

CUSTOMER TERMS AND CONDITIONS

1. Application

- 1.1 These **“Terms and Conditions”** shall apply to the provision of services by **SCH CREATE LTD**, trading as UK Cyber Plan a company private limited company, incorporated and registered in England and Wales with company number 16446599 whose registered office is at 50 Geary Road, London, England, NW10 1HH (**“UKCP”**) to you (**“the Customer”**).

2. Definitions and Interpretation

- 2.1 In these Terms and Conditions, unless the context otherwise requires, the following expressions have the following meanings:

“Agreement”	has the meaning given to it in Clause 3;
“Business Day”	means, any day (other than Saturday and Sunday) on which ordinary banks are open for business in London;
“Commencement Date”	means the commencement date for these Terms and Conditions as set out in the Proposal;
“Confidential Information”	means any information that is proprietary or confidential which either Party directly or indirectly discloses, or makes available, to the other, including but not limited to, the existence and terms of the Agreement, all confidential or proprietary information relating to the business, affairs, operations, processes, product information, know-how, technical information, designs, trade secrets or software and/or Intellectual Property (which is not in the public domain) of the party disclosing such information;
“Customer”	means you, the person or legal entity receiving the Services

- “Data Protection Legislation”** means all applicable legislation in force from time to time in the United Kingdom applicable to data protection and privacy including, but not limited to, the **“UK GDPR”** (the retained EU law version of the General Data Protection Regulation ((EU) 2016/679), as it forms part of the law of England and Wales, Scotland, and Northern Ireland by virtue of section 3 of the European Union (Withdrawal) Act 2018); the Data Protection Act 2018 (and regulations made thereunder); and the Privacy and Electronic Communications Regulations 2003 as amended;
- “Equipment”** means the Customer’s own on-premise equipment including hardware and software environment which may be used in connection with the Services, which comprise of, but is not limited to - server computers (whether virtual or not), Desktop PC’s, Laptops or any other portable device, storage systems and relative hardware, firmware, operating software, operating system software, networking software, database software, anti-virus and security software, switches, power supplies and telecommunications infrastructure, internet connection, broadband availability and infrastructure, routers, Printers, associated peripheral devices or accessories whether fixed or portable;
- “Intellectual Property”** means patents, trademarks, trade name, service mark, copyright, trade secrets, know-how, process, technology, development tool, ideas, concepts, design right, domain names, moral right, database right, methodology, algorithm and invention, and any other proprietary information (whether registered, unregistered, pending or applied for);
- “Party”** means either UKCP or the Customer and **“Parties”** shall mean both of them;

“Privacy Policy”	means UKCP’s privacy policy from time to time in force which can be found at www.ukcyberplan.co.uk/clientlegaldocuments
“Proposal”	means a written quotation for the supply of Services issued by UKCP with reference to these Terms and Conditions and accepted by the Customer, which quotation will include the scope of the Services, the timescale for delivery of the Services, the Fees payable by the Customer for delivery of the Services and any other terms agreed between the Parties;
“Services”	means the services to be provided by UKCP to the Customer as set out in the Proposal;
“Software”	means any and all programs, applications, instructions or similar that may from time to time be installed on the Customer’s Equipment; and
“Working Hours”	means the working hours for the carrying out of the Services specified in the relevant Work Statement.

2.2 Unless the context otherwise requires, each reference in these Terms and Conditions to:

2.2.1 “writing”, and any cognate expression, includes a reference to any communication effected by electronic or facsimile transmission or similar means;

2.2.2 a statute or a provision of a statute is a reference to that statute or provision as amended or re-enacted at the relevant time;

2.2.3 **“these Terms and Conditions”** is a reference to these Terms and Conditions and each of the Schedules as amended or supplemented at the relevant time;

2.2.4 a Schedule is a schedule to these Terms and Conditions;

2.2.5 a Clause or paragraph is a reference to a Clause of these Terms and Conditions (other than the Schedules) or a paragraph of the relevant Schedule; and

2.2.6 a **“Party”** or the **“Parties”** refer to the parties to these Terms and Conditions.

2.3 The headings used in these Terms and Conditions are for convenience only

and shall have no effect upon the interpretation of these Terms and Conditions.

- 2.4 Words imparting the singular number shall include the plural and vice versa.
- 2.5 References to any gender shall include any other gender.

3. **Contract between UKCP and the Customer**

- 3.1 The contract entered into between UKCP and the Customer, (the **“Agreement”**) is comprised of these Terms and Conditions, the Proposal(s) and the Privacy Policy.
- 3.2 If there is any conflict between these Terms and Conditions, the Proposal(s) and the Privacy Policy, the various elements of the Agreement shall have precedence in the following order:
 - a) the Proposals in reverse chronological order;
 - b) these Terms and Conditions; and
 - c) the Privacy Policy.
- 3.3 The person entering into the Agreement on behalf of the Customer must be at least 18 years of age and warrants that he or she has the authority to enter into the Agreement on behalf of the Customer.
- 3.4 The Customer is the entity or person to whom the Proposal is addressed.
- 3.5 UKCP’s advice is only given for the use of the Customer in connection with the Services specified in the Proposal. The advice and any written report comprising such advice should not be disclosed to third parties or used for other purposes.
- 3.6 Unless otherwise explicitly specified in the Proposal, the Customer is responsible for identifying the Service(s) it requires to meet its needs.
- 3.7 UKCP shall provide the Services to the Customer with the reasonable care, skill, and diligence to be expected of an appropriately qualified and competent supplier experienced in carrying out equivalent services or services of a similar size, scope, complexity, and value to the Services.
- 3.8 The scope of the Services is set out in and limited by the terms of the Proposal.
- 3.9 All other cyber security and resilience monitoring, assessment or consulting services will be subject to a separate agreement and pricing arrangements.
- 3.10 If it becomes apparent during the delivery of the Services that the assumptions on which the Proposal was based are substantially different, UKCP reserves the right to adjust the terms of the Proposal, including the pricing element of the Proposal, to reflect the revised assumptions. In these circumstances, UKCP will provide the Customer with written notice of the revised Proposal.

- 3.11 The Services shall be deemed accepted by the Customer upon the earliest of:
- a) written confirmation of acceptance by the Customer;
 - b) use of any deliverables or outputs of the Services by the Customer for operational or commercial purposes; or
 - c) the expiry of 10 Business Days following delivery of the Services, unless, within such 10 Business Day period, the Customer has notified UKCP in writing of any material non-conformance of the Services with the Proposal, providing reasonable details of such non-conformance.
- 3.12 Once UKCP has delivered the Services described in the Proposal and these Services have been accepted in terms of Clause 3.11, UKCP shall have no continuing obligation to the Customer to revisit or update UKCP's analysis or the Services.
- 3.13 UKCP's advice is based on the information the Customer provides to UKCP regarding the Customer's business and objectives, which should be true, accurate, complete, and not misleading. UKCP shall proceed on the basis that all information instructions are properly authorised.
- 3.14 Intellectual Property rights in materials the Customer provides to UKCP which belonged to the Customer prior to UKCP's engagement shall continue to belong to the Customer. The Customer grants UKCP a licence to use such materials for the purpose of providing the Services.
- 3.15 The Customer acknowledges and agrees that Intellectual Property rights in any materials produced by UKCP in providing the Services shall always remain with UKCP. UKCP does not grant or assign any of its rights to the Customer in connection with the materials UKCP produces other than as set out explicitly in the Agreement or the Proposal. Without limitation, UKCP shall be entitled to use the knowledge and Intellectual Property rights acquired in the provision of the Services both for UKCP's own purposes and when acting for any other client, provided UKCP does not breach the terms of Clause 11.
- 3.16 Provided the Customer pays the Fees, the Customer is entitled to use and copy for its own purposes the product of our services, including any written or oral advice.

4. UKCP's Obligations

- 4.1 With effect from the Commencement Date until any termination under Clause 8 UKCP shall, in consideration of the Fees being paid in accordance with the terms of payment, provide the Services expressly identified in the Proposal, or otherwise agreed under these Terms and Conditions.
- 4.2 UKCP will use reasonable care and skill to perform the Services identified in the Proposal or otherwise agreed under these Terms and Conditions.
- 4.3 UKCP shall carry out all Services as specified in the Proposal during Working

Hours or at such other times as are specified in the Proposal until all required work is completed to the satisfaction of the Customer acting reasonably and in good faith.

- 4.4 UKCP shall use reasonable endeavours to complete its obligations under the Proposal. The Parties agree that time will not be of the essence in the performance of these obligations.
- 4.5 UKCP shall maintain insurance to cover each and every liability which it may incur under this Agreement including professional indemnity and Cyber Security insurance (without unusual or onerous conditions or excesses), with a reputable insurer. As and when it is reasonably required to do so by the Customer, UKCP shall produce for inspection by the Customer documentary evidence that the insurance required by this Clause is being properly maintained. UKCP's obligation to maintain such insurance shall in no way negate or limit any or all of its obligations or duties hereunder nor its liability in respect of any breach or non-performance of the same.

5. **Customer's Obligations**

- 5.1 The Customer shall:
 - 5.1.1 allow UKCP access to the Equipment and all relevant Software for investigation purposes;
 - 5.1.2 provide adequate working space and facilities for UKCP's staff if specified in the Proposal; and
 - 5.1.3 co-operate with them in the diagnosis of any defect or malfunction in the Equipment or Software.
- 5.2 The Customer shall allow UKCP the use of any Equipment, to enable it to provide the Services and shall be responsible for procuring, installing and maintaining all communications media not supplied by UKCP.
- 5.3 The Customer warrants that it owns or has obtained relevant permissions from the owners of the Equipment and systems to be assessed and has the proper authority to allow UKCP to perform the Services. The Customer acknowledges that the unauthorised act of testing a system may breach several aspects of legislation related to the misuse of computers, telecommunications and computer security. The Customer indemnifies UKCP against prosecution in the event that the Customer is in breach of the warranty in this Clause.
- 5.4 The Customer warrants that it has obtained all necessary consents and permissions from any individual or individuals who are to be the subject of any personal background/discovery search and has the proper authority to allow UKCP to perform the Services. The Customer acknowledges that the unauthorised act of conducting such searches may breach several aspects of legislation related to the misuse of computers, telecommunications and computer security and/or personal privacy. The Customer indemnifies UKCP

against prosecution in the event that the Customer is in breach of the warranty in this Clause.

- 5.5 Where necessary, the Customer has created a full backup of all systems to be tested and has verified that the backup procedure will enable the Customer to restore systems to their pre-test state. The Customer understands and accepts that whilst every effort is made to protect the operational integrity of the Equipment and systems identified within scoping, that in rare cases system operation can be affected, and may require restoration or rebuild from back-ups.
- 5.6 The Customer will make freely available to UKCP all documentation associated with the Equipment, working documents, original Software installation media, current data backups, Equipment and any other relevant hardware for the efficient delivery of the Services.
- 5.7 The Customer shall take all reasonable precautions to ensure the safety and health of UKCP's personnel while such personnel are at the Customer's premises.
- 5.8 In supplying information, the Customer shall ensure that the provision of such material does not infringe the Intellectual Property or other legal rights of any third party.

6. **Price**

- 6.1 The Customer agrees to pay the Fees in accordance with Clause 6 and the Proposal.
- 6.2 UKCP shall be entitled to recover from the Customer its reasonable incidental expenses for materials used and for third party goods and services supplied in connection with the provision of the Services as detailed in the Proposal.
- 6.3 The Customer shall pay UKCP for any additional services provided by UKCP that are not specified in the Proposal in accordance with UKCP's hourly rate in effect at the time of the performance or such other rate as may be agreed. Any such charge for additional services shall be invoiced separately from any Fees due under the Proposal.
- 6.4 All sums payable by either Party pursuant to these Terms and Conditions are exclusive of any value added or other tax or other taxes on profit, for which that Party shall be additionally liable.

7. **Payment**

- 7.1 All payments required to be made pursuant to these Terms and Conditions by either Party shall be made within 14 days of the date of the relevant invoice, without any set-off, withholding or deduction except such amount

(if any) of tax as that Party is required to deduct or withhold by law.

- 7.2 The time of payment shall be of the essence of these Terms and Conditions. If the Customer fails to make any payment due under the Agreement on the due date, UKCP shall have the right to:
- a) charge interest on the overdue amount at a rate of 5% per annum above the base rate of the Bank of England from time to time, accruing on a daily basis from the due date until the date of actual payment, whether before or after judgment;
 - b) suspend the provision of the Services upon giving not less than 5 days' written notice, where any undisputed invoice remains unpaid;
 - c) terminate the Agreement immediately by written notice if the Customer fails to pay any undisputed amount within 14 days after receiving written notice from UKCP requiring payment of such overdue amount.
- 7.3 An invoice shall be deemed undisputed unless the Customer notifies UKCP in writing of any dispute, including reasonable details of the nature of the dispute, within 5 Business Days of the date of the invoice.
- 7.4 UKCP shall have no obligation to recommence the Services following any suspension under Clause 7.2(b) until all outstanding amounts (including any accrued interest) have been paid in full.
- 7.5 The Customer shall indemnify UKCP against all reasonable costs and expenses incurred in recovering any overdue sums, including legal fees and debt recovery costs.

8. **Variation and Amendments**

- 8.1 If the Customer wishes to vary any details of the Proposal, it must notify UKCP in writing as soon as is reasonably possible. UKCP shall use reasonable endeavours to make any required changes and any additional costs thereby incurred shall be separately invoiced to the Customer.
- 8.2 If, due to circumstances beyond UKCP's control, it has to make any change in the arrangements relating to the provision of the Services it shall notify the Customer forthwith. UKCP shall endeavour to keep such changes to a minimum and shall seek to offer the Customer arrangements as close to the original arrangements as is reasonably possible in the circumstances.

9. **Termination**

- 9.1 UKCP may terminate the Agreement forthwith if:
- 9.1.1 the Customer is in breach of any of its obligations hereunder;
 - 9.1.2 the Customer has entered into liquidation (other than for the purposes of a bona fide amalgamation or reconstruction) whether compulsory or voluntarily or compounds with its creditors generally or has an

administrator, administrative receiver or receiver appointed over all or a substantial part of its undertaking or assets;

9.1.3 the Customer has become bankrupt or shall be deemed unable to pay its debts by virtue of Section 123 of the Insolvency Act 1986;

9.1.4 the Customer ceases or threatens to cease to carry on business; or

9.1.5 UKCP is delayed in performing or fails to perform any of UKCP's obligations due to any cause beyond UKCP's reasonable control in circumstances where, having proper regard to the nature and extent of the actual or likely future disruption to the Services due to that cause, it considers that it cannot effectively provide, or any longer provide, the Services.

9.2 In the event of termination under clause 9.1 UKCP shall retain any sums already paid to it by the Customer without prejudice to any other rights that either party may have whether at law or otherwise.

10. **Liability**

10.1 The Customer shall indemnify UKCP against all damages, costs, claims and expenses suffered by UKCP arising from loss or damage to any equipment (including that of third parties) caused by the Customer, or its agents or employees.

10.2 UKCP will indemnify the Customer for personal injury or death caused by UKCP's negligence in connection with the performance by it of the Services.

10.3 UKCP will indemnify the Customer for direct damage to tangible property caused by UKCP's negligence in connection with the performance of the Services. UKCP's total liability under this sub-Clause shall be limited to £500,000 for any one event or series of connected events.

10.4 In no event will UKCP be liable by reason of any breach by it of any of these Terms and Conditions or breach by it of any implied warranty, condition or other term of the Agreement, or any negligent or innocent misrepresentation, or any negligence or other duty at common law, for any:

10.4.1 loss of or damage to data except personal data where a breach of Clause 13 has occurred;

10.4.2 loss of use of data;

10.4.3 loss of use of any Equipment or Software;

10.4.4 interruption to business;

10.4.5 loss of income or revenue;

10.4.6 loss of profit, contracts, business, business opportunity, or goodwill;

10.4.7 loss of anticipated savings; or

10.4.8 any indirect, special or consequential loss, damage, costs, expenses or other claims, whether or not the same were reasonably foreseeable or actually foreseen;

arising from any act or omission of UKCP in connection with the performance of its obligations under the Agreement.

- 10.5 Except as provided above in the case of personal injury, death and damage to tangible property, and below as to fraud or fraudulent misrepresentation, UKCP's maximum liability to the Customer under the Agreement or otherwise for any cause whatsoever (whether in the form of the additional cost of remedial services or otherwise) will be limited to a sum equivalent to the price paid up until the point of claim to UKCP for the Services that are the subject of the Customer's claim, plus damages limited to 25% of the same amount for any additional costs directly, reasonably and necessarily incurred by the Customer in obtaining alternative products and/or services.
- 10.6 The Customer acknowledges and accepts that there is a degree of risk associated with the conduct of cyber security and resilience services, particularly where any such services are carried out in a live environment, including interruption to the availability of the Customer's Equipment.
- 10.7 The Customer acknowledges and accepts (1) that UKCP provides no guarantee that all vulnerabilities within the Customer's information systems, network and Equipment will be identified during the delivery of the Services. Without limitation, this includes unknown or zero-day vulnerabilities and (2) that the Services may involve the use of network tools and techniques designed to detect security vulnerabilities, and that it is impossible to identify and eliminate all the risks involved with the use of these tools and techniques.
- 10.8 Without prejudice to Clause 10.7, UKCP shall have no liability for any loss, damage, costs or expenses arising out of or in connection with:
- a) any failure to identify any vulnerability, weakness or security issue within the Customer's systems, network or Equipment;
 - b) any cyber-attack, intrusion, exploit or other malicious activity occurring before, during or after the provision of the Services;
 - c) any failure by the Customer to implement, or delay in implementing, any recommendations or advice provided by UKCP; or
 - d) any regulatory action, fine or penalty imposed on the Customer, except to the extent that such liability cannot be excluded by law.
- 10.9 Unless expressly agreed in writing, UKCP shall have no responsibility for the implementation of any remediation actions, security measures or incident response activities arising from or related to the Services. The Customer acknowledges that it remains solely responsible for its cyber security posture, including the implementation of any recommendations or remedial

actions identified during the Services.

- 10.10 Unless explicitly stated otherwise in the Proposal, the Services are provided on the premise of having zero-knowledge of the Customer's information systems, network, and Equipment (black box testing).
- 10.11 In circumstances where UKCP is not providing part of the Services or have provided detail of a third-party service provider which is engaged directly by the Customer to provide services, UKCP makes no representation or warranty about the suitability or capability of the third-party service provider and shall bear no liability for the services provided by such third-party service provider.
- 10.12 The Customer acknowledges and agrees that the Services may involve the use of third-party or open-source tools, software or utilities ("Third-Party Tools"). All Third-Party Tools are provided on an "as is" basis and UKCP shall have no liability for any loss arising out of or in connection with any defects, errors or failures in any Third-Party Tools. The Customer acknowledges that UKCP has no control over the development, maintenance or security of such tools.
- 10.13 Where the Services include security testing, penetration testing or vulnerability assessments:
- a) such activities shall be strictly limited to the systems, networks, IP addresses and environments expressly identified in the Proposal (the "Authorised Scope");
 - b) the Customer shall ensure that all necessary permissions, consents, approvals and whitelisting arrangements are obtained and in place prior to the commencement of the Services, including from any relevant third parties, service providers or system owners;
 - c) UKCP shall be entitled to rely on the accuracy and completeness of the Authorised Scope and any information provided by the Customer and shall have no liability for any loss, damage, costs or expenses arising out of or in connection with any inaccurate, incomplete or misleading information provided by or on behalf of the Customer;
 - d) the Customer acknowledges that any testing carried out outside the Authorised Scope may result in legal or operational risks, and UKCP shall have no liability for any such consequences except to the extent caused by UKCP's negligence;
 - e) the Customer warrants and represents that it has all necessary rights, permissions and legal authority to grant such authorisation and to permit UKCP to carry out the Services.
 - f) The Customer shall indemnify and hold UKCP harmless from and against any claims, losses, liabilities, costs or expenses arising out of or in connection with any failure by the Customer to obtain such permissions or

authorisations, including any claims made by third parties.

- 10.14 The Services, and any deliverables, reports or advice provided by UKCP, are for the sole use and benefit of the Customer.
- 10.15 UKCP accepts no liability to any third party, and no third party shall be entitled to rely upon any deliverables, reports or advice provided by UKCP without UKCP's prior written consent. The Customer shall not disclose any such deliverables, reports or advice to any third party without UKCP's prior written consent, except as required by law.
- 10.16 The Customer may not bring any claim personally against any of UKCP's staff. The Customer shall make any claim or bring any proceedings only against UKCP. The Customer agrees that none of UKCP's staff shall have any liability to the Customer in respect of the provision of the Services. UKCP's staff shall be entitled to have the benefit of, and to enforce, this provision to the maximum extent permitted by any applicable law (including, in England and Wales, The Contracts (Rights of third Parties) Act 1999). Nothing in this clause shall, however, affect UKCP's liability for the acts and omissions of its staff.
- 10.17 No action or proceedings arising out of or in connection with the Agreement shall be commenced against UKCP after the earlier of:
- a) 12 months from the date of completion of the Services; and
 - b) 6 months from the date on which the Customer became aware, or ought reasonably to have become aware, of the circumstances giving rise to the claim.
- 10.18 The Parties acknowledge and agree that the limitations contained in this Clause 10 are reasonable in the light of all the circumstances.
- 10.19 These limitations shall apply cumulatively, and shall apply regardless of the form of action, whether under statute, in contract or tort, including negligence, or any other form of action.
- 10.20 Nothing in these Terms and Conditions is intended to or will exclude or limit UKCP's liability for death or personal injury caused by UKCP's negligence, or for fraud or fraudulent misrepresentation by UKCP.
- 10.21 For the purposes of this clause, UKCP includes its employees, sub-contractors and suppliers.

11. **Confidentiality**

- 11.1 During the term of the Agreement and after termination of the Agreement for any reason for a period of three (3) years starting on the date of termination of the Agreement howsoever determined, the following obligations shall apply to the Party disclosing Confidential Information (**'the Disclosing Party'**) to the other Party (**'the Receiving Party'**).
- 11.2 Subject to sub-Clause 11.3, the Receiving Party:

- 11.2.1 may not use any Confidential Information of the Disclosing Party for any purpose other than the performance of its obligations under the Agreement;
 - 11.2.2 may not disclose any Confidential Information of the Disclosing Party to any person except with the prior written consent of the Disclosing Party; and
 - 11.2.3 shall make every effort to prevent the use or disclosure of the Confidential Information of the Disclosing Party.
- 11.3 The obligations of confidence referred to in the provisions of this Clause shall not apply to any Confidential Information of the Disclosing Party that:
- 11.3.1 is in the possession of and is at the free disposal of the Receiving Party or is published or is otherwise in the public domain before its receipt by the Receiving Party;
 - 11.3.2 is or becomes publicly available on a non-confidential basis through no fault of the Receiving Party;
 - 11.3.3 is required to be disclosed by any applicable law or regulation;
 - 11.3.4 is received in good faith by the Receiving Party from a third party who, on reasonable enquiry by the Receiving Party claims to have no obligations of confidence to the Disclosing Party in respect of it and who imposes no obligations of confidence upon the Receiving Party.
- 11.4 Without prejudice to any other rights or remedies the Disclosing Party may have, the Receiving Party acknowledges and agrees that in the event of breach of this clause the Disclosing Party shall, without proof of special damage, be entitled to an injunction or other equitable remedy for any threatened or actual breach of the provisions of this clause in addition to any damages or other remedies to which it may be entitled.
- 11.5 The obligations of the Parties under the provisions of this clause shall survive the expiry or the termination of the Agreement for whatever reason.
12. **Data Protection**
- 12.1 UKCP will only use the Customer's personal data and that of its employees, sub-contractors and suppliers as set out in the Privacy Policy.
13. **Data Processing**
- 13.1 In this Clause 13 and in the Agreement, "**personal data**", "**data subject**", "**data controller (controller)**", "**data processor (processor)**", and "**personal data breach**" shall have the meaning defined in Article 4 of the UK GDPR.
 - 13.2 Both Parties shall comply with all applicable data protection requirements set out in the Data Protection Legislation. Neither this Clause 13 nor the Agreement shall relieve either Party of any obligations set out in the Data Protection Legislation and shall not remove or replace any of those

obligations.

- 13.3 For the purposes of the Data Protection Legislation and for this Clause 13 and the Agreement, UKCP is the “Data Processor” and the Customer is the “Data Controller”.
- 13.4 The type(s) of personal data, the scope, nature and purpose of the processing, and the duration of the processing are set out in the Schedule annexed.
- 13.5 The Data Controller shall ensure that it has in place all necessary consents and notices required to enable the lawful transfer of personal data to the Data Processor for the purposes described in the Agreement.
- 13.6 The Data Processor shall, with respect to any personal data processed by it in relation to its performance of any of its obligations under the Agreement:
- 13.6.1 Process the personal data only on the written instructions of the Data Controller unless the Data Processor is otherwise required to process such personal data by law. The Data Processor shall promptly notify the Data Controller of such processing unless prohibited from doing so by law.
 - 13.6.2 Ensure that it has in place suitable technical and organisational measures to protect the personal data from unauthorised or unlawful processing, accidental loss, damage or destruction. Such measures shall be proportionate to the potential harm resulting from such events, taking into account the current state of the art in technology and the cost of implementing those measures.
 - 13.6.3 Ensure that any and all staff with access to the personal data (whether for processing purposes or otherwise) are contractually obliged to keep that personal data confidential; and
 - 13.6.4 Not transfer any personal data outside of the UK without the prior written consent of the Data Controller and only if the following conditions are satisfied:
 - 13.6.4.1 The Data Controller and/or the Data Processor has/have provided suitable safeguards for the transfer of personal data;
 - 13.6.4.2 Affected data subjects have enforceable rights and effective legal remedies;
 - 13.6.4.3 The Data Processor complies with its obligations under the Data Protection Legislation, providing an adequate level of protection to any and all personal data so transferred; and
 - 13.6.4.4 The Data Processor complies with all reasonable instructions given in advance by the Data Controller

with respect to the processing of the personal data.

- 13.6.5 Assist the Data Controller at the Data Controller's cost, in responding to any and all requests from data subjects and in ensuring its compliance with the Data Protection Legislation with respect to security, breach notifications, impact assessments, and consultations with supervisory authorities or regulators (including, but not limited to, the Information Commissioner's Office);
 - 13.6.6 Notify the Data Controller without undue delay of a personal data breach;
 - 13.6.7 On the Data Controller's written instruction, delete (or otherwise dispose of) or return all personal data and any and all copies thereof to the Data Controller on termination of the Agreement unless it is required to retain any of the personal data by law; and
 - 13.6.8 Maintain complete and accurate records of all processing activities and technical and organisational measures implemented necessary to demonstrate compliance with this Clause 13 and to allow for audits by the Data Controller and/or any party designated by the Data Controller.
- 13.7 The Data Processor shall not sub-contract any of its obligations to a sub-contractor with respect to the processing of personal data under this Clause 13 unless it:
- 13.7.1 Enters into a written agreement with the sub-contractor, which shall impose upon the sub-contractor the same obligations as are imposed upon the Data Processor by this Clause 13 and which shall permit both the Data Processor and the Data Controller to enforce those obligations; and
 - 13.7.2 Ensure that the sub-contractor complies fully with its obligations under that agreement and the Data Protection Legislation.
14. **Sub-Contracting and Assignment**
- 14.1 Subject to the provisions of Clause 13, UKCP may sub-contract to third parties all or any part of the Services to be carried out under the Agreement.
 - 14.2 The Customer shall not assign to a third party any or all of its rights or obligations under the Agreement without the prior written consent of UKCP.
15. **Force Majeure**
- Neither Party to the Agreement shall be liable for any failure or delay in performing their obligations where such failure or delay results from any cause that is beyond the reasonable control of that Party. Such causes include, but are not limited to: power failure, Internet Service Provider failure, industrial action, civil unrest, fire, flood, storms, earthquakes, acts of terrorism, acts of war, governmental action epidemic or pandemic (whether naturally occurring or man-made) or any other

event that is beyond the control of the Party in question.

16. Waiver

16.1 No waiver by UKCP of any breach of the Agreement by the Customer shall be considered as a waiver of any subsequent breach of the same or any other provision. A waiver of any term, provision or condition of the Agreement shall be effective only if given in writing and signed by the waiving party and then only in the instance and for the purpose for which any waiver is given.

16.2 No failure or delay on the part of any Party in exercising any right, power or privilege under these Terms and Conditions shall operate as a waiver of, nor shall any single or partial exercise of any such right, power or privilege preclude any other or further exercise of or the exercise of any other right, power or privilege.

17. Severance

If any provision of the Agreement is held by any competent authority to be invalid or unenforceable in whole or in part the validity of the other provisions of the Agreement and the remainder of the provision in question shall not be affected thereby.

18. Notices

18.1 All notices under the Agreement shall be in writing and be deemed duly given if signed by, or on behalf of, a duly authorised officer of the Party giving the notice.

18.2 Notices shall be deemed to have been duly given:

18.2.1 when delivered, if delivered by courier or other messenger (including recorded delivery mail) during normal business hours of the recipient; or

18.2.2 when sent, if transmitted by e-mail and a successful transmission report or return receipt is generated; or

18.2.3 on the fifth business day following mailing, if mailed by national ordinary mail, postage prepaid; or

18.2.4 on the tenth business day following mailing, if mailed by airmail, postage prepaid.

in each case addressed to the most recent address or e-mail address notified to the other Party.

18.3 Service of any document for the purposes of any legal proceedings concerning or arising out of the Agreement shall be effected by either Party by causing such document to be delivered to the other Party at its registered or principal office, or to such other address as may be notified to one Party by the other Party in writing from time to time.

19. Third Party Rights

19.1 Except as expressly stated otherwise in the Agreement, no third party shall have any right to enforce the terms of this Agreement.

20. Entire Agreement, Law and Jurisdiction

20.1 This Agreement constitutes the entire agreement between the Parties and supersedes and extinguishes all previous agreements, arrangements, understandings or representations between them, whether written or oral, relating to its subject matter.

20.2 Each Party acknowledges that it has not relied on, and shall have no remedies in respect of, any statement, representation, assurance or warranty (whether made innocently or negligently) that is not expressly set out in this Agreement. Nothing in this Clause shall limit or exclude any liability for fraud or fraudulent misrepresentation.

20.3 The Agreement shall be governed by the laws of England and Wales.

20.4 Any dispute between the Parties relating to the Agreement shall fall within the exclusive jurisdiction of the courts of England and Wales.

SCHEDULE**Processing, Personal Data and Data Subjects****Processing by UKCP**

- 1. Scope** – UKCP shall process personal data in order to provide the Services as set out in the Agreement and in each Proposal.
- 2. Nature** – Processing and storage of personal data in accordance with the Privacy Policy.
- 3. Purpose of Processing** – For the delivery of cyber resilience and consultancy Services to the Customer.
- 4. Duration of the Processing** - The processing shall commence the Commencement Date and shall continue for the duration of the Agreement subject to any permitted contract extension or termination, whereupon the data return/deletion provisions shall apply in terms of UKCP's Data Retention Policy.
- 5. Types of Personal Data** - Name, Role, Contact details (address, email, phone number), Financial/payment data.
- 6. Categories of Data Subject** – employees, suppliers, Customers, consultants, prospects and contractors.

Rights and Obligations of Data Controller

The rights and obligations of the Data Controller set out in this Agreement and the Privacy Legislation.