

# **CPA GLOBAL (JERSEY) GENERAL TERMS OF BUSINESS**

**THIS AGREEMENT GOVERNS YOUR RELATIONSHIP WITH US AND YOUR PURCHASE AND USE  
OF OUR SOFTWARE AND/OR SERVICES**

**THIS AGREEMENT COMPRISES:**

1. Our General Terms of Business attached at Schedule 1.
2. Our applicable Supply Specific Terms attached at Schedule 2.
3. Your Orders.

## SCHEDULE 1

### OUR GENERAL TERMS OF BUSINESS – SOFTWARE AND/OR SERVICES

**'Customer', 'you' and 'your'**, as referred to in these General Terms, shall refer to the Customer entity set out on the Order and its Affiliates (as defined herein) contracting for the Supplies (as defined herein) as set out in the relevant Order (as defined herein), unless otherwise indicated.

**'we', 'our' and 'us'**, as referred to in these General Terms, shall refer to CPA Global and the applicable Affiliate of CPA Global contracting for the Supplies (as defined herein) as set out in the relevant Order (as defined herein).

A signatory to the Agreement (as defined herein) shall be a **Party**.

These General Terms are the terms and conditions pursuant to which you may from time to time purchase one or more Supplies from Affiliates of CPA Global by agreeing an Order with us.

In addition to these General Terms and depending on what your Order is for, Supply Specific Terms may also apply to your relationship with us. The Supply Specific terms are set out in Schedule 2 of the Agreement and shall apply as explained in Schedule 2. All capitalised terms used in the Agreement shall have the meaning given in the Definitions clause of these General Terms or the Definitions clause of any applicable Supply Specific Terms, unless otherwise stated.

## 1. DEFINITIONS

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Capitalised terms used in this agreement shall have the following meanings:

**Additional Supplies** means Supplies you may request not included under other categories in this Agreement;

**Affiliate** means, with respect to an entity, any person or entity that directly or indirectly owns, is owned by, or is under common ownership with that entity. For purposes of this definition, ownership means control of more than a 50% interest in an entity;

**Agreement** means these General Terms, the applicable Supply Specific Terms, your Order(s) and other incorporated documents;

**Commencement Date** means the commencement date of the Agreement as set out on the Order;

**Confidential Information** means information received from the other Party which is marked or stated to be confidential at the time of disclosure, or which by its nature ought reasonably to be regarded as confidential including, without limitation, any services, Software, pricing and discounts communicated pursuant to these General Terms;

**Customer Data** means all data, documents, email or other materials submitted by you, or by a third party on your behalf, in respect of the Supplies;

**Customer Material** means such materials and information including, where relevant, Third Party Software, documentation, reports and data, as we reasonably require for the provision of the Supplies;

**Customer Representative** means a person appointed by you to be a point of liaison with us in respect of the Agreement;

**Deliverables** means all products, works, materials, documentation and information (other than Software) that are developed specifically for delivery to you pursuant to any Supply Specific Terms and/or an Order;

**Export Control Rules** means all applicable import, export and re-export control law and regulation of any

country, including the US International Traffic in Arms Regulations the United States Export Administration Regulations, Council Regulation (EC) No.428/2009 on the control of exports of dual use items and technology, and country specific economic sanctions programs or embargoes adopted against countries or individuals under any national or international legislation, including any measures implemented by the US Office of Foreign Assets Control, and/or any other applicable national or international export control laws or regulations;

**Fees** means the fees specified in the applicable Order and payable in accordance with the Fees Clause in these General Terms;

**Force Majeure Event** means an event or circumstance beyond either party's reasonable control including, without limitation, any acts of God, war, fire, flood, embargo, nuclear accident or explosion, civil unrest, failures by telecommunications carriers or internet service, denial of service attacks, any nationalization, confiscation, requisition, expropriation, seizure or destruction of property by or under any government, or any other act of government, any delay caused by your act or omission;

**General Terms** means these general terms of business;

**Intellectual Property Rights** means any and all trademarks, rights in designs, look and feel, trade names, copyrights, future copyrights, patents, rights in databases (whether registered or not and any applications to register or rights to apply for registration of any of the foregoing) rights in inventions, know how, trade secrets and other confidential information and all other intellectual property rights of a similar or corresponding nature which may now or in the future subsist in any part of the world;

**Order** means a written order, in the form specified by us, for specific Supplies signed by duly authorized representatives of both Parties expressly incorporating these General Terms and any applicable Supply Specific Terms;

**Order Effective Date** means the effective date for an Order on which that Order comes into force in accordance with the Order Effective Period,

Termination, Effect Of Termination Clause in these General Terms, as set out in that Order;

**Order Effective Period** means the period set forth in such Order commencing on the relevant Order Effective Date and renewed in accordance with the Order Effective Period, termination, and Effect of Termination Clause, unless earlier terminated in accordance with the Agreement;

**Pre-Existing Property** means data, information, materials, software, tools, processes or Intellectual Property Rights developed by a Party prior to initiation of the Supplies or independent of the Supplies provided or licensed hereunder as well as any improvements or enhancements to such data, information, materials, software, tools, processes or Intellectual Property Rights;

**Service(s)** means those services set out in the Supply Specific Terms and/or the relevant Order and includes references to particular services types, such as 'Setup Services', 'Maintenance Services', 'Configuration Services';

**Software** means any software that we licence pursuant to these General Terms and any Supply Specific Terms as set out in the relevant Order;

**Supplies** means the services and/or Software and/or Technology as purchased by you under an Order and as more fully described in the Order;

**Supply Specific Terms** means the terms and conditions specific to the Supplies purchased by you under an Order and located at the end of these General Terms;

**Technology** means in relation to Supplies comprising hosted software all software used in the operation, management or maintenance of the Supplies, and all other software, hardware, products, processes, algorithms, user interfaces, know how, techniques, designs and other tangible or intangible technical material or information made available to you;

**Third Party Software** means any software owned or licensed and provided by a third party (and not under the relevant Order) which you may be required to use

in conjunction with the Software, as specified by us and set out in the relevant Order;

**Working Day** means a day (other than a Saturday or Sunday) on which the banks are ordinarily open for business in the jurisdiction in which the supplying entity is located; and

**Your Responsibilities** means the specific responsibilities to be undertaken by you in relation to the Supplies, as set out in the Your Responsibilities Clause of these General Terms, any applicable Supply Specific Terms and/or in any Order.

## 2. THE AGREEMENT

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- 2.1. These General Terms and any applicable Supply Specific Terms are hereby incorporated into each Order (including any and all documents expressly incorporated by reference therein).
- 2.2. Each Order, together with these General Terms and any applicable Supply Specific Terms (including any and all attachments thereto) forms a single Agreement between the parties to the Order.
- 2.3. If there is any conflict between these General Terms, any applicable Supply Specific Terms and the applicable Order (together comprising the Agreement), the conflict shall be resolved with following order of precedence:
  - 2.3.1. The applicable Order;
  - 2.3.2. Any applicable Supply Specific Terms;
  - 2.3.3. These General Terms; and
  - 2.3.4. Any other document referred to in the Agreement.
- 2.4. Your Affiliates may by signing an Order, independently and in their own name enter into an Agreement with us. You agree that every entity entering into an Agreement with us shall be jointly and severally liable for the payment obligations of its Affiliates under any Agreement that they have entered into with us.

## **3. YOUR RESPONSIBILITIES**

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- 3.1. You shall comply with the obligations contained within these General Terms, and any Supply Specific Terms applicable to an Order and you shall perform Your Responsibilities.
- 3.2. In addition to any particular items specified in the relevant Order, you shall, at no charge, provide:
  - 3.2.1. Access to your Customer Representative, any other employees, and any relevant consultants and ensure that such personnel co-operate fully with us;
  - 3.2.2. Any Customer Materials that we reasonably require to provide the Supplies.
- 3.3. You acknowledge that our provision of the Supplies is dependent upon the timely and effective performance of Your Responsibilities. In the event that you fail to perform any of Your Responsibilities in a timely manner, this may result in us being unable to provide the Supplies or the Deliverables (or any part of them) in accordance with the Agreement. In such circumstances, we shall have no liability in respect of such failure and you shall grant to us such additional time as is necessary to provide the Supplies and/or the relevant Deliverable, as the case may be, and shall pay to us any additional fees necessary to compensate us for any necessary additional work or costs.

## **4. FEES, PAYMENT AND TAXES**

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- 4.1. You shall pay the Fees to us as consideration for the provision of the Supplies by us as set out in the relevant Order. We shall invoice you, and you shall pay to us, the Fees in the currency specified in the applicable Order.
- 4.2. Unless otherwise agreed in an Order, we shall be entitled from time to time to change all Fees payable by you upon one (1) month's prior written notice to you.
- 4.3. In addition to the Fees, we shall be entitled to charge, and you shall reimburse us, for any travel, subsistence or other reasonable expenses incurred by us in the course of providing any of the Supplies and any Deliverable.
- 4.4. You shall pay us in accordance with the Agreement within thirty (30) days of the date of our invoice. If any sum payable under these General Terms is not paid by the due date then (without prejudice to our other rights and remedies) we reserve the right to suspend any or all of the provision of the Supplies and charge interest on the overdue sum from the due date to the date of actual payment (both before and after any judgment) at the lesser rate of 1% per month, or (b) the maximum rate permitted by law. In addition, you shall be liable for any and all costs we incur in collection of any overdue amounts and accrued interest, including attorneys' fees and court costs, which you shall pay upon demand. Any dispute regarding invoices shall be dealt with under the Disputes Clause. Notwithstanding the above you agree to pay the undisputed portion of such invoices promptly to us.
- 4.5. All Fees and expenses are exclusive of value added, sales, use, excise, import and any other applicable tax, duties or other charges on the Supplies provided by us under these General Terms. You shall pay the Fees without any withholding or deduction of any withholding tax or other tax or mandatory payment to government agencies. If your country of residence requires you to withhold any taxes on payments made to us under the Agreement, the sum payable by you upon which such withholding or deduction is based shall be increased to the extent necessary to ensure that, after such withholding or deduction, we receive and retain, free from liability for such withholding or deduction, a net amount equal to the amount we would have received and retained in the absence of such required withholding or deduction. Each Party hereby agrees to cooperate in any contest, legal or administrative proceeding related to the validity, payment or amount of any withholding tax.
- 4.6. We shall be entitled to set-off any amount owed by you to us against any amount owing from us to you.
- 4.7. If in our reasonable opinion your creditworthiness deteriorates before completion of performance of

the Supplies we reserve the right to require full or partial payment of all Fees and expenses or the provision of appropriate security prior to performance.

## **5. WARRANTIES**

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- 5.1. You warrant and represent that you have the capacity and authority to enter into and to perform the Agreement and that the Agreement is executed by your duly authorised representative
- 5.2. You warrant and undertake that:
  - 5.2.1. You have the legal right and authority to provide us with access and use of the Customer Materials and the Customer Data including, without limitation, any Third Party Software as you may be required to provide to us to perform the Supplies;
  - 5.2.2. We are authorised to use the Customer Materials in the way contemplated by each Order;
  - 5.2.3. The Customer Materials are complete, accurate and not misleading; and
  - 5.2.4. You shall carry out standard checks for the presence of viruses in any software provided to us.
- 5.3. We warrant and represent that we have the capacity and authority to enter into and to perform the Agreement and that the Agreement is executed by our duly authorised representative
- 5.4. We warrant and undertake that:
  - 5.4.1. The Supplies shall be provided in accordance with the Agreement and applicable law; and
  - 5.4.2. We own or are correctly licensed for all Intellectual Property Rights used in the Supplies; and
  - 5.4.3. To the extent that the Supplies comprise services, that those services will be carried out with reasonable skill and care.
- 5.5. TO THE FULLEST EXTENT ALLOWED BY LAW, THE WARRANTIES PROVIDED BY US IN THE

AGREEMENT ARE EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES. EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT, WE DISCLAIM ALL WARRANTIES AND CONDITIONS EXPRESSED OR IMPLIED WITH REGARD TO THE SUPPLIES PROVIDED UNDER THIS AGREEMENT, INCLUDING ALL IMPLIED WARRANTIES AND CONDITIONS OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. THESE DISCLAIMERS CONSTITUTE AN ESSENTIAL PART OF THIS AGREEMENT.

## **6. PROPRIETARY RIGHTS, NON EXCLUSIVITY**

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- 6.1. Each Party shall retain all right, title and interest in and to its Pre-Existing Property. Each Party grants a limited licence to use, copy, store, transmit and display its Pre-Existing Property to the extent necessary to discharge such Party's obligations pursuant to this Agreement. Where you have reported fixes or suggestions of improvements to the Supplies we shall own all rights therein without further liability or compensation to you and you hereby assign them to us.
- 6.2. Subject to each Party's retention of its rights in and to its Pre-Existing Property as set out above, and unless specified otherwise in any applicable Supply Specific Terms or the applicable Order, all Intellectual Property Rights in the Deliverables shall vest in you on creation and we hereby assign and shall assign to you all of our worldwide right, title and interest in and to all Intellectual Property Rights in the Deliverables. At your request and expense, we shall sign documents and take any other action reasonably necessary to evidence, perfect or protect your rights in the Deliverables. For the avoidance of doubt nothing in these General Terms shall prohibit us from using our Pre-Existing Property to provide services and deliverables to third parties, even if such services and/or deliverables are the same or substantially similar to those Supplies and/or Deliverables provided to you under the Agreement. We hereby waive any moral or author's rights we may have in the written

material provided  
to you.

- 6.3. Nothing in these General Terms shall be construed as creating an exclusive relationship between the Parties. Subject to obligations of confidentiality, each Party may reuse knowledge or expertise gained by that Party during the course of provision or receipt of the Supplies.

## 7. INDEMNIFICATION

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- 7.1. A Party (the **Indemnifying Party**) shall indemnify the other Party (the **Indemnified Party**) subject to compliance with the remainder of this Indemnification Clause, against all liabilities, costs, damages and expenses which are incurred by the Indemnified Party as a result of:

7.1.1. all third party claims, to the extent that such liability is based on claims of infringement of any third party's Intellectual Property Rights by the Indemnifying Party; and/or

7.1.2. the Indemnifying Party's tax obligations under the Agreement.

- 7.2. In connection with any claim under this Indemnification Clause: (a) each Party shall notify the other as soon as it becomes aware of in writing of a claim; (b) the Indemnified Party shall take all reasonable steps to mitigate any loss it may incur as a result of, or in connection with, any claim; (c) the Indemnifying Party and/or its insurers shall have control of the defence and all settlement negotiations relating to any such claim using counsel of its choice; (d) the Indemnified Party's counsel shall be entitled to be consulted (but not control) in the defence of the claim at such Party's cost and expense; (e) the Indemnified Party shall provide such information and assistance as the Indemnifying Party may reasonably request to help defend such claims; and (f) the Indemnified Party shall not have any right to settle, admit or acknowledge any liability or wrongdoing of the Indemnifying Party or otherwise require the Indemnifying Party to take or refrain from taking any material action (such as the payment of fees) without such Party's consent. The Indemnifying Party shall not be liable for payment of any settlements negotiated

by anyone other than itself, its insurers, or its respective counsel.

- 7.3. The provisions of this Indemnification Clause shall not apply to the extent such claim is based on: (i) use of the Supplies or Deliverables other than in accordance with these General Terms; (ii) any modification of the Supplies or Deliverables not authorized by us; (iii) the combination, operation or use of the Software with any equipment and/or computer programs not supplied or approved by us; (iv) use of a superseded or altered release of the Software.

- 7.4. If your use or possession of any Supplies or Deliverables in accordance with the Agreement is in our sole opinion, likely to constitute an infringement of a third party's Intellectual Property Rights, then we may promptly and at our own expense, use our reasonable endeavours to (a) procure for you the right to continue using and possessing the Supplies or Deliverables; or (b) modify or replace the Supplies or Deliverables (without materially detracting from the specification) so as to avoid the infringement; or (c) require you to return the Supplies or Deliverables to us and any licenses granted in, and our obligations with respect to, the Supplies or Deliverables shall terminate and we shall refund the fees paid by you to us for the Supplies or Deliverables based on a five (5) year straight-line depreciation from the Order Effective Date for the Order under which the relevant Supplies or Deliverables were purchased or licensed.

## 8. ORDER EFFECTIVE PERIOD, TERMINATION, AND EFFECT OF TERMINATION

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- 8.1. Unless terminated earlier pursuant to the provisions of this Order Effective Period, Termination, and Effect Of Termination Clause:

8.1.1. These General Terms shall take effect on the Commencement Date and shall continue in force until all Orders under the Agreement have terminated or expired;

8.1.2. Each Order shall take effect on its Order Effective Date and shall continue in force until the earlier of the discharge

of all obligations of both Parties under that Order or the expiry of its Order Effective Period; and

- 8.1.3. Any Supply Specific Terms shall take effect on the Order Effective Date for the Order to which they apply and shall continue in force until expiry of the Order Effective Period for the Order to which they apply.
- 8.2. Unless otherwise specified in an Order, on expiry of the Order Effective Period, the Order will renew automatically for successive twelve (12) month periods unless either Party provides written notice to the other Party of its intent to terminate ninety (90) days prior to the end of the then current Order Effective Period.
- 8.3. Either Party may, without prejudice to its other rights or remedies, terminate an Agreement with immediate effect by written notice to the other Party, in the event of:
  - 8.3.1. Any material breach of the Agreement (including, without limitation, non-payment of fees for one hundred and twenty (120) days from the date of which we have notified you that payment is outstanding) by the other Party which is not remedied within thirty (30) days after the service on the Party in default of a written notice specifying the nature of the breach and requiring that the same be remedied, unless the Agreement provides that a remedy for such breach as set out in this Agreement is sole and exclusive; or
  - 8.3.2. The other Party becoming insolvent, entering into liquidation, whether voluntary or compulsory, passing a resolution for its winding up, having a receiver or administrator appointed over the whole or any part of its assets, making any composition or arrangement with its creditors or taking or suffering any similar action in consequence of its debt.
- 8.4. Either Party may terminate this Agreement for any reason upon one hundred and eighty (180) days' prior written notice to the other Party. If

either Party terminates without cause pursuant to this Clause 8.4, all Orders entered into prior to the effective date of termination shall continue under these General Terms and any applicable Supply Specific Terms for the remainder of the relevant Order Effective Period.

- 8.5. Upon termination of an Agreement for any reason whatsoever:
  - 8.5.1. You shall pay all outstanding Fees and any other expenses due to us under the Agreement that have been incurred but not paid as of the termination date;
  - 8.5.2. Both Parties shall destroy any Confidential Information received under the Agreement and certify such destruction in writing to us; and
  - 8.5.3. Any accrued rights or liabilities of either Party or any provision of the Agreement which is expressly or by implication intended to come into or continue in force on or after such termination shall not be affected.
- 8.6. Upon termination of an Agreement all licenses granted under that Agreement shall terminate immediately and you shall cease using, and shall procure that all permitted users shall cease using, any Software or hosted software, and shall (if applicable), at your own cost, return or destroy (at our sole option) any Technology in your and/or the permitted users possession or control. Upon termination or expiration, you may export your Customer Data stored in the Software or hosted software. To the extent such Customer Data cannot be exported and is accessible by us, we shall, at your cost and request, provide you with a copy of any Customer Data stored by us.

## **9. LIMITATION OF LIABILITY**

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- 9.1. OTHER THAN OUR LIABILITY ARISING UNDER THE INDEMNIFICATION CLAUSE AND THE CONFIDENTIAL INFORMATION CLAUSE (WHICH LIABILITY SHALL REMAIN UNCAPPED) AND SUBJECT TO THE OTHER PROVISIONS SET OUT IN THIS LIMITATION OF LIABILITY CLAUSE, OUR LIABILITY UNDER THE AGREEMENT FOR ANY AND ALL CLAIMS,



INCLUDING CLAIMS OF CONTRACT, TORT (INCLUDING NEGLIGENCE) AND STRICT LIABILITY, AND INCLUDING WHERE WE ARE IN REPUDIATORY BREACH, SHALL NOT EXCEED THE AMOUNTS PAID AND PAYABLE BY YOU TO US UNDER THE AGREEMENT DURING THE PRECEDING TWELVE (12) MONTHS FOR THE SUPPLIES GIVING RISE TO THE CLAIM.

9.2. NOTHING IN THE AGREEMENT SHALL EXCLUDE OR IN ANY WAY LIMIT A PARTY'S LIABILITY FOR FRAUD, OR FOR DEATH OR PERSONAL INJURY CAUSED BY ITS NEGLIGENCE, OR ANY OTHER LIABILITY INCLUDING, IF APPLICABLE IN A RELEVANT JURISDICTION, GROSS NEGLIGENCE OR WILFUL MISCONDUCT TO THE EXTENT THE SAME MAY NOT BE EXCLUDED OR LIMITED AS A MATTER OF LAW.

9.3. NEITHER PARTY SHALL BE LIABLE TO THE OTHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE OR BREACH OF STATUTORY DUTY) OR OTHERWISE (INCLUDING WHERE WE ARE IN REPUDIATORY BREACH) FOR ANY OF THE FOLLOWING LOSSES OR DAMAGES, WHETHER DIRECT, INDIRECT OR CONSEQUENTIAL ARISING OUT OF, OR IN CONNECTION WITH, THIS AGREEMENT AND EVEN IF SUCH LOSSES AND/OR DAMAGES WERE FORESEEN, FORESEEABLE OR KNOWN, OR THE BREACHING PARTY WAS ADVISED OF THE POSSIBILITY OF THEM IN ADVANCE:

- 9.3.1. ECONOMIC LOSS;
- 9.3.2. LOSS OF ACTUAL OR ANTICIPATED PROFITS;
- 9.3.3. LOSS OF BUSINESS REVENUE;
- 9.3.4. LOSS OF ANTICIPATED SAVINGS;
- 9.3.5. LOSS OF, DAMAGE TO OR CORRUPTION OF DATA;
- 9.3.6. LOSS OF OPPORTUNITY;
- 9.3.7. LOSS OF GOODWILL;
- 9.3.8. PUNITIVE DAMAGES;

9.3.9. LOSSES SUFFERED BY THIRD PARTIES, REGARDLESS OF WHETHER SUCH LOSS IS DIRECT, INDIRECT, SPECIAL OR CONSEQUENTIAL; OR

9.3.10. ANY INDIRECT, SPECIAL OR CONSEQUENTIAL LOSS OR DAMAGE HOWSOEVER CAUSED.

9.4. WE SHALL HAVE NO RESPONSIBILITY FOR DEFECTS IN DATA, HARDWARE, SOFTWARE OR SERVICES SUPPLIED BY PERSONS OTHER THAN US, FOR THIRD PARTY INTERNET SITES OR FOR MODIFICATIONS TO ANY HARDWARE OR SOFTWARE MANUFACTURED BY PERSONS OTHER THAN US, NOR RESPONSIBILITY FOR PROBLEMS WITH GENERAL TELECOMMUNICATIONS FAILURES, DOMAIN NAME SYSTEM (DNS) AND DOMAIN NAME REGISTRATION PROBLEMS, GENERAL INTERNET PROBLEMS AND OTHER PROBLEMS OUTSIDE OF OUR CONTROL AND SHALL NOT BE LIABLE FOR DOWNTIME IN RESPECT OF SCHEDULED MAINTENANCE.

## 10. INSURANCE

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We shall maintain sufficient insurance coverage to meet our obligations created by the Agreement and by applicable law. Upon request, we shall deliver to you proof of insurance coverage required by this Insurance Clause.

## 11. CONFIDENTIAL INFORMATION

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11.1. A Party (the **Receiving Party**) undertakes to treat as confidential and keep secret and use all Confidential Information received from the other Party (the **Disclosing Party**) solely for the purpose of fulfilling its obligations or exercising its rights hereunder.

11.2. The Receiving Party shall not without the prior written consent of the Disclosing Party divulge any part of the Confidential Information to any person except to the Receiving Party's and its Affiliates' employees, professional advisors, and its agents (**Representatives**) and then only to those Representatives who need to know it to

perform or receive the benefit of the Supplies. The Receiving Party shall ensure that such Representatives are bound by the material requirements of this Confidential Information Clause or a pre-existing confidentiality agreement with comparable terms. The Receiving Party shall use the same degree of care to protect the Disclosing Party's Confidential Information used to protect its own confidential information, but no less than a reasonable degree of care. The Receiving Party shall promptly notify the Disclosing Party if it becomes aware of any breach of confidence by any recipient of the Confidential Information and shall give the Disclosing Party all reasonable assistance at the Disclosing Party's own expense in connection with any proceedings which the Disclosing Party may institute against such recipient for breach of confidence.

- 11.3. Confidential Information shall not include any information which (a) is at the time of disclosure, or subsequently becomes, publicly known except by breach of these General Terms; (b) is obtained from a third party under no obligation of confidentiality to the Disclosing Party; or (c) is independently developed by the Receiving Party. In the event that the Receiving Party is compelled by law or is required to act in compliance with the legal requirement of a governmental agency to disclose the Confidential Information to any third party, the Receiving Party shall provide the Disclosing Party with notice of any disclosure and, to the extent possible, comply with any reasonable instructions of the Disclosing Party as to such disclosure. The foregoing obligations as to confidentiality shall remain in full force and effect notwithstanding any termination of an Agreement.

## 12. DATA PROTECTION

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- 12.1. Each Party shall, at all times, comply with its respective obligations under all relevant data privacy legislation in relation to any personal data collected or processed in the course of the performance of its obligations under this Agreement.
- 12.2. The additional Data Protection provisions in Annex 1 shall apply to the Parties (in order to be

compliant with Jersey Data Protection law) if (i) either party to an is based within the European Union (**EU**) or European Economic Area (**EEA**) or (ii) EU laws apply to a party to an Order by virtue of public international law (iii) or the offering of the Supplies within an Order are to individuals who are in the EU or EEA.

## 13. FORCE MAJEURE

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If either Party is prevented from, or delayed in, performing any of its obligations under the Agreement (other than an obligation to make payment of monies already outstanding) by a Force Majeure Event, then that Party shall be excused from performance of, and not be liable for any delay or failure to perform under the Agreement for so long as the Force Majeure Event continues and to the extent that Party is so delayed or prevented. If such non-performance or delay continues for longer than forty-five (45) consecutive days, either Party shall be able to terminate the Agreement with immediate effect.

## 14. NON-SOLICITATION

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Neither Party shall, during an Order Effective Period and for a period of one (1) year following the termination or expiry of such Order Effective Period, solicit or recruit for employment either directly or indirectly (other than by general advertising), any person who was an employee of the other Party during that Order Effective Period and who performed work under the relevant Order, without the other Party's written consent. Each Party agrees that if it employs or engages any person contrary to the provisions of this Non-Solicitation Clause, the breaching Party shall pay to the damaged Party on demand a sum in liquidated damages equal to fifty per cent (50%) of such person's annual salary immediately prior to the time of leaving the employment of the relevant Party. The parties confirm that this sum represents a genuine pre-estimate of the damaged Party's loss.

## 15. COMPLIANCE WITH LAWS

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- 15.1. Unless specified otherwise in any Supply Specific Terms or any Order, each Party shall, at its own expense: (a) obtain and maintain any approvals,

licenses, filings or registrations necessary to performance of its obligations hereunder; and (b) comply with all applicable laws (including export laws and regulations).

15.2. You shall, in connection with your use of the Supplies, comply with all Export Control Rules. It is a condition of the Agreement that you shall notify us in writing of any data provided to us pursuant to the Agreement (including, but not limited to, your sharing, via any electronic database, of your data with us) or created by us on your instruction which is controlled for export under any Export Control Rules or requires a security clearance. For the purposes of this Compliance with Laws Clause, data in whatever form is controlled if it is necessary for the design, development, production, operation, repair, testing, or modification of items controlled for export by law. You shall make such notification prior to any provision of the export-controlled data, and shall mark any export-controlled data as such in the manner specified by us. We warrant that any export-controlled data provided by you in accordance with this Compliance with Laws Clause shall be exported or re-exported in full compliance with applicable Export Control Laws if export and re-export is necessary to comply with this Agreement.

15.3. Each Party (including all of our directors, executive officers, agents, and employees) hereby agrees to, in connection with the transactions contemplated by the Agreement or in connection with any other business transaction involving the Parties, fully comply with: (a) the U.S. Foreign Corrupt Practices Act (FCPA), and (b) the provisions of any other applicable anti-corruption laws, including but not limited to the U.K. Bribery Act 2010. Each Party hereby also agrees that should either of them learn of or have reason to suspect that a transaction prohibited by such laws above has occurred, the knowledgeable or concerned Party shall immediately advise the other in writing of such knowledge or suspicion.

15.4. You shall indemnify us against all liabilities, costs, damages and expenses which are incurred by us as a result of any violation by you of any Export Rules, and/or other applicable privacy or export

law, rule or regulation through your use of your own data (or our use in accordance with our instructions) in connection with the Supplies.

## 16. CHANGE

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Unless otherwise specified in an Order, if either Party wishes to modify a provision of the Agreement or request Additional Supplies such Party may propose a change by delivering such request to the other Party in writing. Each Party shall evaluate a proposed change in good faith and shall respond in writing within a reasonable time. We shall determine the impact of any requested or recommended change to the price or timetable (if any) and advise you in writing of such impact. Any proposed change shall only become effective upon the execution by both Parties of a written amendment. Unless otherwise agreed upon by the Parties, until such time as such amendment is effective, we shall continue to perform, and you shall continue to pay for, the Supplies in accordance with the unmodified Agreement.

## 17. DISPUTES

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17.1. In the event of any dispute between us both parties shall immediately, (and where the dispute concerns invoices submitted by us, not later than the due date of the payment of invoice), notify the other of, and provide details about, such dispute. Each party agrees to meet with the other as soon as practicable either in person or by telephone to resolve the dispute. However in the event that the Parties do not reach resolution, then either Party shall be entitled to escalating it to senior level management to attempt to resolve the dispute within 15 Working Days.

## 18. MISCELLANEOUS

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18.1. Neither Party may assign or transfer, or purport to assign or transfer, any of its rights or obligations under the Agreement without the prior written consent of the other Party, such consent not to be unreasonably withheld. Notwithstanding the foregoing, either Party may, without the need to obtain consent from the other Party, assign, transfer and/or subcontract the whole or any part of the Agreement to an Affiliate or successor to all

or substantially all of the business to which these General Terms relate, whether by merger, sale of assets, sale of shares internal corporate restructuring or other similar transaction provided that such Affiliate or successor agrees to be bound by its terms.

- 18.2. These General Terms are intended to create an independent contractor relationship between the Parties. Our employees or subcontractors shall not be construed as your employees. We shall manage our personnel and be free to exercise independent judgment as to the manner and method of performance of the Supplies. If a local tax authority, a state, provincial, local or federal agency, or a court determines that we, or our employees or subcontractors, are your common law employees (whether arising during the term of this Agreement, as a result of the termination of this agreement, or otherwise), then we shall fully indemnify you for all costs or damages incurred as a result of that determination.
- 18.3. No term or provision of the Agreement shall be deemed waived and no breach excused unless such waiver or consent is in writing and signed by the Party claimed to have waived or consented. Other than as expressly stated herein, the remedies provided herein are in addition to, and not exclusive of, any other remedies of a Party at law or in equity.
- 18.4. Clause headings are for convenience only and do not form a part of the Agreement.
- 18.5. The invalidity or unenforceability of one or more provisions of the Agreement shall not affect the enforceability of any other provision, and the Agreement shall be construed in all respects as if such invalid or unenforceable provision were omitted.
- 18.6. The Parties agree that the United Nations Convention for the International Sale of Goods shall not apply to the Agreement.
- 18.7. A notice given to a Party under or in connection with this Agreement: a) shall be in writing; b) shall be sent via recorded delivery: i) For the attention of the Company Secretary at CPA Global,

Liberation House, Castle Street, St Helier, Jersey, JE1 1BL where notices are sent to CPA; ii) For the attention of the CFO/General Counsel at your registered address where notices are sent to you. A secondary notice may, in addition, be sent to a Party via email: i) for CPA: [contracts@cpaglobal.com](mailto:contracts@cpaglobal.com) ii) for you an email address agreed in writing. A notice given under this Agreement is not valid if only sent by email.

- 18.8. You agree to negotiate in good faith to permit us and our Affiliates a right to reference you, including quotes, photos taken or illustrations from you, for advertising and marketing purposes, including but not limited to case studies, print advertisements, reference in our marketing materials, press releases, internet postings and other publications electronic or printed which are produced in the ordinary course of business.
- 18.9. All records and invoices shall be maintained in and all oral and written communications (including without limitation meetings, telephone calls, reports, notices and conferences) shall be conducted exclusively in the English language. In any conflict between communications in the English language and in the local language, the English language version shall prevail.
- 18.10. The Agreement constitutes the entire agreement between the parties, and supersedes all prior and contemporaneous agreements, proposals or representations (other than fraudulent ones), written or oral, concerning its subject matter.
- 18.11. The Agreement may be executed by in counterparts, which taken together shall form one legal instrument.
- 18.12. This Agreement shall be governed by the internal laws of Jersey, without regard to its conflict of law provisions. The venue for any claim arising under this Agreement shall be the Royal Courts of Jersey. The United Nations Convention for the International Sale of Goods shall not apply.
- 18.13. Nothing in the Agreement shall restrict or limit us from seeking injunctive or similar relief in any jurisdiction.

## ANNEX 1

## DATA PROTECTION ANNEX

- 1.1 In this Annex the following terms shall have the following meanings:
- 1.1.1 **Applicable Data Protection Laws** means all national, international and local laws, regulations and rules by any government, agency or authority relating to data protection and privacy which are applicable to CPA Global or the Customer, including but not limited to The General Data Protection Regulation (Regulation (EU) 2016/679), (GDPR);
- 1.1.2 **Data Subject** means a natural person, who can be identified, directly or indirectly, in particular by reference to an identifier;
- 1.1.3 **Personal Data** means any information relating to a Data Subject such as a name, an identification number, location data, an online identifier or one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person;
- 1.1.4 **Sub processor** means any processor engaged by CPA Global (or by any of our other sub processors) who agrees to receive from us (or from any of our other sub processors) personal data exclusively intended for processing activities to be carried out on behalf of you;
- 1.2 If we process any Personal Data on your behalf when performing our obligations under the Agreement, you agree that the intention is that you shall be the data controller and we shall be a data processor for the purposes of the Applicable Data Protection Laws. For the avoidance of doubt, you agree that we also process Personal Data for certain internal purposes, such as risk management and quality reviews, internal financial accounting, information technology and other administrative support services. Where we are processing Personal Data for our own internal purposes, we are acting as a data controller, and not a data processor.
- 1.3 The subject-matter, duration and the nature and purpose of the processing are set out within this Agreement and the Schedule(s). The type of personal data we shall process shall be low risk, (being not of a special category) Personal Data relating to Data Subjects that is required to fulfil the intellectual property management Services set out within this Agreement.
- 1.4 Where we are acting as your data processor;
- i. You acknowledge and agree that the Personal Data may be transferred or stored outside the EEA in order for us to provide the Supplies and carry out our other obligations under the Agreement. Such transfers will take place in accordance with Applicable Data Protection Legislation;
  - ii. You warrant that you are entitled to transfer the Personal Data to us so that we may lawfully use, process and transfer the Personal Data in accordance with the Agreement on your behalf and as instructed;
  - iii. You shall ensure that the relevant data subjects and third parties have been informed of, and where relevant, have given their consent to, such use, processing and transfer as required by all Applicable Data Protection Laws;
  - iv. We shall process the Personal Data in accordance with the terms of this Agreement and any lawful documented clear instructions reasonably given by you from time to time;
  - v. We shall both take appropriate technical and organisational measures against unauthorised or unlawful processing of the Personal Data or its accidental loss, destruction or damage;
  - vi. We shall ensure that persons within CPA Global who are authorised to process the Personal Data on your behalf shall commit themselves to confidentiality, or will be under an appropriate obligation of confidentiality;
  - vii. You give us general authorisation to engage a Sub processor to process Personal Data as part of the Services. A list of the Sub processors is available on our Trust Centre at [www.cpaglobal.com/trust-centre](http://www.cpaglobal.com/trust-centre) which shall be updated from time to time with any changes concerning the addition or replacement of Sub processors, thereby giving you the opportunity to object to such changes;
  - viii. Where we engage another processor to carry out specific processing activities on your behalf, the same or substantively similar data protection obligations as set out between us shall be imposed on that Sub processor by way of contract;
  - ix. We shall notify you if we receive a request by a Data Subject exercising their rights in relation to Personal Data, including but not limited to requests for access, rectification, erasure, restriction of processing, portability and objections to processing based on automated decision making, and will cooperate with you to allow you to respond to such requests;

- x. We shall notify you as soon as reasonably possible and without undue delay of us becoming aware of a Personal Data breach, as defined in Applicable Data Protection Laws, relating to Personal Data processed as part of the Services;
  - xi. We shall assist you to comply with requirements relating to notification of Personal Data breaches to a supervisory authority, communication of Personal Data breaches to data subjects, data protection impact assessments and prior consultations with a supervisory authority, taking into account the nature of processing and the information available to us;
  - xii. At your written request, we shall delete or return all of the Personal Data to you after the end of the provision of the Supplies relating to processing, and delete existing copies from our records, unless a relevant legal, regulatory or standard business practice requires storage of the Personal Data;
  - xiii. We shall make available to you all information necessary to demonstrate compliance with the data protection obligations set out in this Annex 1, and allow for and contribute assistance to such audits, including inspections, conducted by you or another auditor mandated by you. Such audits, including inspections, shall be limited to one per year and shall be conducted with no less than 30 Working Days prior written notice;
  - xiv. You shall ensure that any audit, including inspection, conducted pursuant to this Annex 1 will, not disrupt our business; be conducted during business hours; not interfere with the interests of our other customers and not exceed a period of two successive business days
  - xv. In conducting any audit pursuant to this Annex 1, you (or your auditor) will comply with the confidentiality obligations as set out in this Agreement and our health and safety and security policies in place at the time.
- 1.5** If we can demonstrate compliance with the obligations set out in this Annex 1 by adhering to an approved code of conduct, by obtaining an approved certification or by providing you with an audit report issued by an independent third party auditor (provided that you comply with appropriate confidentiality obligations as set out in this Agreement and shall not use such audit report for any other purpose), you agree that you will not conduct an audit under this Annex 1.
- 1.6** Excluding fines levied by a data protection authority pursuant to the Applicable Data Protection Laws, you shall indemnify us against any claim made, or proceedings taken, against us acting wholly upon your instructions, claiming or alleging that our processing of any Personal Data as data processor for you infringes a data subject's rights under any Applicable Data Law.

## SCHEDULE 2

### SUPPLY SPECIFIC TERMS

#### Part A. SERVICES SUPPLY SPECIFIC TERMS

THIS PART A SHALL APPLY IF YOUR ORDER IS FOR US TO SUPPLY SERVICES TO YOU WHICH DO NOT RELATE TO OUR SOFTWARE. IF YOUR ORDER COMPRISES ANY OTHER SERVICES, THIS PART SHALL NOT APPLY TO YOUR AGREEMENT WITH US.

#### 1. YOUR RESPONSIBILITIES

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- 1.1. You shall be responsible for expressly specifying fully and clearly the scope of the Supplies and the Deliverables in the relevant Order.
- 1.2. In the event that you do not fulfil an obligation under the Agreement, then (without prejudice to our rights and remedies), we will be relieved of our obligations to you to the extent that we are prevented from or hindered in performing the Supplies in accordance with the Agreement.
- 1.3. You acknowledge and agree that we are not a law firm and our performance of the Supplies does not include the provision of legal and/or tax advice in any jurisdiction and no attorney-client relationship is created by its supply.

#### 2. OUR RESPONSIBILITIES

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- 2.1. Unless specified otherwise in the Agreement, we shall be entitled to perform some or all of the Supplies from any of our offices globally.
- 2.2. Certain Supplies performed by us on your behalf may require us to access the Private Pair System of the US Patent and Trademark Office (**USPTO**). To access the Private Pair System you must obtain from the USPTO a set of public key certificates (**PKI Certificates**). In consideration of being given access to such PKI Certificates, we agree to: (a) use such PKI Certificates solely for communicating with the USPTO on your behalf; (b) use the PKI Certificates to access only those matters specified by you solely to perform the Supplies, and not for any other purpose; and (c) hold such PKI Certificates in confidence in accordance with the Confidential Information Clause in the General Terms.