instructions which it believes are necessary for reasons of health, safety or the quality of the NOC Services, Service Desk Services and SOC Services and it is the Client's responsibility to ensure these are adhered to; or

(c) interrupt the NOC Services, Service Desk Services and SOC Services for operational reasons (such as planned maintenance or service upgrades) or because of an emergency.

3.9 The Client shall not store, distribute, introduce or transmit through the NOC Services, Service Desk Services and SOC Services:

(a) any Virus;

(b) any Vulnerability; or

(c) any material that is unlawful, harmful, threatening, defamatory, obscene, infringing, harassing or racially or ethnically offensive; facilitates illegal activity; depicts sexually explicit images; or promotes unlawful violence, discrimination based on race, gender, colour, religious belief, sexual orientation, disability, or any other illegal activities.

3.10 Inbay shall be under no obligation to provide the NOC Services, Service Desk Services and SOC Services to the Client and shall bear no liability in respect of the following circumstances:

(a) defects or errors resulting from any modifications or enhancements of the Software or Third Party Services not made by Inbay;

(b) resulting from incorrect use of the Third Party Services in scenarios other than those intended by the Third Party Suppliers;

(c) for any reason external to the Third Party Services including, but not limited to, failure of electrical supplies or natural disasters;

(d) resulting from the inter-relationship between the Third Party Services and any other software not supported by Inbay;

(e) unauthorised use of the Software by the Client or use otherwise than in accordance with the Agreement;

(f) providing the NOC Services and Service Desk Services outside Normal Business Hours unless otherwise agreed between the parties in writing or set out under a Statement of Work;

(g) providing any other services not covered in the Agreement or the applicable Statement of Work;

(h) training in use of any upgrades; and

(i) providing the NOC Services, Service Desk Services and SOC Services to the Client where such support would have been unnecessary if the Client had implemented update(s) and upgrade(s) supplied or offered to the Client pursuant to the call for technical support.

3.11 If Inbay breaches its obligations in clause 3.1, Inbay shall, at its expense, use commercially reasonable endeavours to correct any such non-conformance promptly, or provide the Client with an alternative means of accomplishing the desired performance.

4. NOC SERVICES, SERVICE DESK SERVICES AND SOC SERVICES PROVIDED TO CLIENT CUSTOMER

4.1 The Client may resell the Services to its customers, but the contract for the provision of such Services shall be made direct between the Client Customer and the Client. Inbay shall have no direct contractual relationship with the Client Customer. The Client shall be responsible for managing the relationship between the Client and the Client Customer.

4.2 The Client shall make no further promises, warranties or representations to any Client Customer regarding the Services beyond those set out in the Agreement. Breach of this clause shall be regarded as a material breach of the Agreement warranting its immediate termination by Inbay giving written notice to the Client.

4.3 If any Client Customer requests Inbay to carry out any services on behalf of the Client beyond the scope of the Agreement, Inbay will refer the matter to the Client who will be responsible for liaising with the Client Customer and managing the Client Customer's expectations to ensure that the Services required of Inbay will fall again within the scope of this Agreement. Alternatively, with the Client's written agreement, Inbay may, in its sole discretion, elect to provide the requested additional services for a further fee.

5. PROJECT SERVICES

5.1 The Project Plan sets out the estimated timetable for the provision of the Services, including any milestones which have been agreed between the parties (**Project Milestones**).

5.2 Inbay shall use reasonable endeavours to manage and complete the Services and to provide the Deliverables as detailed in the Statement of Work and/or Project Plan, but any performance dates shall be estimates only and time shall not be of the essence.

5.3 Inbay uses an ITIL based project-management process, which is collaborative and focuses on successful delivery of each Project by liaising with the Client and any associated vendors.

5.4 Where Services are provided by Inbay direct, Inbay assumes responsibility for the management of these Services, subject to the terms of the Agreement.

5.5 Where, however, Inbay procures Third Party Services, Inbay does not take responsibility for issues outside its direct control such as, but not limited to, third-party supplier infrastructure failure or issues with any other third-party supplier in the supply chain such as, but not limited to, a supplier of internet services or any other event which may be defined as a Force Majeure Event. Inbay does not assume responsibility for problems arising with use of these Third Party Services.

6. DEDICATED TECH SERVICES

6.1 During the Engagement Inbay shall, and (where appropriate) shall procure that the Individuals shall:

(a) Provide the services with all due care, skill and ability in accordance with Good Industry Practice.

(b) Unless any Individual is prevented by ill health or accident, be available for carrying out Services in accordance with the working hours as specified in their employment contract (up to 45 hours per week) together with such additional time if any as may be necessary for their proper performance, and:

(c) Promptly given to the Client all such information and reports as it may reasonably require in connection with matters relating to the provision of Services.

6.2 Inbay may, with the prior written approval of the Client (not to be unreasonably withheld or delayed), appoint a suitably qualified and skilled substitute for an Individual (Substitute) (or any other of the Individuals) to perform the Services instead of any named Individual. If the Client accepts the Substitute, Inbay shall continue to invoice the Client in accordance with clause 13 and shall be responsible for the remuneration of the Substitute.

6.3 Inbay shall use its reasonable endeavours to ensure that each Individual is available at all times on reasonable notice to provide such assistance or information as the Client may require. The Client acknowledges, however, that the engagement of the Individuals by Inbay may be subject to any probationary period that Inbay elects to impose upon staff engaged by it and that it may be necessary to engage a Substitute from time to time.

6.4 Unless it or he has been specially authorised to do so by the Client in writing:

(a) Neither Inbay nor any individual shall have any authority to incur any expenditure in the name of or for the account of the Client and its customers; and

(b) Inbay shall not, and shall procure that no Individual shall, hold itself or himself out as having authority to bind the Client or its customers.

6.5 The client acknowledges that Inbay's ability to provide the Services is dependent upon the full and timely co-operation of the Client (which the Client agrees to provide) as well as the accuracy and completeness of any information and data and any other materials the Client or its customers provide to Inbay or any Individual. Accordingly, the Client shall provide or procure Inbay/the Individuals with access to, and use of, all information data and documentation reasonably required by Inbay/the Individuals for the performance of Inbay of its obligations under this agreement. The Client shall be responsible for the accuracy and completeness of any information and materials so provided to Inbay/the Individuals.

6.6 Inbay shall not be liable for any delays in providing the Services resulting from the Client's failure to fulfil any of its obligations set out in this agreement.

7. ACCREDITATIONS AND CERTIFICATIONS

7.1 Inbay is ISO/IEC 27001:2013 certified under certificate number IND.20.102/IS/U as verified by Bureau Veritas Certification Holding SAS – UK Branch and it shall use its best endeavours to comply with all requirements under this accreditation in its performance of the Services.

7.2 Inbay is PCI DSS Merchant compliant and compliance is monitored on an ongoing basis. Verification of current compliance status is available on request.

8. CLIENT OBLIGATIONS

8.1 The Client shall appoint a manager for the Services (**Client Services Manager**) who shall have the authority to contractually bind the Client on all matters relating to the Services. For the avoidance of doubt, there is no direct contractual arrangement under this Agreement between Inbay and any Client Customer and the Client's Service Manager shall be responsible for conveying all relevant information relating to any Client Customer to Inbay.

8.2 The Client will be responsible for ensuring that their agreed on-boarding milestones are met by providing Inbay with all requested on-boarding information in the agreed format and according to the on-boarding Project Plan.

8.3 The Client shall:

(a) co-operate with Inbay's Services Manager (details of whom are set out in the Order or any substitute) and any other Inbay staff in all matters relating to the Services and appoint the Client's Services Manager who shall have the authority to contractually bind the Client on matters relating to the Services;

(b) provide in a timely manner such access to the Business Systems as is requested by Inbay;

(c) provide in a timely manner such information as Inbay may request, and ensure that such information is accurate in all material respects; and

(d) be responsible for procuring any third-party co-operation (including that of the Client Customers, where applicable) reasonably required for the provision and on-boarding of the Services.

8.4 The Client's Services Manager and Inbay's Services Manager shall meet (whether by teleconference or video conference) at such intervals as Inbay determines applicable to the nature of the Services, to discuss matters relating to the Services.

8.5 If Inbay's performance of its obligations under this Agreement is prevented or delayed by any act or omission of the Client or the Client's agents, sub-contractors or employees, the Client shall in all circumstances be liable to pay to Inbay on demand all reasonable costs, charges or losses sustained or incurred by Inbay (including, without limitation, any direct or indirect consequential losses, loss of profit and loss of reputation, loss or damage to property, injury to or death of any person and loss of opportunity to deploy resources elsewhere), subject to Inbay confirming such costs, charges and losses to the Client in writing.

8.6 To the extent that Inbay requires access to the Client Site to perform the Services, the Client shall provide such access during Normal Business Hours and to provide a suitable work environment to enable Inbay or Third Party Supplier to perform such Services subject to Inbay or such Third Party Supplier complying with such internal policies and procedures of the Client (including those relating to security and health and safety) as may be notified to Inbay in writing from time to time.

8.7 The Client agrees and acknowledges the terms of the applicable Licence Agreements shall form part of this Agreement. For the avoidance of doubt, in the event the applicable Licence Agreement is not applicable to the Services being received or delivered by Inbay to the Client under this Agreement, such Licence Agreement shall not apply.

8.8 The Client shall:

(a) adhere to any fair usage policy;

(b) ensure it has suitable licences in place, either via itself or via its Client Customers, for any third party software, hardware and/or systems required (which is not issued by Inbay) to allow Inbay and its sub-contractors full use in relation to the Services provided;

(c) adhere to the dates scheduled for provision of Services by Inbay to the Client as stated in the applicable Project Plan, Statement of Work or otherwise agreed between the parties in writing. In the event the Client wishes to reschedule or cancel the dates for the provision of Services, liquidated damages (**Liquidated Damages**) will become payable from the Client to Inbay on the following basis:

(i) if dates are changed or cancelled less than seven (7) days before the scheduled start date, one hundred percent (100%) of the Fees for the Services to be provided at that time will be payable; and

(ii) if dates are changed or cancelled between seven (7) and fourteen (14) days before the scheduled start date, Liquidated Damaged equivalent to fifty percent (50%) of the Fees for the Services to be provided at that time will be payable.

Notwithstanding this clause 8.8(c), any bespoke or non-cancellable Deliverables, cannot be cancelled;

(d) provide such access to the Client's systems, software, platforms and equipment as may reasonably be requested by Inbay;

(e) prepare the Client's Site and at all reasonable times permit full and free access to the Client's Site and to the Maintained Equipment to Inbay, its employees, contractors and agents and other applicable Third Party Suppliers, and provide them with adequate and safe working space, and any telecommunications facilities as are reasonably required to enable Inbay or relevant Third Party Supplier (as the case may be) to perform the applicable Services;

(f) co-operate with Inbay in all matters relating to the Services as reasonably requested by Inbay;

(g) inform Inbay in writing of all health and safety rules and regulations and any other reasonable security requirements that apply at the Client's Sites;

(h) allow Inbay or its designated subcontractors and applicable Third Party Suppliers, global admin access to the Client's relevant servers and networking systems for the duration of the Agreement;

(i) allow Inbay to publicise the work Inbay undertakes under the Agreement for the Client including but not limited to case studies, subject to obtaining the Client's consent to the use of any and all logo's and trademark names;

(j) provide appropriate hardware interface, software and access authorisation to enable remote diagnosis, should such capability be required;

(k) provide all information and make available all resources as reasonably requested by Inbay in the execution of its obligations under this Agreement;

(l) use all reasonable efforts to follow the reasonable instructions of Inbay support personnel with respect to the resolution of defects;

(m) gather all relevant information prior to requesting assistance in respect of any defects including detailed defect description, and procedures required to replicate a problem if possible. Any additional information which may help in the diagnosis of a defect should be included such as network configuration details;

(n) provide Inbay with access to the Client's production computer system via a secure broadband link operating at the industry accepted bandwidth for the purposes of remote diagnostics should such capability be required;

(o) use the Third Party Services and/or Software correctly in accordance with its operating instructions;

(p) notify Inbay promptly of any problems with the NOC Services, Service Desk Services, SOC Services, Third Party Services and/or Software; and

(q) agree that if, in the course of performing the Services, it is reasonably necessary for Inbay's performance of its obligations under a Statement of Work for Inbay to access or use any equipment, software or data of the Client (or which is in the possession of the Client) then it shall where it is able to do so grant to Inbay and any of its subcontractors a non exclusive, royalty free, terminable licence to use the same solely for the purpose of delivering the Services only for as long as is strictly necessary to deliver such Services.

8.9 Inbay will not be liable for failure to meet any Service Level Agreement or other obligations under this Agreement to the extent that such failure was caused by equipment found to be connected otherwise than in accordance with clause 8.8.

8.10 The Client shall (unless otherwise specified in the Statement of Work or as otherwise set out in this Agreement):

(a) use the Services only for lawful purposes and in accordance with this Agreement;

(b) keep and maintain all materials, equipment, documents and other property of or provided by Inbay which are for the time being at the Client's Site in safe custody at the Client's own risk and maintain them in good condition until returned to Inbay and not dispose of or use them otherwise than in accordance with Inbay's written instructions or authorisation;

(c) keep secure from third parties any passwords issued to the Client by Inbay;

(d) fully virus-check all data supplied to Inbay pursuant to the Agreement;

(e) make the Client's Operating Environment and Client-side Equipment, required to provide the Services, accessible to Inbay's support staff, enable logons or passwords required for such support staff (who will have their own logons);

(f) ensure that any Client-side Equipment is in good working order and suitable for the purposes for which it is used;

(g) ensure that Inbay is able to access the systems needed to provide remote support, including but not limited to remote desktop access or screen sharing system;

(h) provide Inbay at least seven (7) Business Days' notice in advance of any intention or move to change when applicable Client-side Equipment or Client's Operating Environment or data-feeds that will directly impact the NOC Services, Service Desk Services and SOC Services. If such notice has not been received on time, Inbay will have to make additional effort to return the Client's systems to an acceptable state for continued support, and will charge accordingly at its then standard hourly rates;

(i) comply with all applicable laws and regulations with respect to its activities under this Agreement;

(j) ensure that active support is available for third party applications;

(k) ensure that all software is legally and correctly licensed;

(l) notify Inbay of any additional items of equipment or software which have been added to, or removed from the Client's system; and

(m) carry out all other Client responsibilities set out in this Agreement, the Project Plan and the Statement of Work in a timely and efficient manner. In the event of any delays in the Client's provision of such assistance as agreed by the parties, Inbay may adjust any timetable or delivery schedule set out in this Agreement as reasonably necessary.

8.11 In the event that the Client is in breach of its obligations under the Agreement (excluding payment obligations) then Inbay shall provide written notice of such breach, specifying in detail the nature of the breach and providing thirty (30) days' notice to remedy such breach if capable of remedy. If the Client fails to remedy such breach Inbay shall be entitled to terminate or suspend the Services without prejudice to any pre-existing rights and obligations of either party. Inbay shall have no liability or responsibility should the Services fail to comply with the Statement of Work, Project Plan and/or Service Level Agreement as a direct result of the Client (including without limitation any of its employees, subcontractors or any of its staff) being in breach of the Agreement.

8.12 In the event that the Client is in breach of its payment obligations under the Agreement then Inbay shall provide written notice of such breach, specifying in detail the nature of the breach and providing seven (7) days' notice to remedy such breach if capable of remedy. If the Client fails to remedy such breach Inbay shall be entitled to terminate or suspend the Services without prejudice to any pre-existing rights and obligations of either Party. Inbay shall have no liability or responsibility should the Services fail to comply with the Statement of Work, Project Plan and/or Service Level Agreement as a direct result of the Client (including without limitation any of its employees, subcontractors or any of its staff) being in breach of the Agreement.

8.13 The Client shall indemnify Inbay against all costs, claims, damages, losses and expenses arising as a result of any claim or action suffered by Inbay in the event that it is held to be acting as an agent of the Client or any third party in performing its obligations under this Agreement.

9. ACCEPTANCE TESTING

9.1 When it has completed the Project Services (or each Project Milestone, if applicable) Inbay shall carry out such acceptance tests as it reasonably deems necessary to show that the Project Services or Project Milestone has been achieved materially in accordance with the Project Plan.

9.2 The Client shall promptly provide such assistance with such acceptance testing as Inbay shall reasonably require.

9.3 If the Client reasonably believes that the Project Services and/or any Project Milestone has failed its acceptance tests and does not comply in all material respects with the Project Plan, it shall give written notice to that effect to Inbay and Inbay shall use its reasonable endeavours to remedy the defects and deficiencies free of charge and the relevant acceptance tests shall be repeated within a reasonable time.

9.4 Acceptance of the relevant Project Milestone shall be deemed to have occurred on whichever is the earliest of:

(a) the signing by the Client of any acceptance certificate provided to it by Inbay;

(b) the expiry of five (5) days after the completion of all the acceptance tests unless the Client has given written notice under clause 9.3; or

(c) the use by the Client 'live' in the normal course of its business of the Project Services to which the Project Milestone and the associated acceptance tests relate.

9.5 If any non-conformity cannot be remedied by Inbay due to an error, defect or fault which Inbay is able to demonstrate to the reasonable satisfaction of the Client to be outside Inbay's control and which has disabled Inbay's ability to remedy such non-conformity:

(a) where such non-conformity does not materially affect the Deliverable, Inbay agrees to reduce the amount paid or payable by the Client which specifically relates to the non-conforming Deliverable which is subject to the non-conformity to reflect any reduction in the functionality of the Deliverable after taking into account all the relevant circumstances is reasonable; or

(b) where such non-conformity renders the Deliverable unusable, then Inbay reserves the right to terminate work on that specific Deliverable and Inbay agrees not to charge the Client any amounts paid or payable by the Client to Inbay which specifically relates to the non-conforming Deliverable which is subject to the non-conformity and which cannot be remedied.

10. SOFTWARE LICENCES

10.1 Where applicable, in consideration of the Fee paid by the Client to Inbay, receipt of which Inbay hereby acknowledges, Inbay grants to the Client a non-exclusive licence, revocable, worldwide, non-transferable for the duration of the applicable Order or Statement of Work until terminated to use of the Software.

10.2 In relation to scope of use:

(a) For the purposes of clause 10.1, use of the Software shall be restricted to use of the Software in object code form for the purpose of processing the Client's data for the normal business purposes of the Client (which shall not include allowing the use of the Software by, or for the benefit of, any person other than an employee of the Client).

(b) For the purposes of Clause 10.1, "use of the Software" means loading the Software into temporary memory or permanent storage on the relevant computer, provided that installation on a network server for distribution to other computers is not "use" if the Software is licensed under this licence for use on each computer to which the Software is distributed.

(c) The Client may not use the Software other than as specified in clause 10.1 and clause 10.2(a) without the prior written consent of Inbay, and the Client acknowledges that additional fees may be payable on any change of use approved by Inbay.

(d) Except as expressly stated in this clause 10, the Client has no right (and shall not permit any third party) to copy, adapt, reverse engineer, decompile, disassemble, modify, adapt or make error corrections to the Software in whole or in part except to the extent that any reduction of the Software to human readable form (whether by reverse engineering, decompilation or disassembly) is necessary for the purposes of integrating the operation of the Software with the operation of other software or systems used by the Client, unless Inbay is prepared to carry out such action at a reasonable commercial fee or has provided the information necessary to achieve such integration within a reasonable period, and the Client shall request Inbay to carry out such action or to provide such information (and shall meet Inbay's reasonable costs in providing that information) before undertaking any such reduction.

10.3 The Client may not use any such information provided by Inbay or obtained by the Client during any such reduction permitted under clause 10.2(d) to create any software whose expression is substantially similar to that of the Software nor use such information in any manner which would be restricted by any copyright subsisting in it.

10.4 The Client shall not:

(a) sub-licence, assign or novate the benefit or burden of this licence in whole or in part, unless expressly consented to in writing by Inbay;

(b) allow the Software to become the subject of any charge, lien or encumbrance; and

(c) deal in any other manner with any or all of its rights and obligations under the Agreement,

without the prior written consent of Inbay.

10.5 The Client shall:

(a) ensure that the Software is installed on designated equipment only;

(b) keep a complete and accurate record of the Client's copying and disclosure of the Software and its users, and produce such record to Inbay on request from time to time;

(c) notify Inbay as soon as it becomes aware of any unauthorised use of the Software by any person; and

(d) pay, for broadening the scope of the licences granted under this licence to cover the unauthorised use (including additional users), an amount equal to the fees which Inbay would have levied (in accordance with its normal commercial terms then current) had it licensed any such unauthorised use on the date when such use commenced.

10.6 The Client shall permit Inbay to inspect and have access to any premises (and to the computer equipment located there) at or on which the Software is being kept or used, and have access to any records kept in connection with this licence, for the purposes of ensuring that the Client is complying with the terms of this licence, provided that Inbay provides reasonable advance notice to the Client of such inspections, which shall take place at reasonable times.

10.7 Inbay will provide the Client with all Maintenance Releases generally made available to its customers. The Client shall install all Maintenance Releases as soon as reasonably practicable after receipt.

10.8 The Client warrants that it shall not compete with the Software during the term of the Agreement and for a period of three (3) years thereafter.

10.9 Inbay shall procure any software or services from Third Party Suppliers required by the Client for the provision of the Services and as more fully set out in the Statement of Work. Except as expressly set out in the relevant Licence Agreement, Inbay expressly excludes any warranty to the Client that the Third Party Services supplied or licensed under this Agreement will operate substantially in accordance with, and perform, the material functions and features as set out in the its marketing, sales or other associated documentations. The Client shall remain liable for any and all payments owed to Inbay throughout this Agreement and until the end of the respective licence terms for such Third Party Services (the **Licence Fees**).

10.10 It is a condition of this Agreement that the Client shall enter into such direct Licence Agreements issued by the Third Party Supplier where the Client must directly contract with that Third Party Supplier as so prescribed by the relevant software owners of each Third Party Service identified within this Agreement and/or in the applicable Statement of Work. In the event the Client does not accept the terms of such Licence Agreements (whether directly contracted with Inbay or the relevant Third Party Supplier), Inbay reserves the right to suspend the provision of the Services until such time as the Client enters into such Licence Agreement.

10.11 The Client acknowledges that it is responsible for ensuring that the Hardware, and operating software for such Hardware is compatible with the Third Party Services and Inbay gives no warranty in relation thereto unless agreed otherwise in writing between the Parties in the Statement of Work.

10.12 The Client shall indemnify Inbay against all liabilities, costs, expenses, damages and losses (including any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal and other reasonable professional costs and expenses) suffered or incurred by Inbay in connection with any claim made against Inbay for actual or alleged infringement by the Client of the Licence Agreement and/or any other licence agreement. This clause 10.12 shall survive termination of the Agreement.

11. DATA PROTECTION

11.1 In this clause 11, 'Controller', 'Data Subject', 'Personal Data', 'Personal Data Breach', 'Processor' and 'processing' shall have the respective meanings given to them in the UK Data Protection Laws (and related expressions, including process, processed, processing, and processes shall be construed accordingly).

11.2 Use of the Services is governed by Inbay's Privacy Policy which is available online at http://www.inbay.co.uk/privacy-policy. By signing any Order and/or Statement of Work, the Client acknowledges, understands and agrees to, Inbay processing any Client Personal Data under this Privacy Policy.

11.3 The Client acknowledges that Inbay may monitor, record, store and use any telephone, email or other communication with the Client or the Client Customers or any party providing goods or services to Inbay, the Client or the Client Customers in order to check any instructions or information given to Inbay, for training purposes, for crime prevention and to improve the quality of Inbay's customer services. The Client undertakes to notify its employees, Client Customers and any related suppliers accordingly of such monitoring and recording.

11.4 Both parties will comply with all applicable requirements of the Applicable Data Protection Laws. This clause 11.4 is in addition to, and does not relieve, remove or replace, a party's obligations or rights under Applicable Data Protection Laws.

11.5 The parties have determined that for the purposes of the Applicable Data Protection Laws, Inbay shall process the Personal Data set out in the Schedule, as a Processor on behalf of the Client..

11.6 In relation to the Client Personal Data, the Schedule sets out the scope, nature and purpose of processing by Inbay, the duration of the processing and the types of personal data and categories of data subject. In the event the Schedule is not accurate, the Client must immediately and before signing an Order and/or Statement of Work, identify the changes needed to be made to the Schedule. If no notice of changes have been received before signature, the Schedule shall be agreed by the parties as accurate.

11.7 The Client warrants and undertakes to Inbay that:

(a) the Client Personal Data has been and shall be obtained and processed (in so far as the Client Personal Data has been processed) lawfully;

(b) the Services to be provided by Inbay under this Agreement will be entirely consistent with and appropriate to the specified and lawful purposes for which the Client has notified under the Applicable Data Protection Laws in respect of the Client Personal Data as specified within the Schedule;

(c) the Client has not and will not during the continuance of this Agreement use or disclose the Client Personal Data or any part of it in a manner incompatible with the purposes as specified in the Schedule;

(d) the Client Personal Data is adequate, relevant and not excessive in relation to the purposes as specified in the Schedule; and

(e) the Client Personal Data is accurate and the Client shall keep such Client Personal Data fully up to date at all times during the continuance of this Agreement.

11.8 Inbay shall not be deemed to have breached any of its obligations as Processor by virtue of a breach of the Applicable Data Protection Laws by the Client as Controller. Inbay shall not be deemed liable for any claim including but not limited to a claim by a Data Subject arising from any action or omission by Inbay to the extent that such action or omission resulted directly from the Client's instructions.

11.9 The Client's Personal Data held on Inbay's system shall remain the property of the Client.

11.10 The Client may request Inbay and its sub-contractors to host the Client's applications inclusive of the Client Personal Data. Where the Client request Inbay to host its Client Personal Data as part of the Services, the Client warrants that it has all necessary and appropriate consents and notices in place to enable lawful transfer of the Client Personal Data to Inbay and its subcontractors for the duration and purposes of the relevant Statement of Work.

11.11 Without prejudice to the generality of clause 11.4, Inbay shall, in relation to any Client Personal Data processed in connection with the performance by Inbay of its obligations under an Order or Statement of Work or this Agreement:

(a) process that Client Personal Data only on the documented instructions of the Client unless Inbay is required by otherwise to process the Client Personal Data. Where Inbay is relying on Applicable Laws as the basis for processing Client Personal Data, Inbay shall notify the Client of this before performing the processing required by the Applicable Laws unless those Applicable Laws prohibit Inbay from so notifying the Client on important grounds of public interest. Inbay shall inform the Client if, in the opinion of Inbay, the instructions of the Client infringe Applicable Data Protection Laws;

(b) implement appropriate technical and organisational measures to protect against unauthorised or unlawful processing of Client Personal Data and against accidental loss or destruction of, or damage to, Client Personal Data, which the Client has reviewed and confirms are 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 any personnel engaged and authorised by Inbay to process Client Personal Data have committed themselves to confidentiality or are under an appropriate statutory or common law obligation of confidentiality;

(d) assist the Client, at the Client's cost, in responding to any request from a Data Subject and in ensuring compliance with its obligations under the Applicable Data Protection Laws with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators;

(e) notify the Client without undue delay on becoming aware of a Personal Data Breach;

(f) at the written direction of the Client, delete or return Client Personal Data and copies thereof to the Client on termination of an Order or Statement of Work unless required by Applicable Law to continue to process that Client Personal Data. For the purposes of this clause 11.10(f), Client Personal Data shall be considered deleted where it is put beyond further use by Inbay; and

(g) maintain records to demonstrate its compliance with this clause 11 and allow for reasonable audits by the Client or the Client's designated auditor, for this purpose, on reasonable notice (but in any event on giving Inbay not less than seven (7) days' notice, unless the Client has reasonable grounds for giving shorter notice) and during Normal Business Hours on Business Days.

11.12 To the extent that Inbay cannot comply with a change to the Client's instructions when processing Client Personal Data without incurring material additional costs:

(a) Inbay shall: (i) immediately inform the Client, giving full details of the problem; and (ii) cease all processing of the affected data (other than securely storing those data) until revised instructions are received; and

(b) any changes in the Client's instructions that affect the pricing structure or commercial relationship between the parties should go through an appropriate Change Request.

11.13 The Client hereby provides its prior, general authorisation for the Client to:

(a) appoint processors to process the Client Personal Data, provided that Inbay:

(i) shall ensure that the terms on which it appoints such processors comply with Applicable Data Protection Laws, and are consistent with the obligations imposed on Inbay in this clause 11;

(ii) shall remain responsible for the acts and omission of any such processor as if they were the acts and omissions of Inbay; and

(iii) shall inform the Client of any intended changes concerning the addition or replacement of the processors, thereby giving the Client the opportunity to object to such changes provided that if the Client objects to the changes and cannot demonstrate, to Inbay's reasonable satisfaction, that the objection is due to an actual or likely breach of Applicable Data Protection Law, the Client shall indemnify Inbay for any losses, damages, costs (including legal fees) and expenses suffered by Inbay in accommodating the objection;

(b) transfer Client Personal Data outside of the UK as required for the Purpose, provided that Inbay shall ensure that all such transfers are effected in accordance with Applicable Data Protection Laws. For these purposes, the Client shall promptly comply with any reasonable request of Inbay, including any request to enter into standard data protection clauses adopted by the EU Commission from time to time (where the EU GDPR applies to the transfer) or adopted by the Commissioner from time to time (where the UK GDPR applies to the transfer).

11.14 Those processors engaged at the commencement of this Agreement are as set out in the Schedule or Statement of Work (as the case may be).

11.15 In addition to its obligation to notify the Customer of a Personal Data Breach, Inbay shall notify the Client in the event of a data breach or an attempted data breach of its own infrastructure/systems and/or that of a third-party service or system, and/or its sub-contractors (where Inbay has been made aware of such a breach or attempted breach by the third-party service or system and/or by its sub-contractors). Inbay shall liaise with such third-party services or systems and/or its sub-contractors, to determine the exact nature of the data breach/attempted data breach to ascertain what further steps, if any, are required and will liaise with the Client as required in this respect.

11.16 Each party shall, indemnify and hold harmless the other party against any loss or damage suffered as a result of a breach of any data protection obligation contained in this Agreement, or a breach of any applicable Data Protection Laws, to the extent that such breach is not caused by the negligence, omission or default of the injured party or its group companies, agents, sub-contractors and representatives.

11.17 Either party may, at any time on not less than thirty (30) days; notice, revise this clause 11 by replacing it with any applicable controller to processor standard clauses or similar terms forming part of an applicable certification scheme where there has not been a European Community finding of adequacy pursuant to Article 45 of the EU GDPR in respect UK.

12. CHANGE REQUEST

12.1 If either party wishes to change the scope of the Services, it shall submit details of the requested change to the other in writing. Both parties acknowledge that it may become necessary from time to time to amend the Statement of Work, Project Plan and/or eQuote for various reasons, including (but not limited to) changes to the nature, scope, timing and budgets for the Project, changes to priorities for the Services which affect the Project; unavailability of products, personnel or related services; environmental impediments.

12.2 If either party requests a change to the scope or execution of the Services, Inbay shall, within a reasonable time, provide a written estimate to the Client of:

(a) the likely time required to implement the change;

(b) any variations to Inbay's charges arising from the change;

(c) the likely effect of the change on the Statement of Work and/or Project Plan; and

(d) any other impact of the change on the terms of this Agreement or the Order.

12.3 If Inbay requests a change to the scope of the Services, the Client shall not unreasonably withhold or delay consent to it.

12.4 If the Client wishes Inbay to proceed with the change, Inbay has no obligation to do so unless and until the parties have agreed in writing on the necessary variations to its charges, the Statement of Work, the Project Plan and/or the eQuote and any other relevant terms of this Agreement to take account of the change. Until such time as such changes have been agreed in writing (which may involve an additional Order) the Services will continue under their original form.

13. CHARGES AND PAYMENT

13.1 In consideration of the provision of the Services, the Client shall pay Inbay the Fees (including all Licence Fees and Third Party Services fees) for the Services in accordance with the Order or otherwise agreed between the parties in writing from time to time. If no Fee is quoted, the Fee shall be calculated in accordance with Inbay's rates set out in the eQuote as amended from time to time in accordance with this Agreement. For the avoidance of doubt, in the event the Client delays the Go live Date (which falls outside of the Liquidated Damages in clause 8.8(c)) or has not conducted its Acceptance Testing in accordance with clause 9, Inbay may charge the Client for such delays in accordance with its standard hourly rates.

13.2 Clause 13.4 shall apply if the Services are to be provided on a time-and-materials basis. Clauses 13.5 and 13.6 shall apply if the Services are to be provided for a fixed price. The remainder of this clause 13 shall apply in either case.

13.3 Where a Fee has been quoted, this is a best estimate based on the information given to Inbay by the Client and/or which is available at that time and may be based on a number of assumptions set out in the Statement of Work (**Assumptions**). If it materialises that in Inbay's reasonable opinion, the information provided and/or Assumptions made are incorrect, inaccurate or have changed and/or that the proposed scope of Services is not feasible, Inbay shall be entitled to charge (at Inbay's standard hourly fee rates) the Client for any Out of Scope Services or other additional Services provided to those detailed in the Order together with all related costs and expenses incurred by Inbay.

13.4 Where the Services are provided on a time-and-materials basis:

(a) the charges payable for the Services shall be calculated in accordance with Inbay's standard hourly fee rates which are calculated on the basis of Normal Business Hours, as amended from time to time (details of the current version being available upon request);

(b) Inbay shall ensure that all members of the project team complete time sheets recording time spent on the Project, and Inbay shall use such time sheets to calculate the charges covered by each monthly invoice referred to in clause 13.4(e);

(c) Inbay shall be entitled to charge an overtime rate for time worked outside Normal Business Hours as set out in the Statement of Work;

(d) unless otherwise agreed between the parties, travelling time to and from any Client Site shall be charged on a pro rata basis at the standard daily rate. Inbay may use reasonable endeavours to minimise travel time and cost; and

(e) Inbay shall invoice the Client monthly in arrear for its charges for time, expenses and materials (together with VAT where appropriate) for the month concerned, calculated as provided in this clause

13. Each invoice shall set out the time spent by each member of the project team and provide a detailed breakdown of any expenses and materials, accompanied by the relevant receipts.

13.5 Where the Services are provided for a fixed price the total price for the Services shall be the amount set out in the Project Plan and/or eQuote. The total price shall be paid to Inbay (without deduction or set-off) in instalments as set out in the Project Plan and/or eQuote on its achieving the corresponding milestone. On achieving a Project Milestone, Inbay shall invoice the Client for the charges that are then payable, together with expenses and the costs of materials (and VAT, where appropriate), calculated as provided in clause 13.4.

13.6 Where the Services provided are for Dedicated Tech, the Client shall pay Inbay the fees at the rates detailed in the Schedule, which are exclusive of VAT. For the avoidance of doubt, the Client acknowledges that if it wishes to increase the number of Individuals the monthly fees will be increased accordingly in line with each Individual's appropriate employment start date.

(a) Should the client wish to reduce the number of individuals for commercial business reasons the monthly fees will be reduced accordingly, subject to a three-month notice period as per the terms of each Individual's employment contract or if agreeable, mutually agreed severance, subject to local employment laws.

(b) Fees payable are inclusive of contracted holiday pay (annual and casual leave), sick leave, additional payments for working on Sri Lankan Poya days and other Public Holidays and annual salary increments for the first 12-month period.

13.7 Any fixed price contained in the Project Plan excludes:

(a) any ancillary expenses reasonably incurred by the project team in connection with the Services, and the cost of any materials or services reasonably and properly provided by Third Party Suppliers required by Inbay for the supply of the Services. Such expenses, materials and Third Party Services shall be invoiced by Inbay. Expenses will be charged at cost, but Inbay reserves the right to apply a reasonable uplift on the costs of materials and third party services; and

(b) VAT, which Inbay shall add to its invoices at the appropriate rate, where applicable.

13.8 The Client acknowledges that some Fees:

(a) may be variable, depending on the number of devices and/or users to which the Services relate and that the Services may be subject to a minimum monthly payment which will be set out in the Project Plan and/or eQuote plus any applicable VAT or other relevant sales taxes; and

(b) for the minimum monthly payment along with all Services on-boarded up to the Go Live Date will be payable from the Go Live Date stated in the Order.

13.9 Any on-boarding fee will be detailed within the Order and/or eQuote. Unless otherwise specified in writing, payment of the on-boarding fee is required within five (5) days of receipt of the relevant invoice and before on-boarding can commence. In order to accommodate all Clients within the on-boarding queue in a fair and equitable manner, if payment is not received within five (5) days of receipt of the relevant invoice, the Client

acknowledges that they will lose their place in the on-boarding queue and Client's on-boarding will be rescheduled for the next available date.

13.10 Inbay shall invoice the Fees in accordance with the payment intervals stated in the Statement of Work and unless otherwise stated, shall be sent via email monthly in advance. Where any additional Services (for example additional devices, users or incidents) are added, the Fees will be amended on a pro-rata basis from the date of going live and shall be billed in full from the first day of the following month. Where the Client is based outside the UK in countries where the following currencies are used, Inbay will invoice the client in the relevant foreign currency: US/CAN/AUS dollars or Euros. In all other circumstances, the Client will be billed in pounds sterling.

13.11 Unless otherwise agreed by Inbay in writing, the Client shall pay each invoice submitted to it by Inbay in full, and in cleared funds, upon receipt.

13.12 Inbay reserves the right to require a deposit in advance in relation to a Project, details of which shall be set out in the documents referred to in the Order.

13.13 For clients based outside of the UK, payment shall be made by credit card or international bank transfer. For clients based in the UK and Eurozone payment for both the minimum monthly payment and all monthly Services shall be made by direct debit. The Client must complete Inbay's direct debit instruction or credit card authorisation form before Services can commence.

13.14 Without prejudice to any other right or remedy that Inbay may have, if the Client fails to pay Inbay on the due date Inbay may:

(a) charge interest on such sum from the due date for payment at the annual rate of four percent (4%) above the base lending rate from time to time of The Bank of England, accruing on a daily basis and being compounded quarterly until payment is made, whether before or after any judgment; and

(b) suspend provision of all or any part of the Services (whether to the Client and/or any Client Customer) until payment of all overdue sums has been made in full.

13.15 Time for payment shall be of the essence.

13.16 All payments payable to Inbay under this Agreement shall become due immediately on its termination, despite any other provision. This clause is without prejudice to any right to claim for interest under the law, or any such right under this Agreement.

13.17 Inbay may, without prejudice to any other rights it may have, set off any liability of the Client to Inbay against any liability of Inbay to the Client.

13.18 For the avoidance of doubt, all sums shall remain payable by the Client to Inbay notwithstanding that the Client may not itself have received payment from any Client Customer.

13.19 Any reasonable and properly incurred and documented third party costs and expenses incurred by Inbay shall be payable, provided that Inbay shall seek the prior written consent to any such expenditure wherever reasonably practicable and in any event where the costs or expenses to be incurred are in excess of fifty pounds (£50).

13.20 The fees are exclusive of VAT (and any other applicable taxes) which shall be due in addition at the prevailing rate, where applicable. Additional charges may be levied for incidental costs where agreed in advance in writing. Should the Client be required by any law or regulation to make any deduction on account of tax including but not limited to withholding tax or otherwise on any sum payable under the Agreement, the Fees payable shall be increased by the amount of such tax to ensure that Inbay receives a sum equal to the amount to be paid under the applicable Order or Statement of Work.

13.21 The Client shall not be able to dispute any amounts which have been paid by the Client after a period of three (3) months has elapsed from the date of invoice.

13.22 Subject to clause 13.22, Inbay reserves the right to increase its fees and/or minimum monthly payment for the Services not more than once in any twelve (12) month period by giving the Client not less than forty (40) days prior written notice. Such increase shall be a reasonable amount, having regard to external factors, such as currency exchange rates. If the Client does not agree with this increase, then they may terminate this Agreement upon thirty (30) days written notice and before such price increase takes effect. If Inbay does not receive written notice within thirty (30) days, the Client is deemed to have agreed to the amendment to the Fees.

13.23 For the avoidance of doubt, Inbay may increase any fees related to Third Party Services in line with any increases imposed upon Inbay by such Third Party Suppliers upon thirty (30) days' notice or otherwise in line with the terms of the Licence Agreement.

13.24 Inbay also reserves the right to ensure that, in order to maintain a good level of service for all clients, the Services are provided subject to reasonable use as shall be determined by Inbay in its sole discretion, having regard to usage by other clients and/or historic data/trending patterns. If it appears the Client is exceeding or is likely to exceed these reasonable usage levels, Inbay shall notify the Client and the Client shall implement a remedial plan (with its Client Customer, if relevant) to ensure that the Client/Client Customer does not exceed reasonable levels of use in the future. Inbay shall provide such guidance in this context as is reasonably required.

14. WARRANTIES AND SERVICE LEVELS

14.1 The Client warrants that:

(a) it has the full capacity and authority to enter into and perform this Agreement and that this Agreement is executed by a duly authorised representative of the Client;

(b) it has the authority to grant any rights to be granted to Inbay under this Agreement;

(c) it owns or has obtained valid licences, consents, permissions and rights to use, and where necessary to licence to Inbay and any of its subcontractors, any materials reasonably necessary for the fulfilment of all its obligations under this Agreement; and

(d) Inbay's use in the provision of the NOC Services, Service Desk Services and SOC Services or otherwise in connection with this Agreement of any third party materials, including any Hardware or Software supplied by the Client to Inbay for use in the provision of the NOC Services, Service Desk Services and SOC Services or otherwise in connection with this Agreement, shall not cause Inbay to infringe the rights, including any Intellectual Property Rights, of any third party.

14.2 Inbay warrants and represents that:

(a) it has the full capacity and authority to enter into and perform this Agreement and that this Agreement is executed by a duly authorised representative of Inbay;

(b) it owns or has obtained valid licences, consents, permissions and rights to enable Inbay to comply with this Agreement and to use any of the Intellectual Property Rights necessary for the fulfilment of all its obligations under this Agreement including for the Client's use and receipt of the Services, and Inbay shall not breach the provisions of any such necessary licences, consents, permissions and rights or cause the same to be breached;

(c) it will comply with all applicable laws in performing its obligations under this Agreement; and

(d) the Client's use of any Inbay materials and/or third party materials, including any materials supplied by Inbay to the Client, shall not cause the Client to infringe the rights, including any Intellectual Property Rights, of any third party.

14.3 Except for any warranties and service levels expressly set forth in this Agreement, the Services are provided on an “as is” basis, and Client’s use of the Services is at its own risk. Inbay does not make, and hereby disclaims, any and all other express and/or implied warranties, statutory or otherwise, including, but not limited to, warranties of merchantability, fitness for a particular purpose and any warranties arising from a course of dealing, usage, or trade practice.

14.4 In the event that a defect, fault or impairment in the provision of the Service(s) causes a service interruption and Inbay becomes aware of this either through the Client giving notification to Inbay of such default, fault or impairment, or as a result of Inbay’s monitoring, then Inbay shall use its commercially reasonable endeavours to resolve that defect, fault or impairment as more fully set out in the Statement of Work and to the extent it reasonably can.

14.5 If Inbay determines in its reasonable opinion that such a defect, fault or impairment results directly or indirectly from: (i) the negligence, act, omission, or default of the Client or end user, (ii) the Client’s breach of this Agreement, or (iii) the operation, failure or malfunction of any network, equipment, hardware or software owned or controlled by the Client or (iv) any third party action in response to an act or omission of the Client or any person given access to the Service by the Client (including third party hosted software vendors) then Inbay

may recover from the Client all reasonable costs to be incurred by it or on its' behalf in connection with the remedy of such defect, fault or impairment. Therefore, for the avoidance of doubt, Inbay can make no commitment to fix any fault and time is not of the essence.

14.6 Save only as may be provided for otherwise under any Statement of Work, Inbay makes no warranty or representation of any data backup with the Services. The Client is responsible for all database and/or system back-ups as required before any change is carried out.

14.7 Unless otherwise agreed or set out in the Statement of Work (as forming part of the Service) if the Client accesses the Services through the public internet or through a private circuit provisioned by a bandwidth provider of the Client's choice, the Client assumes responsibility for managing the relationship with this chosen provider, including service level commitments for issues found to be in the chosen provider's network.

14.8 Inbay will request approval from the Client's Services Manager before making any significant changes to the Services. Inbay will arrange any scheduled downtime in advance with the Client's Services Managers. Inbay is not responsible for unscheduled downtime that is due to anything outside Inbay's control and Inbay and its subcontractors may suspend some or all of the Services in order to carry out scheduled or emergency maintenance or repairs.

14.9 Inbay will carry out network management routines to test the operations and functions of the relevant Services from time to time, notifying the Client in advance.

14.10 Inbay reserves the right to take any action that it perceives necessary to protect the Business System even though this may impact on the Client's business activities. Inbay will make reasonable endeavors to inform the Client by telephone or email in advance of such action, but such action will not be dependent on such notification having been given or acknowledged.

14.11 The Service Level Agreement is specific to directly provided Services of Inbay and do not relate to Third Party Services (of which such Third Party Services will be governed by their own relevant service levels).

14.12 Notwithstanding the foregoing, Inbay does not warrant that the Client's use of the Services will be uninterrupted or error-free.

14.13 The Client hereby warrants that it has not been induced to enter into this Agreement by any prior representations, nor has it relied on any oral representation made by Inbay or upon any descriptions, illustrations or specifications contained in any catalogues and publicity material produced by Inbay.

15. TERM

15.1 This Agreement is effective upon signature of the initial Order. The NOC Services, Service Desk Services and SOC Services will be provided from the Go Live Date and the Project Services will be provided from the Project Services Commencement Date specified in the Order. Unless otherwise set out in the Order or Statement of

Work, at the end of the Initial Term, the Services shall automatically continue indefinitely unless and until either party gives written notice to the other in accordance with the Order.

15.2 This Agreement may be terminated earlier in accordance with the provisions of the Order, clause 4.2, clause 16 and clause 17.3.

15.3 The on-boarding process will begin when the signed Order together with the on-boarding fee are received from the Client and the Services will go live on the Initial Term Go Live Date. Details of the on-boarding process can be found here. It is the Client's responsibility to ensure that Inbay receives all requested information to enable delivery of the Services in advance of the agreed Initial Term Go Live Date, as the Services will be chargeable in accordance with the on-boarding schedule referred to in the Order from this agreed date.

16. TERMINATION

16.1 Either party may terminate this Agreement earlier, by notice in writing to the other, if any of the following events occur:

(a) the other party is in breach of any provision of this Agreement and fails to remedy such breach (if capable of breach) within thirty (30) days of having received written notice of such breach;

(b) an order is made or a resolution is passed for the winding up of the other party, or circumstances arise which entitle a court of competent jurisdiction to make a winding-up order of the other party;

(c) an order is made for the appointment of an administrator to manage the affairs, business and property of the other party, or documents are filed with a court of competent jurisdiction for the appointment of an administrator of the other party, or notice of intention to appoint an administrator is given by the other party or its directors or by a qualifying floating charge holder (as defined in paragraph 14 of Schedule B1 to the Insolvency Act 1986);

(d) a receiver is appointed of any of the other party's assets or undertaking, or if circumstances arise which entitle a court of competent jurisdiction or a creditor to appoint a receiver or manager of the other party, or if any other person takes possession of or sells the other party's assets;

(e) the other party makes any arrangement or composition with its creditors, or makes an application to a court of competent jurisdiction for the protection of its creditors in any way, or becomes bankrupt; the other party ceases, or threatens to cease, to trade;

(f) the other party ceases, or threatens to cease, to trade; or

(g) the other party takes or suffers any similar or analogous action to any of the foregoing in any jurisdiction in consequence of debt.

16.2 Inbay may (but is not obliged to) terminate this Agreement forthwith by notice to the Client:

(a) if there is a change of control of the Client (where 'control' means the ability to direct the affairs of another, whether by virtue of the ownership of shares, contract or otherwise); or

(b) if the provisions of clause 4.2 apply; or

(c) if for any reason a contract between a Third Party Supplier relating to Inbay's right to use, install or support the Third Party Services which is the subject of this Agreement is terminated, then this Agreement or the applicable Statement of Work (as the case may be) shall automatically terminate, save that where this Agreement relates to other Services other than that Third Party Service, termination of the Agreement shall operate only in so far as it relates to such Third Party Service.

16.3 Within thirty (30) days of notice to terminate being given by either party, at the request of the Client, the parties shall co-operate and prepare a written exit plan. The exit plan should set out each party's obligations in order to ensure the smooth and efficient transfer of the Services to the Client or its successor supplier. The Client acknowledges that Inbay shall be entitled to charge for its Services in implementing the agreed exit plan where the time incurred by Inbay is more than eight (8) hours.

16.4 Upon termination or expiry of the Agreement for any reason:

(a) all sums due to Inbay in respect of Services provided up to the termination date shall become payable by the Client;

(b) Inbay shall, in the event of early termination, and at the sole discretion of Inbay, continue to provide its Services under this Agreement and the relevant Order until a replacement supplier has been found by the Client or until a date six (6) months after termination (whichever occurs first) in accordance with the provisions of clause 16.3; and

(c) termination of the Agreement, however arising, shall not affect or prejudice the accrued rights of the parties as at termination or the continuation of any provision expressly stated to survive, or implicitly surviving, termination.

16.5 Upon expiry or termination of this Agreement for whatever reason, Inbay shall, subject to the payment by the Client of all sums owing to Inbay under this Agreement and any other agreement between the parties, promptly deliver to the Client all property of the Client or any Client Customer which is in Inbay's possession or under its control.

17. FORCE MAJEURE

17.1 Inbay, provided that it has complied with the provisions of clause 17.2, shall not be in breach of this Agreement arising from or attributable to a Force Majeure Event.

17.2 Inbay shall not be in breach of this Agreement provided that:

(a) it promptly notifies the Client in writing of the nature and extent of the Force Majeure Event;

(b) it has used all reasonable endeavours to mitigate the effect of the Force Majeure Event, to carry out its obligations under this Agreement in any way that is reasonably practicable and to resume the performance of its obligations as soon as reasonably possible.

17.3 If the Force Majeure Event prevails for a continuous period of more than three (3) months, the Client may terminate this Agreement by giving thirty (30) days' written notice to Inbay. On the expiry of this notice period, this Agreement will terminate.

18. LIMITATION OF LIABILITY

18.1 No representation or warranty is given by Inbay that:

(a) all faults will be fixed or will be fixed within a specified period of time.

(b) the Services will be made available to the Client uninterrupted or error free.

18.2 All other conditions, warranties or other terms which might have effect between the parties or be implied or incorporated into this Agreement or any collateral contract, whether by statute, common law or otherwise, are hereby excluded, including, without limitation, the implied conditions, warranties or other terms as to satisfactory quality, fitness for purpose and the use of reasonable skill and care.

18.3 The Client acknowledges and agrees that certain of the Services may be provided to Inbay with the assistance of Third Party Services and that accordingly Inbay's commitment to the Client in respect of these Services is subject always to the Third Party Supplier's performance of its services to Inbay over which Inbay has no control and which may amount to a Force Majeure Event, such as the provision of fixes and updates to software, network availability, failure or planned maintenance and that Inbay's liability in respect of any default, planned maintenance or failure of such Services shall be limited to managing resolution of the same in accordance with clause 17.2(b) as soon as is reasonably possible.

18.4 The following provisions set out the entire financial liability of Inbay (including without limitation any liability for the acts or omissions of its employees, agents and sub-contractors) to the Client in respect of:

(a) any breach of this Agreement howsoever arising;

(b) any use made by the Client of the Services, the Software, the Deliverables or any part of them; and

(c) any representation, misrepresentation (whether innocent or negligent), statement or tortious act or omission (including without limitation negligence) arising under or in connection with this Agreement.

18.5 Except as expressly stated in clause 18.9, Inbay shall have no liability for any losses or damages which may be suffered by the Client (or any person claiming under or through the Client, including the Client Customers), whether the same are suffered directly or indirectly or are immediate or consequential, and whether the same arise in contract, tort (including negligence) or otherwise howsoever, which fall within any of the following categories:

(a) special damage, even though Inbay was aware of the circumstances in which such special damage could arise;

(b) loss of profits;

(c) loss of anticipated savings;

(d) loss of business opportunity;

(e) loss of, or damage to, any data, database or software;

(f) loss of or damage to goodwill;

(g) as a result of any Force Majeure Event;

(h) in relation to any goods or services supplied by Third Party Suppliers or other third parties;

(i) any software or hardware failures/outages during the period which the Services take place;

(j) any defect or default arising from or caused by changes not approved by Inbay made to the Client's or the Client Customers' IT infrastructure or resulting from abnormal use;

(k) any unauthorised access to the Client's or the Client Customers' IT infrastructure, unless the parties have agreed in writing that Inbay is responsible for the security of such networks and/or systems;

(l) any failure of the Services which results from interference (including maintenance, development or adaptation) by the Client or the Client Customer or any third party which has not been expressly authorised by Inbay as being in accordance with the standard use of the Services or not in accordance with Inbay's specific instructions;

(m) any failure by the Client or its agents or contractors (including any existing service provider) or the Client Customer to provide any information which is accurate, correct and complete, co-operation or instructions to Inbay which is reasonably required by Inbay for the proper performance of its obligations under this Agreement (and any such failure which results in Inbay spending additional time and expenses to fulfil the Services shall be recoverable from the Client at Inbay's then standard time and materials rates);

(n) any failure by the Client or the Client Customer or its staff to properly close down any part of the Client's or the Client Customer's IT infrastructure (as relevant) at the end of a Business Day;

(o) where any hardware of the Client or Client Customer is non-functioning and/or beyond economic repair;

(p) the functionality required by the Client/ or Client Customer does not exist within the scope of the equipment and/or software the Client or the Client Customer has;

(q) a forced server reboot occurs that is out of Inbay's reasonable control, for example, if an unscheduled patch is applied by a third-party;

(r) any failure by the Client to comply with its obligations under the Agreement;

(s) any error or malfunction in the Business Systems or any other software, hardware or systems for which Inbay is not responsible or any failure by the Client, its agents or contractors (including any existing service provider) to obtain sufficient support and maintenance, as required, for any software, hardware or systems for which Inbay is not responsible;

(t) any error or malfunction in or failure caused by Third Party Services;

(u) any use by or on behalf of the Client of the combination with any item not supplied or recommended by Inbay where such use of the Deliverables directly gives rise to the claim, demand or action; or

(v) any modification carried out on behalf of the Client to any item supplied by Inbay under the Agreement if such modification is not authorised by Inbay in writing where such modification directly gives rise to a claim, demands or action.

18.6 Inbay shall not be liable for any loss suffered by the Client or any third party which is caused or contributed to by the act or omission of a third party which is beyond the reasonable control of Inbay.

18.7 The parties' total aggregate liability in contract, tort (including negligence or breach of statutory duty), misrepresentation (whether innocent or negligent), restitution or otherwise, arising in connection with the performance or contemplated performance of this Agreement (including any indemnities) shall be limited to one hundred percent (100%) of the Fees paid for the Services during the twelve (12) months preceding the date on which the claim arose.

18.8 Any breach of the party's responsibilities under clause 10 shall be limited to five hundred thousand pounds (£500,000) in the aggregate, which shall count towards the cap set out in clause 18.7.

18.9 The exclusions in this clause 18 shall apply to the fullest extent permissible at law, but Inbay does not exclude or limit liability for:

(a) death or personal injury caused by the negligence of Inbay, its officers, employees, contractors or agents;

(b) fraud or fraudulent misrepresentation; or

(c) any other liability which cannot be excluded by law.

18.10 The Client acknowledges and agrees that, except as expressly provided in this Agreement or unless it is a Service under a relevant Statement of Work, the Client assumes sole responsibility for:

(a) results obtained from the use of the Software, Deliverables and/or the Services by the Client, as applicable, and for conclusions drawn from such use;

(b) procuring and maintaining the Business Systems, and all network connections and telecommunications links from the Business Systems to Inbay's systems and data centres;

(c) all problems, conditions, delays, delivery failures (including any of those concerning transfer of data) and all other loss or damage arising from or relating to the Client's or its agents' or contractors' (including any existing service provider's) network connections, telecommunications links or facilities, including the internet and acknowledges that the Services and the Deliverables may be subject to limitations, delays and other problems inherent in the use of such connections, links or facilities.

18.11 Subject to clause 18.9 above, the Service Level Agreement states the Client's full and exclusive right and remedy, and Inbay's only obligation and liability, in respect of the performance and availability of the NOC Services and Service Desk Services, or their non-performance and non-availability.

19. INSURANCE

19.1 Throughout the term of this Agreement Inbay shall maintain such insurance as it deems appropriate, having regard to its obligations and liabilities under this Agreement, including (but not limited to):

(a) public liability insurance for a minimum amount of cover of five million pounds (£5,000,000) for any one claim or for any one period of insurance and services supplied;

(b) professional indemnity insurance for a minimum amount of five million pounds (£5,000,000) for any one occurrence or series of occurrences arising out of any one event;

and shall provide evidence of such insurance cover promptly upon the Client's request.

19.2 If the Client wishes Inbay to increase its level of insurance beyond the levels stated in this clause 19, Inbay may be prepared to do so if the Client makes such contribution as shall be agreed by the parties in writing towards the additional costs of the increased cover.

19.3 Throughout the term of this Agreement the Client shall maintain such insurances to such levels as are reasonable to cover the Client's obligations and liabilities under this Agreement and the Client shall provide evidence of such insurance cover promptly upon Inbay's request.

20. CONFIDENTIALITY AND CLIENT'S PROPERTY

20.1 Each party shall protect the Confidential Information of the other party and of any Client Customer against unauthorised disclosure by using the same degree of care as it takes to preserve and safeguard its own confidential information of a similar nature, being at least a reasonable degree of care.

20.2 The Client may not, as receiving party, disclose the Confidential Information to anyone other than its employees and/or the Client Customers on a need-to-know basis only. It shall not be entitled to disclose the Confidential Information to its group companies, affiliates and professional or business advisors unless otherwise agreed in writing by Inbay.

20.3 Confidential Information may be disclosed by Inbay, as the receiving party, to its employees, affiliates and professional advisers, provided that the recipient is bound in writing to maintain the confidentiality of the Confidential Information received.

20.4 The obligations set out in this clause 20 shall not apply to Confidential Information which the receiving party can demonstrate:

(a) is or has become publicly known other than through breach of this clause 20;

(b) was in possession of the receiving party prior to disclosure by the other party;

(c) was received by the receiving party from an independent third party who has full right of disclosure;

(d) was independently developed by the receiving party; or

(e) was required to be disclosed by a governmental authority, stock exchange or regulatory body, provided that the party subject to such requirement to disclose gives the other party prompt written notice of the requirement.

20.5 The obligations of confidentiality in this clause 20 shall not be affected by the expiry or termination of this Agreement.

20.6 All the Client's materials, equipment and tools, drawings, specifications and data supplied by the Client or its Client Customer to Inbay during the Services shall at all times remain the exclusive property of the Client or the Client Customer (as applicable), and shall be returned to the Client or the Client Customer by Inbay upon termination of the Agreement or as requested subject to the Client's payment of any outstanding fees.

20.7 Subject to clause 20.8 below and unless otherwise stated in a Statement of Work, on creation by Inbay and upon Inbay receiving payment in full, all Intellectual Property Rights in bespoke materials or code created under the Services (**Bespoke IPR**) for the Client shall vest automatically in the Client. Inbay hereby assigns to the Client its present and future rights and full title and interest in such creations, including but not limited to workflows, widgets, business processes, and customised web coding which are used in order to provide the Services. The Client hereby provides an irrevocable, worldwide, royalty-free licence to Inbay for the duration of this Agreement to use such Bespoke IPR strictly for the purposes of providing the Services.

20.8 Notwithstanding clause 20.7 above, Inbay and its respective licensors shall retain exclusive ownership of (i) all of its Background Materials; and (ii) ideas, concepts, techniques and know-how discovered, created or developed by Inbay during the performance of the Services that are of general application and that are not based on or derived from the Client's business or Confidential Information (**General IP**, together with the Background Materials, the **Inbay Intellectual Property**). Inbay grants to the Client a non-exclusive, irrevocable, worldwide royalty free and non-transferable license to use the Inbay Intellectual Property.

20.9 The Client shall pay and indemnify Inbay, from and against all actions, claims, liabilities, demands, proceedings, costs suffered or incurred by Inbay, arising by reason of claims that (1) Inbay's possession of or use of the Client's Intellectual Property in connection with the provision of the Services infringes the Intellectual Property Rights of a third party; (2) the Client or any of its customers, modify, alter, replace combine with any other data, code, documents or other software, which alters Inbay's Intellectual Property and such alterations infringe the Intellectual Property Rights of a third party. This indemnity applies whether or not legal proceedings are instituted and, if such proceedings are instituted, irrespective of the means, manner or nature of any settlement, compromise or determination.

20.10 Inbay shall pay and indemnify the Client, from and against all actions, claims, liabilities, demands, proceedings, costs suffered or incurred by Client, arising by reason of claims that (1) Client's possession of or use of the Inbay's Intellectual Property Rights in connection with the provision of the Services infringes the Intellectual Property Rights of a third party; (2) Inbay, modifies, alters, replaces combines with any other data, code, documents or other software, which alters the Client's Intellectual Property and such alterations infringe the Intellectual Property Rights of a third party. This indemnity applies whether or not legal proceedings are instituted and, if such proceedings are instituted, irrespective of the means, manner or nature of any settlement, compromise or determination.

20.11 If either party (**Indemnifying Party**) is required to indemnify the other party (**Indemnified Party**) under this clause 20, the Indemnified Party shall:

(a) notify the Indemnifying Party in writing of any IPR Claim against it in respect of which it wishes to rely on the indemnity at clause 20.9 or clause 20.10 (as applicable);

(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.

20.12 If an IPR Claim is brought or in the reasonable opinion of Inbay is likely to be made or brought, Inbay may at its own expense ensure that the Client is still able to use the Deliverables by either:

(a) modifying any and all of the provisions of the Deliverables without reducing the performance and functionality for any or all of the provision of the Deliverables, so as to avoid the infringement or the alleged infringement, provided that the terms herein shall apply mutatis mutandis to such modified or substituted services and such modified or substituted services shall be acceptable to the Client, such acceptance not to be unreasonably withheld; or

(b) procuring a licence or permission to use the Deliverables on terms which are acceptable to the Client, such acceptance not to be unreasonably withheld.

20.13 Except to the extent that Inbay should reasonably have known or advised the Client the foregoing provisions, Inbay shall have no obligation or liability for any IPR Claim to the extent such IPR Claim arises from:

(a) any use by or on behalf of the Client of the combination with any item not supplied or recommended by Inbay where such use of the Deliverables directly gives rise to the claim, demand or action; or

(b) any modification carried out on behalf of the Client to any item supplied by Inbay under this Agreement if such modification is not authorised by Inbay in writing where such modification directly gives rise to a claim, demands or action.

21. DISPUTE RESOLUTION

21.1 If any dispute arises in connection with this Agreement, directors or other senior representatives of the parties with authority to settle the dispute will, within fourteen (14) days of a written request from one party to the other, meet in a good faith effort to resolve the dispute.

21.2 If the dispute is not resolved at that meeting, the parties will attempt to settle it by mediation in accordance with the CEDR Model Mediation Procedure. Unless otherwise agreed between the parties, the mediator will be nominated by CEDR.

21.3 To initiate the mediation a party must give notice in writing (**ADR notice**) to the other party(ies) to the dispute requesting a mediation. A copy of the request should be sent to CEDR Solve. The mediation will start not later than twenty eight (28) days after the date of the ADR notice.

21.4 The commencement of a mediation will not prevent the parties commencing or continuing court proceedings.

22. STATUS FOR DEDICATED TECH SERVICES

22.1 The relationship of Inbay (and each Individual) to the Client will be that of independent contractor and nothing in this agreement shall render it (nor any Individual) an employee, worker, agent or partner of the Client and Inbay shall not hold itself out as such and shall procure that the Individual shall not hold himself out as such.

22.2 This agreement constitutes a contract for the provision of services and not a contract of employment and accordingly Inbay shall be fully responsible for and shall indemnify the Client for and in respect of:

(a) Any income tax, National Insurance and social security contributions and any other liability, deduction, contribution, assessment or claim arising from or made in connection with either the performance of the Services or any payment or benefit received by the Individual in respect of the Services, where such recovery is not prohibited by law. Inbay shall further indemnify the Client against all reasonable costs, expenses and any penalty, fine or interest incurred or payable by the Client in connection with or in consequence of any such liability, deduction, contribution, assessment or claim other than where the latter arise out of the Client's negligence or wilful default;

(b) Any liability arising from any employment-related claim or any claim based on worker status (including reasonable costs and expenses) brought by any Individual or any Substitute against the Client arising out of or in connection with the provision of Services.

23. STAFF TRANSFER AND NON-SOLICITATION

23.1 It is not intended that any staff be transferred from Inbay to the Client or from the Client to Inbay pursuant to this Agreement or that any 'relevant transfer' occur for the purposes of the Transfer of Undertakings (Protection of Employment) Regulations 2006 (**TUPE**).

23.2 The Client shall not without the prior written consent of Inbay (such consent not to be unreasonably withheld or delayed) at any time during the period from the Commencement Date to the expiry of six (6) months after the date of termination of this Agreement solicit or endeavour to entice away from or discourage from being employed or engaged by Inbay (or any of its group companies) any of its or their employees or sub-contractors engaged in providing the Services.

23.3 Inbay shall not without the prior written consent of the Client (such consent not to be unreasonably withheld or delayed) at any time during the period from the Commencement Date to the expiry of six (6) months after the date of termination of this Agreement solicit or endeavour to entice away from or discourage from being employed or engaged by the Client (or any of its group companies) any of its or their employees or sub-contractors who engage with Inbay in its provision of the Services.

23.4 Any consent given by Inbay or by the Client in accordance to clauses 23.1 and 23.3 shall be subject to the payment by the appropriate party to the consenting party of a sum equivalent to fifty percent (50%) of the then gross current annual remuneration of the relevant employee or sub-contractor or the rate proposed to be paid by the Client or Inbay (as appropriate) or any of its group companies to the said employee or sub-contractor, whichever is the higher.

24. NOTICES

24.1 Any notice given under this Agreement shall be in writing and signed by or on behalf of the party giving it and shall be served by delivering it personally, or sending it by pre-paid recorded delivery or registered post to the relevant party at its registered office for the time being or by sending it by email to the email address notified by the relevant party to the other party. Any such notice shall be deemed to have been received:

(a) if delivered personally, at the time of delivery;

(b) in the case of pre-paid recorded delivery or registered post, forty eight (48) hours from the date of posting; and

(c) in the case of email, at the time of transmission to the correct address, provided that a notification of unsuccessful delivery is not received by the sender.

24.2 In proving such service it shall be sufficient to prove that the envelope containing such notice was addressed to the address of the relevant party and delivered either to that address or into the custody of the postal authorities as a pre-paid recorded delivery or registered post or that the notice was transmitted by email to the email address of the relevant party, provided that a notification of unsuccessful delivery is not received by the sender.

25. GENERAL

25.1 **Assignment.** The Client may not assign or transfer any of its rights or obligations under this Agreement without the prior written consent of Inbay. Inbay may at any time assign, transfer, sub-contract or deal in any other manner with any or all of its rights or obligations under this Agreement.

25.2 **No partnership or agency.** Nothing in this Agreement is intended to or shall operate to create a partnership between the parties, or to authorise either party to act as agent for the other, and neither party shall have authority to act in the name or on behalf or otherwise to bind the other in any way.

25.3 **Entire Agreement.** Except as provided in this clause, neither party shall have any remedy in respect of any untrue statement (whether written or oral) made to it on which it relied in entering into this Agreement, and neither party shall have any liability other than pursuant to the express terms of this Agreement.

25.4 **Third party rights.** This Agreement is made for the benefit of the parties to it and is not intended to benefit, or be enforceable by, any other person.

25.5 **Variation and waiver.** A variation of this Agreement (whether in relation to the nature and/or scope of the Services or otherwise) shall be in writing and signed by or on behalf of both parties to this Agreement. A waiver of any right under this Agreement is only effective if it is in writing, and it applies only to the party to whom the waiver is addressed and the circumstances for which it is given. No waiver shall be implied by taking or failing to take any other action.

25.6 **Severance.** If any provision (or part of a provision) of this Agreement is found by any court or administrative body of competent jurisdiction to be invalid, unenforceable or illegal, the other provisions shall remain in force. If any invalid, unenforceable or illegal provision would be valid, enforceable or legal if some part of it were deleted, the provision shall apply with whatever modification is necessary to give effect to the commercial intention of the parties.

25.7 **Governing law and jurisdiction.** This Agreement and any disputes or claims arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) are governed by and construed in accordance with the law of England. The parties irrevocably agree to submit to the exclusive jurisdiction of the English courts.

Schedule

Data processing details

Processing of the Client Personal Data by Inbay under this Agreement shall be for the subject-matter, duration, nature and purposes and involve the types of Client Personal Data and categories of Data Subjects set out in this Schedule.

1: Subject-matter of processing:

In the case of NOC Services, Service Desk Services and SOC Services:

Inbay will process such Client Personal Data as is required for the provision of NOC Services and Service Desk Services to the Client and Client Customers. This processing will be limited to the devices that the Client has contractually obligated Inbay to provide Services for.

As a component of this support, Inbay will, from time to time, be required to liaise with vendors that the Client and Client Customers utilise the products and services of. To facilitate this, Inbay will process vendor's Personal Data for the purposes of engaging support and remediation.

In the case of Project Services:

Inbay will process such Client Personal Data as is required for the provision of Project Services to the Client and Client Customers.

2: Duration of the processing:

Inbay will process the Client Personal Data in order to provide the Services for the duration of the Agreement. At the cessation of need for processing of any Client or Client Customer personal data, the Client shall inform Inbay of the need to cease processing, at which time Inbay will cease processing and storage of the relevant data.

3: Nature and purpose of the processing:

Inbay will process the Client Personal Data denoted in this Agreement as necessary in order to provide the Services to Clients and Client Customers.

The nature of this processing comprises of:

- The use of contact details, which are required in order to contact the Client, Client Customers and Client's vendors for the purposes of IT support, infrastructure monitoring and remediation.
- The use of Client Personal Data within ticketing systems and related tickets, RMM platforms and related alerts, for the purposes of Client and Client Customer IT Infrastructure fault monitoring, troubleshooting and remediation.

4: Type of Personal Data:

The Client will provide Inbay with, or provide Inbay access to, certain items of Client Personal Data for the purposes of enabling Inbay to provide the Services to the Client and Client Customers.

Access to this Client Personal Data is only provided for the purposes outlined above, and the supplied Client Personal Data shall not be used for any other purpose.

The Client Personal Data to be provided to Inbay shall comprise of:

- Client Details – Name, Location, Contact Name, Telephone Numbers and Email Addresses.
- Client Escalation Details - Name, Location, Contact Telephone Numbers and Email Addresses
- Primary and Secondary Client Escalation Contact Photograph
- Client's Customer Details - Name, Location and Email Addresses
- Client Customer Contact details – Name, Designation, Location, Telephone and Email Address
- Vendor contact details such as Vendor Contact Name, Telephone Number, Email address
- Other personal details as may be present in Online Documentation Systems, Log Files, Tickets or RMM alerts, such as Workstation IP Addresses, User Names, Log On times, Technical Documentation.
- Vendor contact details such as Vendor Contact Name, Telephone Number, Email address

5: Categories of Data Subjects:

Client

Client Customers

Client's and Client Customer's employees

Client's and Client Customer's vendors

6: Subprocessors

Uptime Solutions Ltd based in United Kingdom