

# IT Managed Services General Terms

The following terms will apply to all IT Managed Services by Artemis Cloud Services LLP (OC436091), a limited liability partnership registered in England and Wales with registered office at 147a High Street, Waltham Cross, Hertfordshire, England, EN8 7AP (“**Artemis**”), pursuant to an Order.

## 1. Agreement

- 1.1. Each Order between Artemis and the Customer will incorporate the IT Managed Services General Terms and any applicable Service Specific Terms (together, the **Agreement**).
- 1.2. If there is any inconsistency between the various provisions of the Agreement, the following order of precedence will apply, where 1 has a higher precedence than 2 and so on: (1) any agreed amendment/Amendment Notice, (2) Order, (3) Service Specific Terms, (4) IT Managed Services General Terms.

## 2. Order process

- 2.1. Where the Customer identifies a requirement, it shall communicate such requirement to Artemis and, where Artemis wishes to fulfil such requirement, Artemis shall provide a Quote to the Customer in respect of the same.
- 2.2. If the Customer wishes to contract with Artemis to perform the Customer’s requirement in accordance with the Quote, the Customer shall notify Artemis. Artemis will then provide the Customer with an order form for signature via DocuSign, or by another method agreed between the parties in writing. The order form shall be deemed to be an offer by the Customer subject to the terms incorporated into or referred to in the Quote. The Customer shall procure that each order form is complete and accurate. A binding contract shall not come into existence between Artemis and the Customer until acceptance of the order form by Artemis.
- 2.3. Where Artemis provides any professional services to the Customer (e.g. in respect of scoping the project or assistance with the sales process) for which no order form has been received from the Customer, such professional services will be subject to Artemis’s Professional Services and Consultancy Service Specific Terms (available on request) and chargeable by Artemis at its then current professional services rates.
- 2.4. Artemis may procure certain Services and/or Systems from third party suppliers (“**Vendors**”) on the Customer’s behalf (“**Vendor Products**”). Where such Services and/or Systems are subject to the terms of such Vendor(s) (“**Vendor Product Terms**”):
  - 2.4.1. Artemis may direct the Customer to the applicable Vendor Product Terms, and the Customer shall enter into a contract directly with the Vendor on the basis of these terms; or
  - 2.4.2. Artemis may provide the Customer with terms between Artemis and such Vendor, which the Customer agrees to comply with as if the Customer were Artemis and Artemis were the Vendor, except any payment terms which shall be governed by this Agreement. In this case, the Customer shall have no direct relationship with the Vendor and any claim that the Customer has must be brought against Artemis and not the Vendor (save to the extent such a requirement would be prohibited by law).

## 3. Services

- 3.1. Artemis shall provide, or procure the provision of, the Services and Systems to the Customer materially in accordance with each Order.
- 3.2. Artemis will use reasonable endeavours to provide, or procure the provision of, the Services and Systems promptly, having regard to the availability of personnel, necessary supplies and facilities and commitments to other customers. All dates or times quoted for commencement or completion of any part of the Services and/or the provision of the Systems are estimates only.
- 3.3. Artemis may change the specifications of the Services and Systems from time to time, and cannot guarantee that the functionality and

features of a Service at the time the Customer initially selected it will continue to be available or will remain unchanged for the duration that the Customer wishes to make use of that Service. It is the Customer’s responsibility to monitor updates to the Services to ensure that the specification remains acceptable to them, and that they continue to meet the Customer’s requirements.

- 3.4. Save as otherwise expressly set out in the applicable Order, Artemis does not warrant that the Services and/or Systems will be compatible with any equipment, software or other technology not provided by Artemis.

## 4. Change control

- 4.1. The Customer may request, or Artemis may suggest, in writing or by email an addition or amendment to the Systems and/or Services (a **Change Request**).
- 4.2. Following receipt of such request or the suggestion of a Change Request, Artemis shall submit a quote to the Customer in writing, which shall include details of the proposed change and any change to the Charges as a result thereof (which may include an increase in the monthly Charges, as well as the cost of the additional or replacement Systems) and any other likely impact on the provision of the Services and/or Support.
- 4.3. Following receipt of such quote the Customer may elect to accept the terms of the Change Request, and shall notify Artemis in writing or by e-mail of its decision to accept or not to accept such Change Request. In the event that the Customer accepts the terms of the Change Request, the Order shall be amended or a new Order shall be executed to reflect the addition or amendment to the Systems and/or Services.
- 4.4. Where the Customer has requested the Change Request, Artemis shall be entitled to charge for time spent investigating the request at its then current rates.

## 5. Customer’s obligations

- 5.1. The Customer warrants that the Services shall only be used by the Customer and its employees, and solely for the Customer’s internal business purposes. The Customer shall not resell the Services or allow any third party to have access to the Services.
- 5.2. The Customer shall not, and shall procure that its employees, sub-contractors, or any third party shall not make any false or misleading representations to customers or others regarding Artemis, the Systems, the Services or the Vendor Products, or engage in any deceptive, misleading or unethical practices that may be detrimental to Artemis or the providers of the Vendor Products. Artemis shall have a right of prior approval overall sales and marketing materials to be used by the Customer that refer to and/or promote the Systems and/or Services.
- 5.3. The Customer shall perform its obligations as set out herein, including, without limitation to:
  - 5.3.1. provide reasonable access to the Customer’s premises, equipment, Systems and facilities as reasonably required by Artemis to perform its obligations under this Agreement, including remote access where agreed in an Order;
  - 5.3.2. to the extent that Artemis requires access to the same, ensure that its premises comply with all applicable health and safety laws and regulations, and shall maintain insurance in respect of persons working on its premises as required by law;
  - 5.3.3. procure that all information provided to Artemis in connection with this Agreement and its performance shall be true, accurate and complete;
  - 5.3.4. take decisions and make information and materials available as requested by Artemis, and co-operate with Artemis, either within the timescales reasonably required by Artemis or in the absence of a required timescale as soon as reasonably practicable following the request being made;

- 5.3.5. appoint an authorised person who is able to make binding decisions for the Customer with regard to this Agreement, including authorising any change to the Services and Systems;
- 5.3.6. perform all Customer administered tasks and routines requested by Artemis in accordance with: (1) the appropriate product administration guide; (2) oral or written instructions from Artemis; and (3) such specification for tasks and routines agreed with Artemis;
- 5.3.7. maintain a written, dated and timed record of any routines, modifications, alterations or enhancements to the Infrastructure performed by the Customer or any third party, including, but not limited to, software, network infrastructure, hardware configuration changes, installations and removals;
- 5.3.8. ensure that there is a legitimate licence for every copy of a software programme in use by the Customer in connection with the receipt of the Services and Systems, that has not been provided by Artemis, and that such licences permit use by Artemis as required to perform the Services and comply with such licence terms and conditions and providing a copy of such licence to Artemis and safely storing all disks, manuals, hard copy licence agreements and/or documentation relating to such software.
- 5.4. The Customer shall, and shall procure that its employees, and sub-contractors shall:
  - 5.4.1. use the Services and Systems in a lawful manner;
  - 5.4.2. use the Systems and the Services correctly in accordance with the relevant documentation;
  - 5.4.3. notify Artemis promptly if the Systems and/or the Services are not operating correctly;
  - 5.4.4. not permit any person other than Artemis or its authorised representatives to modify, alter or enhance the Infrastructure;
  - 5.4.5. permit only authorised personnel to contact Artemis to request provision of the Support;
  - 5.4.6. not divulge any passwords or login details that allow the Customer to have access to the Services and/or Systems to a third party and shall use all reasonable endeavours to keep all login details and passwords confidential and inaccessible to third parties;
  - 5.4.7. notify Artemis if it becomes aware of any unauthorised use of all or part of the Services and/or Systems;
  - 5.4.8. arrange its own archive and backup facilities, unless the Order or applicable Service Specific Terms expressly state that a Service includes archive or backup facilities (or the nature of the Service is archive or backup facilities);
  - 5.4.9. where the Services include (or are exclusively) services that are marketed as archive or backup facilities, use such Services only in the event of last resort and not as the primary storage location for such data, and if any particular data is important to the Customer then the Customer shall arrange an additional alternative backup service, and agrees that if both the primary storage location and the main backup fails then recovery from the archive and backup facilities by Artemis shall be on a reasonable endeavours basis; and
  - 5.4.10. comply with all applicable Vendor Product Terms as set out in the Order or notified to the Customer in writing from time to time.
- 5.5. The Customer shall be responsible for compliance with all relevant applicable laws and regulations in respect of the procurement and use of the Systems and/or Services under this Agreement.
- 5.6. Throughout this Agreement and for twelve (12) months after it has ended, the Customer shall not engage any provider of the Vendor Products, either directly or through an alternative intermediary, to provide the Vendor Products to the Customer. Where a Customer wishes to renew the provision of a Vendor Product the Customer shall follow the order process set out in section 2 to procure the provision of the Vendor Products from Artemis. This section 5.6 shall survive termination of the Agreement for any reason.
- 5.7. Artemis shall not be liable for any loss, damage, delay or failure that results from the delay or failure of the Customer to comply with its obligations under this Agreement and the time for performance of

Artemis obligations under this Agreement shall be extended by Artemis a result of any failure or delay by the Customer. The Customer shall reimburse Artemis on written demand for any costs or losses sustained as a direct or indirect result of the Customer's default under this Agreement.

## **6. Acceptable use**

- 6.1. The Customer must comply with any specific terms applicable to any Service, including any usage limits or restrictions. Artemis may change usage limits or restrictions from time to time on notice to the Customer.
- 6.2. The Customer must not use any Service in an excessive, unusual or unexpected manner or for a purpose other than for which it is intended.
- 6.3. The Services by their nature have finite storage, speed, resilience and operating capacity which must be shared between customers. Whilst Artemis will endeavour to meet, or procure that its suppliers meet, expected normal demand, if there is not sufficient capacity to meet demand at any time, restrictions may be placed on the Services to help maintain the stability and continued availability of the Services as far as possible.
- 6.4. The Customer shall ensure that your use of the Services, and the use of the Services by your employees, agents and sub-contractors, will only be for lawful purposes and will not violate any applicable law, regulation, code of practice or guidance.
- 6.5. The Customer must not copy, rent, sub-license, display, reverse engineer, modify or alter any software owned or developed by Artemis or its suppliers, except to the extent expressly permitted by the terms of this Agreement or to the extent that such activities cannot be prohibited by law.
- 6.6. You shall ensure that the Services are not used in any way to:
  - 6.6.1. infringe the intellectual property rights or other rights of any third party;
  - 6.6.2. threaten, harass, stalk, abuse, disrupt or otherwise violate the rights of others;
  - 6.6.3. engage in illegal or unlawful activities; or
  - 6.6.4. transmit spam or distribute viruses or otherwise deliberately abuse any part of the Service.
- 6.7. The Customer warrants that it shall not use the Services in circumstances where failure of the Services could lead to death; personal injury; physical, property or environmental damage; disruption of a supply of money, food, water, energy or fuel, disruption of a system of communication; disruption of facilities for transport; and/or disruption of services relating to health or serious economic damage either generally, to the Customer, to Artemis or its suppliers, or to any third party.

## **7. Charges and payment**

- 7.1. The Customer shall pay the Charges set out in each of the Order(s), and otherwise arising pursuant to the provisions herein. Artemis reserves the right to increase the Charges at any time on the provision of sixty (60) days written notice to the Customer. For the avoidance of doubt, the Customer's continued use of the applicable Services and Systems following the expiry of such notice period shall be deemed to be the Customer's acceptance of the variation to such Charges.
- 7.2. Artemis will issue invoices to the Customer monthly in advance, unless otherwise agreed between the parties in writing. Invoices will be issued to the Customer by email and will be available to download from the customer portal at myportallogin.co.uk.
- 7.3. The Customer shall pay the Charges within 14 days of the invoice date. Artemis shall collect such Charges by direct debit within fourteen (14) days of the invoice date.
- 7.4. The Customer will complete a direct debit instruction and submit it to Artemis on or before the date of the first Order. The Customer may update the direct debit at any time and Artemis will update its

- records within thirty (30) days. Direct debit payments will be taken from bank details set out in the then current direct debit instruction.
- 7.5. Where a direct debit payment fails, the Customer will pay a direct debit re-presentation fee of £10, such fee to be included in a subsequent invoice to the Customer.
- 7.6. Artemis may, where applicable, levy an administration charge of £5 per month where payment is made by any other method other than by direct debit. Such administration charges will be added to the relevant invoices.
- 7.7. Unless otherwise expressly set out to the contrary in the applicable Order, the Customer shall pay all expenses reasonably incurred by Artemis that are attributable to the provision of the Services and Systems.
- 7.8. Artemis reserves the right to invoice the Customer in advance in respect of all fees payable as disbursements to the providers of Vendor Products. In such cases, all monies paid by the Customer shall be held on account by Artemis on behalf of the Customer.
- 7.9. All Charges are exclusive of VAT and all other taxes which shall be payable by the Customer. If the Customer is required by applicable law to deduct or withhold any amount from the payment of the charges, the charges that the Customer shall pay to the Artemis shall be increased by the amount necessary to ensure Artemis receives an amount equal to the fees which would have been payable had no deduction or withholding tax been required.
- 7.10. If payment of the Charges is not received on the applicable due date, Artemis shall be entitled to, without prejudice to any other remedies:
- 7.10.1. suspend the provision of all or any of the Services and/or Systems until payment has been received in full;
- 7.10.2. charge a late payment fee of £25 and to charge interest on any unpaid amount at a daily rate which shall (before and after any unsatisfied judgment in respect thereof) be four per cent (4%) per annum above the Sterling base rate of HSBC Bank plc. Artemis shall be entitled to recover its expenses in connection with such default in payment including legal expenses and costs of collection; and
- 7.10.3. recover its reasonable expenses in connection with such default in payment, including legal expenses and costs of collection.
- 7.11. The acceptance of any monies by Artemis shall not be construed as an acceptance of such monies as the correct and full amount due and owing to Artemis or as a waiver by Artemis of any claims it may have against the Customer.
- 7.12. In the event of a bona fide dispute regarding any invoice or other request for payment, the Customer shall immediately notify Artemis in writing and the parties shall attempt promptly and in good faith to resolve any dispute regarding amounts owed. The Customer shall pay all undisputed amounts on the due date. Artemis reserves the right to suspend performance of the Services and provision of the Systems until the dispute has been resolved.
- 8. Warranties and liabilities**
- 8.1. All warranties, representations, guarantees, conditions and terms, other than those expressly set out in this Agreement whether express or implied by statute, common law, trade usage or otherwise and whether written or oral are hereby expressly excluded to the fullest extent permissible by law.
- 8.2. Subject to sections 8.3, 8.4 and 8.5 and any contrary provisions set out in any Order, the maximum aggregate liability of Artemis (including its respective agents and sub-contractors) arising from or in connection with this Agreement, whether arising in contract, tort (including negligence) or otherwise, shall not exceed the total Charges paid by the Customer under the relevant Order (or where there is no relevant Order the total Charges paid by the Customer under this Agreement) in the 12 months prior to the date on which the liability first arose.
- 8.3. In no event shall Artemis (including its respective agents and sub-contractors) be liable for:
- 8.3.1. any loss of profits, anticipated savings, loss of data or costs of procurement of substitute goods, business interruption, loss of use, loss of contracts, loss of management time, loss of goodwill and reputation (whether direct or indirect);
- 8.3.2. any special, indirect, incidental, punitive, exemplary, or consequential damages arising out of or in connection with this Agreement, even if Artemis has been advised of the possibility of such damages,
- whether or not caused by or resulting from its negligence or a breach of its statutory duties or a breach of its obligations howsoever caused even if it is advised of the possibility of such loss.
- 8.4. In no event shall Artemis (including its respective agents and sub-contractors) be liable for:
- 8.4.1. any defect or default arising from or caused by any unapproved changes made to the Services and/or Systems, or resulting from abnormal usage;
- 8.4.2. any unauthorised access to the Services and/or Systems, unless the parties have agreed in writing that Artemis is responsible for the security of the same;
- 8.4.3. any failure of the Services and/or Systems which results from interference (including inappropriate use, maintenance, development, modification, repairs or adaptation) by the Customer, or any third party not authorised by Artemis which is not in accordance with standard use of the Services and/or Systems or Artemis's specific instructions; or
- 8.4.4. any failure of the Services and/or Systems that is due to any integration or interoperability issues arising with any third party (including but not limited to pursuant to the Vendor Product Terms) or Customer systems or legacy systems.
- 8.5. Nothing in this Agreement shall limit or exclude Artemis's liability for:
- 8.5.1. death or personal injury caused by the negligence of its employees in the performance of this Agreement;
- 8.5.2. fraud or fraudulent misrepresentation;
- 8.5.3. breach of the terms implied by section 2 of the Supply of Goods and Services Act 1982;
- 8.5.4. breach of the terms implied by section 12 of the Sale of Goods Act 1979 (title and quiet possession); or
- 8.5.5. any matter for which it would be unlawful to exclude or restrict liability.
- 8.6. In the event that Artemis fails to comply with its obligations under this Agreement then it shall be entitled to be given a reasonable opportunity to correct any errors and re-perform its obligations and provide the Services and Systems hereunder.
- 8.7. Both parties accept that the limitations and exclusions set out in this Agreement are reasonable having regard to all the circumstances.
- 9. Intellectual property rights**
- 9.1. Save as otherwise set out in any Order, as between Artemis and the Customer, Artemis (or where applicable its supplier) retains all Intellectual Property Rights and other proprietary rights in the Services and Systems and Documentation, and in all copies, improvements, enhancements, modifications and derivative works thereof, including without limitation all patent, copyright, trade secret and trademark rights (Intellectual Property Rights). All rights not expressly granted to the Customer are retained by Artemis (or where applicable its supplier).
- 9.2. The Customer's rights to use the Services, Systems and Documentation shall be limited to those expressly granted in this Agreement and the applicable Order.
- 9.3. The Customer shall use any Intellectual Property Rights to which it receives a licence only in accordance with the applicable licence.
- 10. Term and termination**
- 10.1. This Agreement shall come into force on the Effective Date and shall

remain in force for twelve months unless otherwise set out in the Order (**Minimum Period**) and shall automatically continue thereafter on an annual basis (each twelve month period being a **Renewal Term**) unless and until terminated by either party on the provision of not less than ninety (90) days' notice in writing, such notice to expire on the expiry of the Minimum Period or a Renewal Term, as applicable (save that no termination may take effect until all Services and Systems to be provided pursuant to all Orders have been provided and all payments received by Artemis), unless terminated earlier in accordance with section 10.4.

- 10.2. The provision of the Services and/or Systems shall also automatically continue on an annual basis (commencing on the effective date of the relevant Order) and may be terminated only in accordance with the terms of the relevant Order or, where no terms are set out in the relevant Order, on the provision of ninety (90) days' written notice to the other party, such notice to expire on an anniversary of the effective date of such Order.
- 10.3. If the Customer is dissatisfied with any changes to the Services or Systems as described in section 3.3 or any changes to the Agreement as described in section 18.4, the Customer may terminate the Agreement insofar as it relates to the affected Services or Systems. Provided that the Customer's termination takes effect before the date on which any new terms take effect the new terms will not apply to the Customer and any post-termination rights or obligations shall be governed by the terms that were in effect on the date the Customer's termination took place.
- 10.4. In any event the Agreement may be terminated immediately on written notice:
  - 10.4.1. by either party if the other party is in material breach of its contractual obligations and has not remedied such breach within thirty (30) days after receipt of a written notice of default from the other party;
  - 10.4.2. by either party if the other party is declared bankrupt, is granted a suspension of payments or begins negotiations for a composition with its creditors or is otherwise insolvent; or
  - 10.4.3. by Artemis if there is a change of control (as defined in Section 416 of the Income and Corporation Taxes Act 1988) in the Customer or the Customer's parent company.
- 10.5. This Agreement shall automatically and immediately terminate in the event that Artemis' contract with its supplier terminates for any reason, insofar as it relates to Services provided by Artemis as a reseller for such supplier.
- 10.6. Termination of this Agreement shall be without prejudice to any rights of either party arising on or before termination, which includes without limitation, all sums due to Artemis for Services and Systems supplied (including for the avoidance of doubt any Charges incurred in respect of work in progress) prior to the date of termination.
- 10.7. The provisions of sections 7 (to the extent of any unpaid obligations), 8, 9, 10.5, 10.7, 11, 13, 14 and 18 and any sections required for their interpretation shall survive the termination of this Agreement and shall remain in full force and effect.

## **11. Confidentiality**

- 11.1. Neither party will during the Term of this agreement or after it has ended (except as required by law) disclose to any person any confidential information or trade secrets relating to the other's business, affairs, customers, suppliers or methods. Such matters include, without limitation, information or secrets relating to: corporate and marketing strategy, business development and plans, sales reports and research results, business methods and processes, technical information and know-how relating to the other's business, including inventions, designs, programmes, techniques, database systems, formulae and ideas; business contacts, lists of customers and suppliers and details of contracts with them; and any document marked "confidential".
- 11.2. The provisions of this section 11 shall not apply to any confidential

information that the receiving party can demonstrate:

- 11.2.1. is in the public domain in substantially the same combination as that in which it was disclosed to the receiving party other than as a result of a breach of this Agreement or any other obligations of confidentiality;
- 11.2.2. is or was lawfully received from a third party not under an obligation of confidentiality with respect to it;
- 11.2.3. is required to be disclosed under operation of law, by court order or by any regulatory body of competent jurisdiction (but then only to the extent and for the purpose required); or
- 11.2.4. was developed independently of and without reference to confidential information disclosed by the other party, provided always that, except where it is prohibited from doing so by law or court order, a party wishing to rely on an exception contained in this section 11.2 shall provide the other with at least ten (10) days' written notice of its intention to do so, such notice specifying details of the exception to be relied upon and the information concerned.
- 11.3. The parties shall each be entitled to divulge the other's confidential information to their respective employees, agents, directors, officers, authorised sub-contractors, auditors, professional advisors and consultants who have a need to know the same in connection with the Agreement, provided that the receiving party shall ensure that such persons are aware of, and shall procure that such persons comply with, these obligations as to confidentiality.

## **12. Audit**

- 12.1. During the Term of this Agreement and for two (2) years thereafter, the Customer shall keep complete and accurate records relating to the Services and the Systems and the Customer's compliance with the provisions of this Agreement.
- 12.2. Upon at least thirty (30) days prior notice, the Customer shall permit Artemis or Artemis's representatives, at Artemis's expense (except as provided herein), to examine and copy its physical and electronic records during Customer's regular business hours, and the Customer shall reasonably cooperate with Artemis in examining such records (e.g., by providing configuration log files upon request), for the sole purpose of and only to the extent reasonably necessary to verify the Customer's compliance with the provisions of this Agreement.
- 12.3. If any examination conducted by Artemis or its representatives under section 12.2 above determines any material non-compliance with the provisions of this Agreement (including without limitation, shortfall in fees to Artemis), then, in addition to any legal remedies or equitable relief that may be available to Artemis, the Customer shall be responsible for any expenses incurred by Artemis for any such examination. Without prejudice to the foregoing, if shortfall in payment to Artemis is so disclosed, the Customer shall pay Artemis all amounts due within thirty (30) days of Artemis notification to the Customer of such shortfall.

## **13. Data protection**

- 13.1. Artemis may process a wide variety of types of Personal Data relating to the Customer and its employees, contacts and other data subjects on the Customer's behalf to enable Artemis to provide the Services to the Customer during the term of each Service. The parties agree that, for the Protected Data, the Customer shall be the Data Controller and Artemis shall be the Data Processor.
- 13.2. Artemis shall process Protected Data in compliance with:
  - 13.2.1. the obligations of Data Processors under Data Protection Laws in respect of the performance of its obligations under this Agreement; and
  - 13.2.2. the terms of this section 13.
- 13.3. The Customer shall comply with:
  - 13.3.1. all Data Protection Laws in connection with the processing of Protected Data, the Services and the exercise and performance of its respective rights and obligations under this Agreement, including

- maintaining all relevant regulatory registrations and notifications as required under Data Protection Laws; and
- 13.3.2. the terms of this section 13.
- 13.4. The Customer warrants, represents and undertakes, that:
- 13.4.1. all data sourced by the Customer for use in connection with the Services shall comply in all respects, including in terms of its collection, storage and processing (which shall include the Customer providing all of the required fair processing information to, and obtaining all necessary consents from, Data Subjects), with Data Protection Laws; and
- 13.4.2. it is satisfied that:
- 13.4.2.1. Artemis' processing operations are suitable for the purposes for which the Customer proposes to use the Services and engage Artemis to process the Protected Data; and
- 13.4.2.2. Artemis has sufficient expertise, reliability and resources to implement technical and organisational measures that meet the requirements of Data Protection Laws.
- 13.5. The Customer warrants, represents and undertakes that all instructions given by it to Artemis in respect of Personal Data shall at all times be in accordance with Data Protection Laws, will not infringe any third party's rights and will not otherwise cause Artemis to incur a fine, penalty or charge or any liability to any party. The Customer shall indemnify Artemis for all losses, damages, claims, costs and expenses (including legal expenses) that Artemis suffers or incurs or that are awarded against Artemis as a result of any such processing of Personal Data.
- 13.6. Insofar as Artemis processes Protected Data on behalf of the Customer:
- 13.6.1. unless required to do otherwise by Applicable Law, Artemis shall (and shall take steps to ensure each person acting under its authority shall) process the Protected Data only on and in accordance with the Customer's documented instructions as set out in this section 13.6 and Schedule 1 (Data processing details), as updated from time to time (**Processing Instructions**);
- 13.6.2. notwithstanding any other provision of this Agreement, if the law in any EU or EU member state requires Artemis to conduct Processing of the Personal Data other than in accordance with the Customer's Instructions, such Processing shall not constitute a breach of this Agreement;
- 13.6.3. if Applicable Law requires it to process Protected Data other than in accordance with the Processing Instructions, Artemis shall notify the Customer of any such requirement before processing the Protected Data (unless Applicable Law prohibits such information on important grounds of public interest); and
- 13.6.4. shall promptly inform the Customer if Artemis becomes aware of a Processing Instruction that, in Artemis' opinion, infringes Data Protection Laws, provided that:
- 13.6.4.1. this shall be without prejudice to sections 13.3, 13.4 and 13.5; and
- 13.6.4.2. to the maximum extent permitted by mandatory law, Artemis shall have no liability howsoever arising (whether in contract, tort (including negligence) or otherwise) for any losses, costs, expenses or liabilities arising from or in connection with any processing in accordance with the Customer's Processing Instructions following the Customer's receipt of that information.
- 13.7. The processing of Protected Data to be carried out by Artemis under this Agreement shall comprise the processing set out in the applicable Accepted Order, as may be updated from time to time.
- 13.8. Artemis shall implement and maintain appropriate technical and organisational measures in relation to the processing of Protected Data by Artemis.
- 13.9. The Customer acknowledges that Artemis will use the Protected Data to provide the Services and that this may involve passing the Protected Data to its suppliers and/or allowing its employees, agents and sub-contractors to have access to the Protected Data. The Customer hereby gives Artemis a general consent to engage Sub-processors for Processing of Personal Data on behalf of the Customer. Artemis shall inform the Customer before transferring any Personal Data to a new Sub-processor. Following receipt of such information the Customer shall notify Artemis if it objects to the new Sub-processor. If the Customer does not object to the Sub-processor within [seven] days of receiving the information, the Customer shall be deemed to have accepted the Sub-processor.
- 13.10. Artemis shall enter into appropriate written agreements with all of its Sub-processors on terms substantially similar to this section 13, including without limitation the Customer's right to conduct audits at the Sub-processor, or ensure that the Sub-processor will conduct audits using external auditors at least once per year. Artemis shall remain primarily liable to the Customer for the performance or non-performance of the Sub-processor's obligations.
- 13.11. Upon the Customer's request, Artemis is obliged to provide information regarding any Sub-processor, including name, address and the Processing carried out by the Sub-processor.
- 13.12. The Customer agrees that Artemis and its suppliers may use the Protected Data (but are not obliged to do so):
- 13.12.1. to monitor compliance with the terms of this Agreement and to ensure that the Protected Data being stored and processed complies with the law;
- 13.12.2. to provide support, maintain the Services and protect the stability and functionality of the Services;
- 13.12.3. where reasonably considered necessary to protect the security and integrity of the Services; and
- 13.12.4. for the purposes of monitoring use of, and improving and developing, the Services,
- and the Customer confirms and acknowledges that the processing of the Protected Data in the manner described in this section 13.12 is necessary for the purposes of the Customer's, Artemis', and Artemis' suppliers' legitimate interests.
- 13.13. Artemis shall refer all Data Subject Requests it receives to the Customer within three Business Days of receipt of the request, provided that if the number of Data Subject Requests exceeds three per calendar month, the Customer shall pay Artemis' charges calculated at Artemis' then prevailing time and materials rates for professional services or such other charges as may, at the relevant time, be agreed by the parties in writing (**DP Charges**), for recording and referring the Data Subject Requests in accordance with this section 13.13.
- 13.14. Artemis shall provide such reasonable assistance as the Customer reasonably requires (taking into account the nature of processing and the information available to Artemis) to the Customer in ensuring compliance with the Customer's obligations under Data Protection Laws with respect to:
- 13.14.1. security of processing;
- 13.14.2. data protection impact assessments (as such term is defined in Data Protection Laws);
- 13.14.3. prior consultation with a Supervisory Authority regarding high risk processing; and
- 13.14.4. notifications to the Supervisory Authority and/or communications to Data Subjects by the Customer in response to any Personal Data Breach,
- provided the Customer shall pay Artemis' DP Charges for providing the assistance in accordance with this section 13.14.
- 13.15. If the Processing carried out by Artemis includes the transfer of Personal Data to a country outside of the EEA which is not recognised by the European Commission to have an adequate level of protection in accordance with Data Protection Law, the Customer and Artemis shall enter into a supplementary agreement containing the SCC. This will not apply if all such transfers are made to Sub-processors as described in section 13.16 below.
- 13.16. If Processing of Personal Data under this Agreement includes the

transfer of Personal Data to a Sub-processor located in a country outside of the United Kingdom which is not recognised by the United Kingdom to have an adequate level of protection in accordance with Data Protection Law, Artemis shall effect such transfer by such legally enforceable mechanism(s) for transfers of Personal Data as may be permitted under Data Protection Law from time to time.

- 13.17. If and to the extent this Agreement and the SCC are inconsistent, the provisions of the SCC shall prevail.
- 13.18. Artemis shall maintain, in accordance with Data Protection Laws binding on Artemis, written records of all categories of processing activities carried out on behalf of the Customer.
- 13.19. Artemis shall, in accordance with Data Protection Laws, make available to the Customer such information as is reasonably necessary to demonstrate Artemis' compliance with its obligations under Article 28 of the GDPR (and under any Data Protection Laws equivalent to that Article 28), and allow for and contribute to audits, including inspections, by the Customer (or another auditor mandated by the Customer) for this purpose, subject to the Customer:
  - 13.19.1. giving Artemis reasonable prior notice of such information request, audit and/or inspection being required by the Customer;
  - 13.19.2. ensuring that all information obtained or generated by the Customer or its auditor(s) in connection with such information requests, inspections and audits is kept strictly confidential (save for disclosure to the Supervisory Authority or as otherwise required by Applicable Law);
  - 13.19.3. ensuring that such audit or inspection is undertaken during normal business hours, with minimal disruption to Artemis' business, the Sub-Processors' business and the business of other customers of Artemis; and
  - 13.19.4. paying Artemis' reasonable costs for assisting with the provision of information and allowing for and contributing to inspections and audits.
- 13.20. In respect of any Personal Data Breach involving Protected Data, Artemis shall, without undue delay:
  - 13.20.1. notify the Customer of the Personal Data Breach; and
  - 13.20.2. provide the Customer with details of the Personal Data Breach.
- 13.21. Artemis shall, at the Customer's written request, either delete or return all the Protected Data to the Customer in such form as the Customer reasonably requests within a reasonable time after the earlier of:
  - 13.21.1. the end of the provision of the relevant Services related to processing; or
  - 13.21.2. once processing by Artemis of any Protected Data is no longer required for the purpose of Artemis' performance of its relevant obligations under this Agreement, and delete existing copies (unless storage of any data is required by Applicable Law and, if so, Artemis shall inform the Customer of any such requirement).

#### **14. Non-solicitation**

- 14.1. During the period this Agreement is in effect and for a period of twelve (12) months thereafter, the Customer agrees not to solicit or to offer employment to any employees of Artemis or any sub-processors used by Artemis hereunder without the prior written consent of Artemis.
- 14.2. In the event that the Customer breaches section 14.1, it shall be liable to pay, immediately on demand, and without prejudice to any other remedy that Artemis may have, the equivalent of twelve (12) months gross salary of the employee so solicited and/or employed. This provision shall be without prejudice to the right to seek injunctive relief.

#### **15. Force majeure**

- 15.1. If Artemis is prevented or delayed from or in performing any of its

obligations under this Agreement by Force Majeure, then:

- 15.1.1. its obligations under this Agreement (or, where the Force Majeure only affects some of the Services and Systems, such obligations as relate to those Services and Systems) shall be suspended for so long as the Force Majeure continues and to the extent that Artemis is so prevented, hindered or delayed;
- 15.1.2. the parties shall, without prejudice to the other provisions of this section 15.1.2 consult with a view to taking such steps as may be appropriate to mitigate the effects of such Force Majeure; and
- 15.1.3. Artemis shall use reasonable endeavours to mitigate the effects of the Force Majeure upon the performance of its obligations under this Agreement.
- 15.2. If any Force Majeure prevails for a continuous period in excess of ninety (90) days, either party shall be entitled to terminate this Agreement in its entirety (if the provision of all Services and Systems are affected by Force Majeure) or in part (insofar as it relates to the Services and Systems affected by Force Majeure) on written notice to the other party.

#### **16. Use of sub-contractors and agents**

- 16.1. Unless otherwise expressly set out to the contrary in the relevant Order(s), Artemis may engage any person, company or firm as its agent or sub-contractor to perform all or any of its obligations or duties under this Agreement.

#### **17. Relationship between the parties**

- 17.1. Nothing herein contained shall be construed to imply an employment, joint venture, partnership or principal-agent relationship between Artemis and the Customer and neither party shall have the right, power, or authority to obligate or bind the other in any manner whatsoever, except as otherwise agreed to in writing.

#### **18. General**

- 18.1. This Agreement hereto constitutes the entire agreement and understanding of the parties and supersedes all prior agreements, understandings or arrangements (both oral and written) relating to the subject matter of this Agreement.
- 18.2. Each of the parties acknowledges that in entering into this Agreement on the terms set out herein it has not relied on or been induced to enter into this Agreement by any representation, warranty, undertaking, promise or assurance made or given by any other party or any other person, whether or not in writing, at any time prior to the execution of this Agreement other than those expressly set out in this Agreement.
- 18.3. If any part of any provision of this Agreement shall be invalid or unenforceable, then the remainder of such provision and all other provisions of this Agreement shall remain valid and enforceable.
- 18.4. Artemis may from time to time update this Agreement. Where Artemis does so, it will either provide the Customer with notification of the terms that are changing or provide the Customer with an updated copy of the affected parts of the Agreement. Artemis shall also notify you of the date on which the updated terms take effect, which will be at least 30 days from the date on which Artemis notifies you of the change (unless it is required to make the change by law or by a supplier, in which case if Artemis cannot give the Customer 30 days' notice it will give the Customer as much notice as reasonably practicable) and the revised terms shall automatically take effect from the date Artemis specifies.
- 18.5. Artemis may from time to time withdraw a particular Service (or cease to offer that Service to the Customer) on not less than thirty (30) days' notice. This will not affect the Customer's entitlement to receive any other Services under this Agreement.
- 18.6. Save as otherwise set out in any Order, no amendment or variation of the terms of this Agreement shall be effective unless it is made or confirmed in a written document signed by both parties.
- 18.7. No delay in exercising or non-exercise by either party of any of its

rights under or in connection with this Agreement shall operate as a waiver or release of that right. Rather, any such waiver or release must be specifically granted in writing signed by the party granting it.

- 18.8. The parties do not intend any term of this Agreement to be enforceable pursuant to the Contracts (Rights of Third Parties) Act 1999.
- 18.9. The Customer shall pay to Artemis all costs and expenses (so that any legal fees shall be based on an indemnity basis) incurred by Artemis in enforcing any of this Agreement, or exercising any of its other rights and remedies under the Agreement, including (without prejudice to the generality) all costs incurred in tracing the Customer in the event that legal processes cannot be enforced at the address last notified to Artemis.
- 18.10. The Customer may not assign any of its rights under this Agreement without the prior written consent of Artemis and may not permit any third party to use any of the Services and Systems other than with Artemis's written consent.
- 18.11. This Agreement shall be construed in accordance with English law and the parties irrevocably submit to the exclusive jurisdiction of the English courts to settle any disputes, which may arise in connection with this Agreement.
- 18.12. Any notice required or permitted under the terms of this Agreement or required by law must be in writing and must be: delivered in person; sent by registered mail return receipt requested; sent by overnight air courier; transmitted by facsimile; or transmitted by email in each case forwarded to the appropriate address set forth herein. Either Party may change its address for notice by written notice to the other Party. Notices will be considered to have been given at the time of actual delivery in person, or three (3) business days after posting, or one (1) day after (i) delivery to an overnight air courier service or (ii) the moment of transmission by facsimile or email with receipt of such facsimile or email confirmed.

## 19. Definitions and interpretation

19.1. In this Agreement, the following words shall have the following meanings:

**Agreement** has the meaning given in section 1.1.

**Applicable Law** means as applicable and binding on the Customer, Artemis and/or the Services:

(a) any law, statute, regulation, byelaw or subordinate legislation in force from time to time to which a party is subject and/or in any jurisdiction that the Services or Systems are provided to or in respect of;

(b) the common law and laws of equity as applicable to the parties from time to time;

(c) any binding court order, judgment or decree; or

(d) any applicable direction, policy, rule or order that is binding on a party and that is made or given by any regulatory body having jurisdiction over a party or any of that party's assets, resources or business.

**Appropriate Safeguards** means such legally enforceable mechanism(s) for transfers of Personal Data as may be permitted under Data Protection Laws from time to time.

**Charges** means the charges payable by the Customer to Artemis for the provision of the Services and Systems, as set out in the Quote and/or the Order(s).

**Data Controller** has the meaning given to that term (or to the term "controller") in Data Protection Laws.

**Data Processor** has the meaning given to that term (or to the term "processor") in Data Protection Laws.

**Data Protection Laws** means as applicable and binding on the Customer, Artemis and/or the Services:

(a) in the United Kingdom: the Data Protection Act 2018 and the UK GDPR (as defined in the Data Protection Act 2018);

(b) in member states of the European Union: the General Data Protection Regulation (EU) 2016/679 and all relevant member state laws or regulations giving effect to or corresponding with any of them; and

(c) any Applicable Laws replacing, amending, extending, re-enacting or consolidating any of the above Data Protection Laws from time to time.

**Data Subject** means a natural person who can be identified, directly or indirectly, by the Protected Data.

**Data Subject Request** means a request made by a Data Subject to exercise any rights of Data Subjects in respect of the Protected Data under Data Protection Laws.

**Documentation** means all operating manuals, user manuals and user documentation and any other documentation provided to the Customer by Artemis or its suppliers which is associated with the use or provision of the Services and Systems.

**Force Majeure** means acts of God, war, hostilities, riot, fire, explosion, acts of terrorism, accident, storm (including lightning strike), flood, hurricane or other adverse weather conditions, sabotage or malicious damage, malicious activity against Artemis' computer systems or those of its suppliers (such as unauthorised access, computer virus or denial of service attack), other illegal or unlawful actions of third parties, lack of adequate power, impossibility of the use of public or private telecommunications networks or interruption or failure of utility service, lack of raw materials or labour, failure of a supplier, strike, lock-out or injunction, or other industrial action, shortage of available staff including due to sickness or indisposition of key Artemis employees, non-performance by suppliers, sub-contractors or agents, the acts, decrees, legislation, regulations, policy or restrictions of any government or public authority, or any other cause whether or not of the class or kind enumerated arising from or attributable to acts, events, omissions or accidents beyond Artemis' reasonable control, which would make it impossible, impractical or materially more onerous for Artemis to perform the affected obligation(s) under this Agreement.

**Infrastructure** means the software and hardware infrastructure, as set out in the Order(s).

**Intellectual Property Rights** means any and all of the following as may be recognized by law in any jurisdiction throughout the world: (a) rights under any United States and foreign patents, patent applications, and certificates of invention, and all continuations, continuations in part, extensions, renewals, divisions, re-issues and re-examinations relating to the same; (b) moral rights and copyrights in any work of authorship recognized by statute or at common law or otherwise, including all copyright registrations issued by the United States Register of Copyrights and copyright applications, together with any renewal or extension, and all rights deriving from such registration or application; (c) rights to any trademarks, service marks, domain names, trade names or trade dress, and all related goodwill; (d) rights to any trade secrets, know-how, and confidential information; and (e) other intellectual property or proprietary rights recognized under any laws or international conventions and in each case including the right to apply for registrations, certificates, or renewals with respect to those intellectual property or proprietary rights and the right to prosecute, enforce, obtain damages relating to, settle or release any past, present, or future infringement or misappropriation of those intellectual property or proprietary rights; in all cases whether or not the foregoing are registered or registrable and including registrations and applications for registration of any of these and rights to apply for the same, and all rights and forms of protection of a similar nature or having equivalent or similar effect to any of these anywhere in the world;

**Order** means a document setting out details of Services and/or Systems to be provided by Artemis to the Customer.

**Personal Data** has the meaning given to that term in Data Protection Laws.

**Personal Data Breach** means any breach of security leaving to an accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to, any Protected Data.

**Processing** has the meaning given to that term in Data Protection Laws.

**Processing Instructions** has the meaning given to that term in section 13.6.1.

**Protected Data** means Personal Data received from or on behalf of the Customer in connection with the performance of Artemis' obligations under this Agreement.

**Quote** means a quote in respect of Services and/or Systems submitted by Artemis to the Customer.

**SCC** means the standard contractual clauses for international transfers of Personal Data as approved by the United Kingdom or the European Commission as applicable to the transfer.

**Services** means the professional services, managed services, Support and any other services to be provided by Artemis, as set out in all relevant Order(s).

**Service Specific Terms** means service specific terms provided to the Customer in relation to an Order.

**Sub-processor** means another Data Processor engaged by Artemis for carrying out processing activities in respect of the Protected Data on behalf of the Customer.

**Supervisory Authority** means any local, national or multinational agency, department, official, parliament, public or statutory person or any government or professional body, regulatory or supervisory authority, board or other body responsible for administering Data Protection Laws.

**Support** means the support and maintenance services provided by or on behalf of Artemis pursuant to Service Specific Terms – Support, and/or pursuant to Vendor Product Terms referred to in the applicable Order(s) or Service Specific Terms.

**Systems** means the technology solutions, licences and/or subscriptions procured by Artemis hereunder which will comprise some or all of the following (as more particularly set out in the Order): Infrastructure and Vendor Products.

**Term** means the Minimum Period and (if applicable) the Renewal Term(s) (as each term is defined in section 10), together.

**Vendor** has the meaning given in section 2.4.

**Vendor Products** has the meaning given in section 2.4.

**Vendor Product Terms** has the meaning given in section 2.4.

- 19.2. The headings are included for convenience only and shall not affect the interpretation or construction of this Agreement.
- 19.3. Any undertaking by the Customer not to do any act or thing shall be deemed to include an undertaking that the Customer shall not permit or suffer the doing of that act or thing,
- 19.4. The expressions Customer and Artemis shall be deemed to include their respective successors and permitted assignees and their respective employees and agents.



## Schedule 1 – Data Processing Details

### 1. Scope of processing

Artemis shall process Personal Data under this Agreement exclusively within the scope of the provision of the Services and any Systems provided under this Agreement.

### 2. Purpose of Processing.

Artemis shall process Personal Data only for the purpose of providing the Customer with the Services and any Systems provided under this Agreement.

### 3. Categories of Data Subjects

Employees, customers, suppliers, service providers, enquirers, complainants, and any other data subjects whose data may be accessed on the Customer's systems by Artemis in the process of providing the Services and Systems.

### 4. Types of Personal Data

Name, email address, telephone number(s), job title, and any other Personal Data on the Customer's systems which may be accessed in the process of providing the Support and any other Services and Systems provided by Artemis.

### 5. Special categories of Personal Data

Artemis may process special categories of Personal Data where and to the extent that such Personal Data is on the Customer's systems which may be accessed in the process of providing the Support and any other Services and Systems provided by Artemis.

### 6. Processing activities

Collection, registration, storage, accessing, reading or consultation, erasure or destruction. Personal Data on the Customer's systems which may be accessed in the process of providing the Support shall not be intentionally collected or stored by Artemis.

### 7. Duration of Processing

Unless otherwise agreed between the parties, Artemis shall process Personal Data from commencement until termination of the Agreement (or the relevant Order).

### 8. Sub-processor

The Supplier has engaged sub-processor(s) for carrying out specific Processing activities on behalf of the Customer, namely:

Name of Sub-processor	Address of Sub-processor
Giacom	Hampshire House, Hampshire Corporate Park, Templars Way, Chandler's Ford, Eastleigh SO53 3RY

### 9. Processing Location

Processing takes place in the following country/countries: United Kingdom, and any other countries notified to you in relation to Vendor Products.