

**TERMS AND CONDITIONS FOR USE OF SANDBOX SERVICE**

**1 Definitions and interpretation**

1.1 In these Conditions:

<b>Affiliate</b>	means, in relation to any Party, any person that it Controls, is Controlled by or under the Control of that Party, or with whom that Party is under common Control;
<b>API</b>	means the application programmers interface that enables the Customer to directly access the Platform via the Sandbox, as more particularly set out in the Platform User and Developers Guide;
<b>Applicable Law</b>	means applicable legislation, rules or regulations, any form of secondary legislation and applicable case law from time to time and includes, without limitation, industry standards, licences and codes, health, safety and environmental directives, legislation and codes of practice, anti-money laundering requirements and Data Protection Laws, as applicable to the Parties;
<b>Appropriate Safeguards</b>	means such legally enforceable mechanism(s) for transfers of Data as may be permitted under Data Protection Laws from time to time;
<b>Bribery Laws</b>	means the Bribery Act 2010 and all other applicable UK legislation, statutory instruments and regulations in relation to bribery or corruption;
<b>Business Day</b>	means a day other than a Saturday, Sunday or bank or public holiday in England;
<b>Business Hours</b>	means the hours of 09:00 to 17:30 on a Business Day;
<b>Customer</b>	means the person or organisation who has registered for access to and use of the Sandbox;
<b>Commencement Date</b>	means the date on which the Customer registers to use the Sandbox, in accordance with these terms and conditions;
<b>Conditions</b>	means these terms and conditions;
<b>Confidential Information</b>	has the meaning given in clause 11;
<b>Consumer</b>	means customer (whether one or more individuals, a business or otherwise) of the Customer for the purposes of electricity supply (as applicable) at whose premises (whether they are owner or occupier of that premises) a smart meter has been installed to measure the supply of electricity by the Customer;
<b>Consumer Data</b>	means the data, analytics and usage patterns of Consumers which the Customer may access via the Platform, subject to the Customer having obtained consent from those Consumers;
<b>Control</b>	means the beneficial ownership of more than 50% of the issued share capital of a company or the legal power to direct or cause the direction of the management of the company and Controls and Controlled shall be interpreted accordingly OR has the meaning given in the Corporation Tax Act 2010, s 1124 and Controls and Controlled shall be interpreted accordingly;
<b>Data Controller</b>	has the meaning ascribed to it in the Data Protection Laws;
<b>Data Processor</b>	has the meaning ascribed to it in the Data Protection Laws;
<b>Data Protection Laws</b>	means all applicable data protection and privacy legislation in force from time to time in the UK

including the General Data Protection Regulation ((EU) 2016/679); the Data Protection Act 2018; the Privacy and Electronic Communications Directive 2002/58/EC (as updated by Directive 2009/136/EC) and the Privacy and Electronic Communications Regulations 2003 (SI 2003/2426) as amended, the GDPR as implemented into UK law via domestic legislation including the European Union Withdrawal Act 2018, and as amended, varied and supplemented including by the Data Protection, Privacy and Electronic Communications (Amendments etc) (EU Exit) Regulations 2019, as amended and the DPA (the **UK GDPR**) and any other UK or European Union legislation applicable in the UK relating to personal data and all other legislation and regulatory requirements in force from time to time which apply to a Party relating to the use of Personal Data (including, without limitation, the privacy of electronic communications); and the guidance and codes of practice issued by the relevant data protection or supervisory authority and applicable to a Party;

**DCC** means the licensee from time to time appointed by the Secretary of State pursuant to section 7 AB(2) of the Gas Act 1986 and section 6 (IA) of the Electricity Act 1989, the current licensee being Smart DCC Ltd, as identified in condition 5 of the Smart Meter Communications Licence granted pursuant to the Electricity Act 1989 and the Gas Act 1986;

**Force Majeure** means any of the following events: war, the threat of war, revolution, terrorism, riot or civil commotion, or precautions against any such; strikes, lock outs or other industrial action, whether of the affected Party's own employees or others; blockage or embargo; acts of or restrictions imposed by government or public authority; failures of supply of water, power, fuels, transport, equipment or other deliverables or services; explosion, fire, corrosion, ionising radiation, radioactive contamination; flood, natural disaster, or adverse weather conditions; malicious or negligent act or accident, and breakdown or failure of equipment, whether of the affected Party or others, but does not include, without limitation, inability to pay, mechanical or technical difficulties, shortage or increase of price of raw materials, over-commitment or market or other circumstances which may prevent a party from performing its obligations under this Agreement;

**Good Industry Practice** means the use of standards, practices, methods and procedures conforming to the Applicable Law and the exercise of that degree of skill, care, diligence and foresight which would reasonably and ordinarily be expected in the same type of undertaking under the same or similar circumstances and conditions in relation to that Party in connection with the Services;

**Intellectual Property Rights** means copyright, patents, rights in inventions, rights in confidential information, Know-how, trade secrets, trademarks, service marks, trade names, design rights, rights in get-up, database rights, rights in data, semi-conductor chip topography rights, mask works, utility models, domain names, rights in computer software and all similar rights of whatever nature and, in each case: (i) whether registered or not, (ii) including any applications to protect or register such rights, (iii) including all renewals and extensions of such rights or applications, (iv) whether vested, contingent or future and (v) wherever existing;

<b>Know-how</b>	means inventions, discoveries, improvements, processes, formulae, techniques, specifications, technical information, methods, tests, reports, component lists, manuals, instructions, drawings and information relating to customers and suppliers (whether written or in any other form and whether confidential or not);		of any programme or data, including the reliability of any programme or data (whether by re-arranging, altering or erasing the programme or data in whole or part or otherwise); or adversely affect the user experience, including worms, trojan horses, viruses and other similar things or devices.
<b>Party</b>	means both the Customer and the Supplier, or as the context requires, either one of them;	1.2	In these Conditions:
<b>Platform</b>	the software applications and web-based platforms which the Supplier makes available to the Customer for the provision of smart meter data via the DCC;	1.2.1	a reference to these Conditions includes its schedules, appendices and annexes (if any);
<b>Platform User and Developers Guide</b>	means the guide available within the Platform via the API, setting out the processes in respect of the uploading of Consumer Data via the Platform (including but not limited to, adding Properties, removing Properties, consent confirmation and withdrawal, amendments to collection periods in respect of the Consumer Data, checking the status of smart meters), as amended by the Supplier from time to time.	1.2.2	a reference to a ' <b>Party</b> ' includes that Party's personal representatives, successors and permitted assigns;
<b>Property</b>	means the premises of a Consumer at which smart meter(s) are installed and in respect of which the Services will be provided and "Properties" shall be construed accordingly;	1.2.3	a reference to a ' <b>person</b> ' includes a natural person, corporate or unincorporated body (in each case whether or not having separate legal personality) and that person's personal representatives, successors and permitted assigns;
<b>Sandbox</b>	means access to the test environment of the Platform, including the Platform User and Developer Guide, made available to the Customer by the Supplier on a strictly test basis;	1.2.4	a reference to a gender includes each other gender;
<b>Sandbox System User Identity</b>	means the secure method of integration of the Customer's systems to the Sandbox via the API;	1.2.5	words in the singular include the plural and vice versa;
<b>Representatives</b>	has the meaning given in clause 11.2.1;	1.2.6	any words that follow ' <b>include</b> ', ' <b>includes</b> ', ' <b>including</b> ', ' <b>in particular</b> ' or any similar words and expressions shall be construed as illustrative only and shall not limit the sense of any word, phrase, term, definition or description preceding those words;
<b>SEC</b>	means the Smart Energy Code pursuant to the DCC as published at <a href="https://smartenergycodecompany.co.uk">https://smartenergycodecompany.co.uk</a> as amended from time to time;	1.2.7	the table of contents, background section and any clause, schedule or other headings in these Conditions are included for convenience only and shall have no effect on the interpretation of these Conditions; and
<b>SEC Authorisation</b>	means the authorisation, credentials and identification used by the Supplier to access the SEC and provide the Services via the SEC (such as the DCC) in respect of which the Supplier is currently authorised to use the credentials of N3rgy Limited (company number 11203504);	1.2.8	a reference to legislation is a reference to that legislation as in force as at the date if these Conditions OR amended, extended, re-enacted or consolidated from time to time.
<b>Software</b>	the online software applications provided by the Supplier as part of the Services;	<b>2</b>	<b>General</b>
<b>Supplier</b>	means N3rgy Data Limited, company number 11712674 whose registered office is at Prennau House, Cardiff Gate Business Park, Pontprennau, Cardiff, Wales, CF23 8XH or any Affiliate providing the Services;	2.1	The Supplier has developed certain software applications and web-based platforms which it makes available to its customers for the provision of smart meter data pursuant to the Smart Energy Code which is contained within the Portal.
<b>Term</b>	has the meaning set out in clause 2.1;	2.2	The Supplier has developed the Sandbox to allow any prospective Customer to test the APIs, access API documentation and sample code, implement and test API integration in relation to the Portal in a test environment.
<b>Trusted Consent</b>	means the process used by the Customer to obtain consent from Consumers to use the Consumer Data in connection with the Services, which shall be validated by the Customer and provided to the Supplier via the API to allow the Supplier to continue to provide the Services;	2.3	The Supplier has agreed to allow the Customer to use the Sandbox, subject to these Conditions.
<b>Virus</b>	any thing or device (including any software, code, file or programme) which may: prevent, impair or otherwise adversely affect the operation of any computer software, hardware or network, any telecommunications service, equipment or network or any other service or device; prevent, impair or otherwise adversely affect access to or the operation	2.4	In registering for access to the Sandbox, you as the Customer, have agreed to accept these Conditions and to be bound by them at all times in respect of use of the Sandbox.
		<b>3</b>	<b>Commencement and duration</b>
		3.1	The Customer's access to the Sandbox will commence on the Commencement Date and shall continue until terminated in accordance with clause 10 ( <i>Termination</i> ) (the <b>Term</b> ).
		<b>4</b>	<b>Use of the Sandbox</b>
		4.1	In connection with the provision of the Services, Supplier hereby grants to the Customer a non-exclusive, non-transferable right, to use the Sandbox during the Term in connection with these Conditions.
		4.2	The Sandbox allows the Customer to test the Platform in a non-live environment.
		4.3	The Customer is responsible for ensuring that it is:
		4.3.1	entitled to use the Sandbox;

- 4.3.2 that all login details used to access the Sandbox are protected, remain confidential at all times and are used only by the Customer in accordance with these Conditions;
- 4.4 The Customer warrants and undertakes that it shall not, at any time, use the Sandbox for any purpose other than as set out in these Conditions, for the purpose of testing the Platform in a trial environment.
- 4.5 The Customer shall not be permitted at any time to assert any proprietary right over, copy, modify, distribute or publish content or any other Intellectual Property relating to the Sandbox and/or the Platform.
- 4.6 In connection with the provision of the Services by the Supplier, the Customer shall:
- 4.6.1 provide all necessary access to such information as may be required by the Supplier to:
- (a) allow the Supplier to provide the Services, including but not limited to Consumer Data, security access information and configuration services as may be required to permit the Customer with access the Sandbox and the Sandbox System User Identity;
  - (b) not to directly or indirectly cause the Supplier to breach the SEC;
  - (c) not directly or indirectly cause the Supplier (or any other third party) to lose its SEC Authorisation;
  - (d) carry out all other Customer responsibilities set out in these Conditions in a timely and efficient manner. In the event of any delays in the Customer's provision of such assistance as agreed by the Parties, the Supplier may adjust any agreed timetable or delivery schedule as reasonably necessary;
- 4.7 The Customer warrants and undertakes that it shall not in its use of the Sandbox, access shall not access, store, distribute or transmit any Viruses, or any material during the course of its use of the Services that:
- 4.7.1 is unlawful, harmful, threatening, defamatory, obscene, infringing, harassing or racially or ethnically offensive;
  - 4.7.2 facilitates illegal activity;
  - 4.7.3 depicts sexually explicit images;
  - 4.7.4 promotes unlawful violence;
  - 4.7.5 is discriminatory based on race, gender, colour, religious belief, sexual orientation, disability; or
  - 4.7.6 is otherwise illegal or causes damage or injury to any person or property,
- and the Supplier reserves the right, without liability or prejudice to its other rights to the Customer, to disable the Customer's access to the Services or any material that breaches the provisions of this clause 4.
- 4.8 The Customer further warrants and undertakes that it shall not:
- 4.8.1 attempt to copy, modify, duplicate, create derivative works from, frame, mirror, republish, download, display, transmit, or distribute all or any portion of the Software (as applicable) in any form or media or by any means; or
  - 4.8.2 attempt to de-compile, reverse compile, disassemble, reverse engineer or otherwise reduce to human-perceivable form all or any part of the Software; or
  - 4.8.3 access all or any part of the Services in order to build a product or service which competes with the Services; or
  - 4.8.4 license, sell, rent, lease, transfer, assign, distribute, display, disclose, or otherwise commercially exploit, or otherwise make the Services available to any third party, or
  - 4.8.5 attempt to obtain, or assist third parties in obtaining, access to the Services.
- 4.9 The Customer shall use all reasonable endeavours to prevent any unauthorised access to, or use of, the Sandbox, the Software and the Services and, in the event of any such unauthorised access or use, notify the Supplier immediately and shall use all reasonable endeavours to restrict any unauthorised access as soon as is discovered.
- 4.10 The Customer shall not do anything which results, or is likely to result in the Supplier losing any licence, authorisation, permit or consent (including any authorisation via the SEC) and the Customer undertakes to indemnify the Supplier for any loss, costs and expenses (including legal fees) arising as a result of the Customer's breach of its obligations under this clause 4.10.
- 4.11 The rights provided under this clause 4 granted to the Customer only and shall not be considered granted to any Affiliate of the Customer.
- 5 Supplier Obligations**
- 5.1 The Supplier shall, during the Term, provide the Services to the Customer in accordance with these Conditions.
- 5.2 The Supplier shall use commercial reasonable efforts to make the Sandbox available in accordance with these Conditions and take reasonable steps to resolve any material operational issues which are notified by the Customer to the Supplier via email to [support@data.n3rgy.com](mailto:support@data.n3rgy.com) in connection with the Customer's use of the Sandbox.
- 6 Warranties and Undertakings**
- 6.1 Each Party warrants and undertakes that it complies with all Applicable Law, including all necessary licences and consents relating to its business activities.
- 6.2 Each Party shall promptly notify the other party, where it is aware of any actual or potential breach of any warranty or undertaking given under this clause 6.
- 6.3 Notwithstanding the foregoing, the Supplier:
- 6.3.1 does not warrant that the Customer's use of the Services will be uninterrupted or error-free; or that the Services and/or the information obtained by the Customer through the Services will meet the Customer's requirements;
  - 6.3.2 is not responsible for any delays, delivery failures, or any other loss or damage resulting from the transfer of data over communications networks and facilities, including the internet, and the Customer acknowledges that the Services may be subject to

limitations, delays and other problems inherent in the use of such communications facilities;

6.3.3 is not responsible for any errors contained within the Consumer Data (howsoever arising); and

6.3.4 is not responsible for any use of the Services by the Customer in any manner, other than as set out in these Conditions.

## 7 Intellectual Property Rights

7.1 All Intellectual Property Rights introduced by Party or created pursuant to this Agreement shall remain the property of the Party introducing or creating the same or their licensors for the duration of the Term and after its termination.

7.2 Each Party agrees to provide the other a limited, revocable, non-transferrable, royalty free licence to allow the other Party to use its Intellectual Property Rights to the extent strictly necessary to perform its obligations under these Conditions and such licence will terminate immediately on termination of these Conditions.

7.3 Each Party (the “**Indemnifying Party**”) shall indemnify, keep indemnified and hold harmless the other Party and its approved sub-contractors (each an “**Indemnified Party**”) against all claims, demands, actions or awards, compensation, costs and expenses (including legal fees and disbursements) losses, fines or liabilities of any nature suffered or incurred, awarded against or agreed to be paid by an Indemnified Party arising out of or in connection with any claim made against an Indemnified Party for actual or alleged infringement of a third party’s Intellectual Property Rights arising out of or in connection with an Indemnified Party’s use of the New Supplier’s Materials or any Deliverables (save to the extent the New Supplier’s Materials or the Deliverables have been developed or modified by an Indemnified Party).

7.4 The Indemnified Party shall promptly notify the Indemnifying Party if any claim or demand is made or action brought against an Indemnified Party for infringement or alleged infringement of any third party Intellectual Property Rights through its use of the New Supplier’s Materials or the Deliverables (save to the extent the New Supplier’s Materials or the Deliverables have been developed or modified by an Indemnified Party) under this Agreement.

7.5 If any third party makes a claim, or notifies an intention to make a claim, against an Indemnified Party which gives rise to liability under Clause 7.2 as applicable the Indemnified Party shall cooperate with the Indemnifying Party and provide, if requested by the other Party and at the other Party’s expense, reasonable assistance in the defence or settlement of such a claim or action.

## 8 Third Party Providers

The Customer acknowledges that the Services may enable or assist it to access the website content of, correspond with, and purchase products and services from, third parties via third-party websites and that it does so solely at its own risk. The Supplier makes no representation, warranty or commitment and shall have no liability or obligation whatsoever in relation to the content or use of, or correspondence with, any such third-party website, or any transactions completed, and any contract entered into by the Customer, with any such third party. The Supplier does not endorse or approve any third-party website nor the content of any of the third-party website made available via the Services.

## 9 Limitation of liability

9.1 The Supplier has the right, at any time, to suspend or withdraw the Customer’s use of the Sandbox where the Supplier considers that the Customer has breached, or is likely to breach, the terms of these Conditions or where the Supplier considers that the Customer’s use of the Sandbox is likely to cause damage to the Supplier or any third party, and the Supplier shall have no liability whatsoever to the Customer in respect of any such withdrawal or suspension.

9.2 The Supplier aims to ensure that the Sandbox will function correctly in accordance with these Conditions however does not make any guarantee in respect of the availability of the Sandbox or the reliability or accuracy of the information presented in the Sandbox

9.3 The Supplier shall therefore have no liability whatsoever to the Customer for:

9.3.1 any financial or other decisions, loss or damage made or incurred by the Customer in connection with its use of the Sandbox; and

9.3.2 any other liability under or in relation to the Sandbox or these Terms and Conditions, whether in contract, tort (including negligence), or otherwise,

save to the extent that such liability cannot be excluded under Applicable Law.

## 10 Termination

10.1 The Supplier may terminate these Conditions, and the Customer’s use of the Sandbox at any time on written notice to the Customer, which shall be effective immediately.

10.2 These Conditions will automatically terminate where the Customer has not accessed the Sandbox for a continuous period of 24 months or more.

10.3 The Customer may terminate its use of the Sandbox at any time on providing written notice to the Supplier, following which these Conditions shall automatically terminate.

## 11 Confidential information

11.1 Each Party undertakes that it shall keep any information that is confidential in nature concerning the other Party and its Affiliates including, without limitation, any details of its business, affairs, customers, clients, suppliers, plans or strategy (**Confidential Information**) confidential and that it shall not use or disclose the other Party’s Confidential Information to any person, except as permitted by clause 11.2.

11.2 A Party may:

11.2.1 disclose any Confidential Information to any of its employees, officers, representatives or advisers (**Representatives**) who need to know the relevant Confidential Information for the purposes of the performance of any obligations under these Conditions, provided that such Party must ensure that each of its Representative to whom Confidential Information is disclosed is aware of its confidential nature and agrees to comply with this clause 11 as if it were a Party;

11.2.2 disclose any Confidential Information as may be required by law, any court, any governmental, regulatory or supervisory authority (including, without limitation, any securities exchange) or any other authority of competent jurisdiction to be disclosed; and

11.2.3 use Confidential Information only to perform any obligations under these Conditions.

11.3 Each Party recognises that any breach or threatened breach of this clause 14 may cause irreparable harm for which damages may not be an adequate remedy. Accordingly, in addition to any other remedies and damages, the Parties agree that the non-defaulting Party may be entitled to the remedies of specific performance, injunction and other equitable relief without proof of special damages.

11.4 This clause 14 shall bind the Parties for a period of 3 years following termination of these Conditions.

## 12 Data Protection

12.1 Both Parties warrant that, in connection with the provision of and receipt of the Services, pursuant to these Conditions, they will comply with Data Protection Laws and such requirements, regulations, codes of practice or other rules pursuant to the SEC in connection with the Services.

12.2 The Parties agree that for the purposes of Data Protection Laws, the Customer is the Data Controller and the Supplier is the Data Processor.

12.3 The Customer agrees that the Supplier can process any Personal Data for the purposes and in the manner set out in Annex 1 to these Conditions in connection with these Conditions.

12.4 Each Party shall, having regard to the state of technological development and the cost of implementing any measures, take appropriate technical and organisational measures against the unauthorised or unlawful processing of Personal Data and against the accidental loss or destruction of, or damage to, Personal Data to ensure a level of security appropriate to:

12.4.1 the harm that might result from such unauthorised or unlawful processing or accidental loss, destruction or damage; and

12.4.2 the nature of the Personal Data to be protected.

12.5 The Supplier shall not transfer Personal Data to a third party organisation based outside of the United Kingdom and European Economic Area (an "International Recipient") and the Customer shall ensure that the Sandbox and Sandbox System User Identity is not accessed by any International Recipients.

12.6 All transfers by the Supplier of Personal Data to an International Recipient (and any onward transfer) shall (to the extent required under Data Protection Legislation) be effected by way of Appropriate Safeguards.

12.7 The Supplier shall promptly notify the Customer if it (or any of its sub-processors or personnel) becomes aware of any breach in respect of any Personal Data and shall provide all information the Customer requires to report the circumstances to the relevant data protection supervisory authority.

12.8 The Supplier will inform the Customer where a subject access request is received by it or its sub-processors, in relation to Personal Data that is processed pursuant to these Conditions. The Supplier shall provide all reasonable assistance to the Customer in responding to such subject access requests in line with Data Protection Laws.

12.9 At the earlier of:

12.9.1 the Customer's written request and/or notification by the Customer that a Consumer has made a written request for their Personal Data to be deleted;

12.9.2 notification by the Customer to the Supplier that a Consumer has withdrawn their written consent to processing of Personal Data;

12.9.3 the end of the provision of the Services related to processing of Personal Data;

12.9.4 where processing of Personal Data is no longer required for the Supplier's performance of its obligations under these Conditions.

the Supplier shall (and shall ensure that any sub-processors and personnel shall) promptly and securely delete or return (subject to the Customer meeting the Supplier's reasonable costs) all Personal Data, including copies, to the Customer. Copies may be retained where required by Applicable Law.

## 13 Anti-bribery

13.1 For the purposes of this clause 19 (Anti-bribery) the expressions 'adequate procedures' and 'associated with' shall be construed in accordance with the Bribery Act 2010 and legislation or guidance published under it.

13.2 Each Party shall comply with applicable Bribery Laws including ensuring that it has in place adequate procedures to prevent bribery and use all reasonable endeavours to ensure that:

13.2.1 all of that Party's personnel;

13.2.2 all others associated with that Party; and

13.2.3 all of that Party's subcontractors; involved in the performance of these Conditions so comply.

13.3 Without limitation to clause 13.2, neither Party shall make or receive any bribe (as defined in the Bribery Act 2010) or other improper payment, or allow any such to be made or received on its behalf, either in the United Kingdom or elsewhere, and shall implement and maintain adequate procedures to ensure that such bribes or payments are not made or received directly or indirectly on its behalf.

13.4 Each Party shall immediately notify the other as soon as it becomes aware of a breach of any of the requirements in this clause 19 (Anti-bribery).

## 14 Dispute resolution

14.1 If any dispute arises between the Parties out of or in connection with these Conditions, the matter shall be referred to senior representatives of each Party who shall use their reasonable endeavours to resolve it.

14.2 Either Party may issue formal legal proceedings or commence arbitration at any time whether or not the step referred to in clause 14.1 has been completed.

## 15 Entire agreement

15.1 The Parties agree that these Conditions constitutes the entire agreement between them and supersedes all previous agreements, understandings and arrangements between them, whether in writing or oral in respect of its subject matter.

15.2 Each Party acknowledges that it has not entered into these Conditions in reliance on, and shall have no remedies in respect of, any representation or warranty that is not expressly set out in these Conditions, except in the case of fraudulent misrepresentation. No Party shall have any claim for innocent or negligent misrepresentation on the basis of any statement in these Conditions.

## 16 Notices

16.1 Notices under these Conditions shall be in writing and sent to a Party's registered office as set out on the first page of these Conditions (or to the fax number or email address set out below). Notices may be given, and shall be deemed received:

16.1.1 by first-class post: two Business Days after posting;

16.1.2 by airmail: seven Business Days after posting;

16.1.3 by hand: on delivery;

16.1.4 by email to [legal@sms-plc.com](mailto:legal@sms-plc.com) in the case of the Supplier and the email address as notified by the Customer to the Supplier from time to time.

16.2 This clause does not apply to notices given in legal proceedings or arbitration.

## 17 Non-solicitation

17.1 Neither Party shall, directly or indirectly, by or through itself, its Affiliate, its agent or otherwise, or in conjunction with its affiliate, its agent or otherwise, whether for its own benefit or for the benefit of any other person:

17.1.1 solicit, entice or induce, or endeavour to solicit, entice or induce, any Restricted Person of the other Party with a view to employing or engaging the Restricted Person, or



- 17.1.2 employ or engage, or offer to employ or engage a Restricted Person without the prior written consent of the other Party.
- 17.2 Notwithstanding clause 17.1 either Party may employ or engage any Restricted Person who has responded directly to a bona fide recruitment drive either through a recruitment agency engaged by the other party or via an advertisement placed publicly by the other party (either in the press, social media, online or in trade and industry publications).
- 17.3 The provisions of this clause 17 shall be without prejudice each Party's ability to seek damages or claim injunctive relief.
- 18 Announcements**  
No announcement or other public disclosure concerning these Conditions or any of the matters contained in it shall be made by, or on behalf of, either Party without the prior written consent of the other Party, except as required by law, any court, any governmental, regulatory or supervisory authority (including, without limitation, any recognised investment exchange) or any other authority of competent jurisdiction.
- 19 Force majeure**  
Neither Party shall have any liability under or be deemed to be in breach of these Conditions for any delays or failures in performance of these Conditions which result from Force Majeure. The Party subject to the Force Majeure event shall promptly notify the other Party in writing when such the event causes a delay or failure in performance and when it ceases to do so. If the event continues for a continuous period of more than 3 months, either Party may terminate these Conditions by written notice to the other Party.
- 20 Further assurance**  
Each Party shall at the request of the other, and at the cost of the requesting Party, do all acts and execute all documents which are necessary to give full effect to these Conditions.
- 21 Variation**  
No variation of these Conditions shall be valid or effective unless it is in writing, refers to these Conditions and is duly signed or executed by, or on behalf of, each Party.
- 22 Assignment**  
22.1 The Customer may not assign, subcontract or encumber any right or obligation under these Conditions in whole or in part, without the Supplier's prior written consent (such consent not to be unreasonably withheld or delayed).
- 23 Set off**  
The Supplier shall be entitled to set-off any amount owed by either the Supplier or any Affiliate of the Supplier against any amount that the Customer or any Affiliate of the Customer, owes to the Supplier under these Conditions or otherwise, whether now or at any time in the future, whether liquidated or not and whether it is actual or contingent. Any exercise by the Supplier of its rights under this clause will not prejudice any other right or remedy available to it, whether under these Conditions or otherwise.
- 24 No partnership or agency**  
Nothing in these Conditions constitutes, or shall be deemed to constitute, a partnership between the Parties nor make any Party the agent of another Party.
- 25 Severance**  
If any provision of these Conditions (or part of any provision) is or becomes illegal, invalid or unenforceable, the legality, validity and enforceability of any other provision of these Conditions shall not be affected.
- 26 Waiver**  
No failure, delay or omission by either Party in exercising any right, power or remedy provided by law or under these Conditions shall operate as a waiver of that right, power or remedy, nor shall it preclude or restrict any future exercise of that or any other right or remedy. No single or partial exercise of any right, power or remedy provided by law or under these Conditions shall prevent any future exercise of it or the exercise of any other right, power or remedy.
- 27 Third Party rights**  
27.1 Subject to clause 27.2, no one other than a Party to these Conditions, their successors and permitted assignees shall have any right to enforce any of its provisions.  
27.2 The Affiliates of the Supplier shall have the right to enforce the provisions of these Conditions.
- 28 Modern Slavery Act 2015**  
28.1 Each Party undertakes, warrants and represents to the other Party that:  
28.1.1 neither it nor any of its officers, employees, agents or subcontractors has:  
(a) committed an offence under the Modern Slavery Act 2015 (a **MSA Offence**); or  
(b) been notified that it is subject to an investigation relating to an alleged MSA Offence or prosecution under the Modern Slavery Act 2015; or  
(c) is aware if any circumstances within its supply chain that could give rise to an investigation relating to an alleged MSA Offence or prosecution under the Modern Slavery Act 2015;  
28.1.2 it shall comply with the Modern Slavery Act 2015;  
28.1.3 it shall notify the other Party immediately in writing if it becomes aware or has reason to believe that it, or any of its officers, employees, agents or subcontractors have breached or potentially breached any of the Party's obligations under this clause 30. Such notice to set out full details of the circumstances concerning the breach or potential breach of a Party's obligations.
- 29 Governing law**  
These Conditions and any dispute or claim arising out of, or in connection with them, is subject matter or formation (including non-contractual disputes or claims) shall be governed by, and construed in accordance with, the laws of England and Wales.
- 30 Jurisdiction**  
The Parties irrevocably agree that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of, or in connection with, these Conditions, its subject matter or formation (including non-contractual disputes or claim).

## Annex 1

## Data Protection Processing Annex

## Part A – Data Processing Details

<b>Subject Matter of Processing</b>	As necessary to perform the Services
<b>Duration of Processing</b>	During the Term
<b>Nature and Purpose of Processing</b>	Storage, transmission and processing of personal data relating to the Customer or the Customer's employees for the purposes of accessing the Sandbox.
<b>Type of Personal Data</b>	Personal Data relating to the Customer's employees including name, email address or such other personal data as necessary for the purposes of accessing the Sandbox.
<b>Special Categories of Personal Data</b>	None
<b>Categories of Data Subject</b>	Employees of the Customer
<b>Specific Processing Instructions:</b>	None

## Part B – Approved Subprocessors

<b>Name and Company Number</b>	<b>Purpose</b>