



**COMMUNIS UK LIMITED**

**GENERAL CONDITIONS OF SALE**

## COMMUNISIS UK LIMITED

### GENERAL CONDITIONS OF SALE

#### 1. DEFINITIONS AND INTERPRETATION

1.1 In these Conditions, the following words shall bear the following meaning:

<b>“Agreement Personal Data”</b>	Personal Data which is to be Processed under the Contract, as more particularly described in the Data Processing Annex
<b>“Applicable Laws”</b>	any and all (i) legislation (including statutes, statutory instruments, regulations, orders, directives, treaties), (ii) judgments, resolutions, decisions, orders, notices and demands of any court, regulator or tribunal, or (iii) rules, policies, guidance or recommendations issues by any governmental, statutory or regulatory body and/or any industry code or guideline, in each case whether local, national or international or otherwise existing from time to time in any jurisdiction which relates to a party, these Conditions or the Services and/or Products
<b>“Availability”</b>	ensuring that authorised users ONLY have access to information and associated processing methods
<b>“Communis”</b>	Communis UK Limited
<b>“Control”</b>	in relation to a person, the power (whether direct or indirect) to direct or cause the direction of its affairs, whether by means of holding shares, possessing voting power, exercising contractual powers or otherwise; and <b>“Controls”</b> and <b>“Controlled”</b> will be construed accordingly
<b>“Corporate Voting Services”</b>	the provision by Communis of a facility (whether using Direct Mail Packs and/or Multimedia Services) which may include one or all of the following:  (a) contacting Voters to notify them of a Customer’s relevant voting requirements for an Annual General Meeting or similar;  (b) enabling Voters to register votes including through access to a Website;  (c) collecting and counting votes and submitting the results of the same to the Customer in a format and at times agreed in advance between the parties
<b>“Computer System”</b>	the computer systems and peripherals located at Communis’ premises
<b>“Conditions”</b>	the standard terms and conditions of sale and supply set out in this document together with any special terms agreed In Writing between Communis and the Customer
<b>“Confidentiality”</b>	preventing unauthorised access or disclosure

<b>“Confidential Information”</b>	all information concerning the business or affairs of the parties (or of any member of the group of companies to which the parties belong) whether conveyed orally, In Writing, in machine readable form or otherwise including Databases, know-how or other matters connected with the Products or Services, and information concerning either parties’ relationships with actual or potential clients, customers or suppliers and the needs and requirements of either of such persons and any other information which, if disclosed, will be liable to cause harm to either party
<b>“Contract”</b>	the contract between Communisis and the Customer for the sale and purchase of the Products and/or the supply of the Services, incorporating these Conditions
<b>“the Customer”</b>	the persons, firm or company who purchases the Products or Services from Communisis
<b>“Customer’s Client”</b>	any client of the Customer, Data in respect of whom is passed by or on behalf of the Customer to Communisis in connection with the Contract
<b>“Customer Employees”</b>	any current employee(s) of the Customer and in the context of the Online Payslip Services, any current employee of the Customer whom the Customer intends shall access their Payslip on the Website;
<b>“Customer Materials”</b>	any item or thing, including without limitation film screens, branding, logos, drawings, artwork, designs, business forms, Data, Software, materials and components (including any Database) provided to Communisis by or on behalf of the Customer
<b>“Data”</b>	all data (including any Personal Data) belonging to any of the Customer’s Clients, Customer Employees, Voters or the Customer, which is from time to time held or processed by Communisis in carrying out the Services
<b>“Data Processing Annex”</b>	the annex(es) agreed by the parties in writing (as amended and updated from time to time) in relation to the Contract which sets out in respect of the Agreement Personal Data: (i) the subject-matter and duration of the Processing; (ii) the nature and purpose of the Processing; and (iii) the type of Personal Data and categories of Data Subjects, an example of which is set out in Annex 2 to these Conditions
<b>“Data Protection Laws”</b>	any Applicable Laws in force in the United Kingdom from time to time that relate to the Processing of personal data under the Contract, including: <ul style="list-style-type: none"> <li>(a) the Data Protection Act 1998;</li> <li>(b) (with effect from 25 May 2018) the General Data Protection Regulation (EU) 2016/679; and</li> <li>(c) the Privacy and Electronic Communications (EC Directive) Regulations 2003;</li> </ul> and references to <b>“Data Processor”</b> , <b>“Data Subjects”</b> , <b>“Personal Data”</b> , <b>“Process”</b> , <b>“Processed”</b> , <b>“Processing”</b> , <b>“Processor”</b> and <b>“Supervisory Authority”</b> have the meanings set out

	in, and will be interpreted in accordance with, such laws
<b>“Data Security Incident”</b>	a breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to, Agreement Personal Data transmitted, stored or otherwise Processed
<b>“Database”</b>	a collection of names and addresses and/or other information and Data to be stored, amended, deleted or retrieved using the Computer System
<b>“Direct Mail Packs”</b>	one or more letters, financial statements, Inserts, envelopes, leaflets or other documents which are to be sent to a person or persons by one mailing (whether or not by Communisis) and which may be assembled by Communisis as part of the Contract
<b>“Disaster Recovery Plan”</b>	the document attached to the Contract setting out the Disaster Recovery Services agreed between the parties (if any)
<b>“Disaster Recovery Services”</b>	the procedures and safeguards in the event of a disaster or similar event outside of Communisis’ control which impacts the provision of Services by Communisis in accordance with the Contract such procedures and safeguards being set out in the Disaster Recovery Plan
<b>“Force Majeure”</b>	<ul style="list-style-type: none"> <li>(a) any acts, events omissions or accidents beyond Communisis’ reasonable control;</li> <li>(b) acts of God, flood, earthquake, windstorm or lightning, fire or extreme weather condition;</li> <li>(c) epidemic or pandemic;</li> <li>(d) war, threat of or preparation for war, armed conflict, sabotage, imposition of sanctions, embargo, breaking off of diplomatic relations or similar actions;</li> <li>(e) terrorist attack or threat of terrorist attack, insurrection, civil commotion or riots;</li> <li>(f) nuclear, chemical or biological contamination or sonic boom;</li> <li>(g) any law or government order, rule, regulation or direction, or any action taken by a government or public authority, including but not limited to imposing an embargo, export or import restriction, quota or other restriction or prohibition, or failing to grant a necessary licence or consent;</li> <li>(h) fire, explosion (other than in each case one caused by a breach of contract by, or assistance of, the party seeking to rely on this clause or companies in the same group as such party);</li> <li>(i) loss at sea;</li> <li>(j) extreme weather conditions;</li> <li>(k) interruption or failure of utility service, including but not limited to electric power, gas, water, telecommunications or information technology networks;</li> <li>(l) any labour dispute, including but not limited to strikes, industrial action or lockouts (in each case</li> </ul>

whether or not involving the workforce of the party seeking to rely on this clause, or companies in the same group as such party);

- (m) non-performance by suppliers or subcontractors (other than by companies in the same group as the party seeking to rely on this clause);
- (n) act or omission of or failure or delay in performance by a delivery or postal company;
- (o) restraints or delays affecting carriers;
- (p) failure of a third party software manufacturer;
- (q) theft or malicious damage;
- (r) acts of hackers which could not have been prevented by taking reasonable precautions;
- (s) a Virus that cannot be detected or controlled by the use of reasonable anti-virus protective measures;
- (t) difficulties in obtaining supplies, raw materials, labour, fuel and parts which could not have been prevented by taking reasonable precautions;
- (u) collapse of building structures, breakdown or failure of plant or machinery, computers or vehicles which could not have been prevented by taking reasonable precautions.

**“Group”** together a person and any other person that Controls, is Controlled by or is under common Control with the first person from time to time

**“Inserts”** any circular letter, envelope, leaflet or other document whether supplied by the Customer, produced by Communisis or by a third party which are to be incorporated in a Direct Mail Pack

**“Integrity”** safeguarding the accuracy and completeness of information and processing methods

**“Intellectual Property Rights”** all intellectual and industrial property rights (including patents, know how, registered trade marks, registered designs, utility models, applications for and rights to apply for any of the foregoing, unregistered design rights and unregistered trade marks, rights to prevent passing off for unfair competition and copyright, database rights, domain names, topography rights and any other rights in any invention, discovery or process) in the United Kingdom and all other countries in the world and together with all renewals and extensions thereof

**“International Transfer”** a transfer of Agreement Personal Data which is undergoing Processing, or which is intended to be Processed after transfer, to a country outside the countries that comprise the European Economic Area from time to time and, in the event that the United Kingdom (or any part of it) falls outside the European Economic Area, the countries that comprise the European Economic Area and the United Kingdom (or that part of it)

**“In Writing”** communication by letter, fax or email

<b>“Liability”</b>	liability arising out of or in connection with the Contract, whether in contract, tort, misrepresentation, restitution, under statute or otherwise, including any liability under an indemnity contained in the Contract and/or arising from a breach of, or a failure to perform or defect or delay in performance of, a party’s obligations under the Contract, in each case howsoever caused including if caused by negligence
<b>“Multimedia Services”</b>	products or services which do not result in the production of printed material or other physical matter and which are accessed and utilised via a computer, typically (but not limited to) web applications, other browser based applications, software design and production, production of data, production of CD-ROMS, presentations, mobile phone services (SMS), research and development and emailing on behalf of Customers and which include but are not limited to Online Payslip Services
<b>“Online Payslip Services”</b>	an online facility provided by Communisis to the Customer whereby the Customer Employees can access the Website and view, download and/or print their Payslip
<b>“Payslip”</b>	The Customer Employee’s monthly payslip and annual P60 End of Year Certificate
<b>“Products”</b>	any Communisis products to be supplied and/or delivered to the Customer or third parties on a Customer’s behalf under the Contract (including any part or parts of them)
<b>“Regulations”</b>	any law, legislation, instrument, rule, order, regulation, directive, requirement, guidance or bye- law which applies to, concerns or otherwise affects any party’s obligations under the Contract from time to time
<b>“Relevant Personal Data”</b>	any Personal Data comprised in the Data
<b>“Service/Services”</b>	the services (if any) which Communisis is to perform pursuant to or in connection with the Contract (which, for the avoidance of doubt, includes Multimedia Services)
<b>“Sign-Off”</b>	the Customer’s final approval of the Product proofs by signature of a form given to it by Communisis or its acceptance, In Writing, of the final proof
<b>“Software”</b>	all software including computer programs, operating systems, file layouts and screen layouts and all associated files and data (including job control and other procedure language files, macros and file allocation tables)
<b>“Sub-Processor”</b>	any third party appointed by Communisis to Process Agreement Personal Data
<b>“Virus”</b>	any virus, worm, Trojan horse, logic bomb, time bomb, software locks, drop-dead devices, back door, trap door and any similar form of code which causes harm, damage or impedes the functionality or performance of any computer system or data

<b>“Voters”</b>	individuals notified to Communisis as being part of the Customer’s requirement for Corporate Voting Services
<b>“Website”</b>	a website to be hosted by Communisis as part of the Services and, in the case of: <ul style="list-style-type: none"> <li>(a) Corporate Voting Services, through which Voters may submit electronic communications to register their votes; and</li> <li>(b) Online Payslip Services, through which the Customer Employees may view, download and print their Payslips</li> </ul>
<b>“Working Day(s)”</b>	8.30am to 5.00pm Monday to Friday excluding bank holidays in England
<b>“Written Notice”</b>	notice from one party to another by letter (excluding fax, email and comparable means of communication)

- 1.2 Any reference in these Conditions to any provision of a statute or statutory instrument shall be construed as a reference to that provision as amended, consolidated, re-enacted, modified, extended or replaced at the relevant time.
- 1.3 The headings in these Conditions are for convenience only and shall not affect their construction or interpretation.
- 1.4 Any words in these Conditions following the words “include”, “including”, “in particular” or any similar words or expressions will be construed without limitation and accordingly will not limit the meaning of the words preceding them.
- 1.5 The rule known as the ejusdem generis rule will not apply and accordingly the meaning of general words introduced by the word “other” or a similar word or expression will not be restricted by reason of the fact that they are preceded by words indicating a particular class of acts, matters or things.
- 1.6 In these Conditions the masculine includes the feminine and the neuter and the singular includes the plural and vice versa.

## **2. ACCEPTANCE AND AMENDMENT**

- 2.1 Subject to any variation under clause 2.5 the Contract will be on these Conditions to the exclusion of all other terms and conditions and all previous oral or written representations. No terms or conditions endorsed upon, delivered with or contained in the Customer’s purchase order, confirmation of order, specification or other document will form part of the Contract whether or not such document is referred to in the Contract.
- 2.2 Communisis may provide a quotation to the Customer by post, fax, email, electronic transfer or verbal communication.
- 2.3 Provided that Communisis has not previously withdrawn it, a quotation given by Communisis is only valid for a period of thirty Working Days from its date, unless otherwise expressly agreed by Communisis In Writing. Each order or acceptance of a quotation for Products or Services by the Customer shall be deemed to be an offer by the Customer to purchase Products or Services subject to these Conditions and the terms set out in the quotation.
- 2.4 No order placed by the Customer shall be deemed to be accepted by Communisis until the order is either acknowledged by Communisis In Writing or (if earlier) Communisis begins producing the Products or performing the Services.
- 2.5 These Conditions apply to all sales of Products and Services by Communisis and any

variation to these Conditions and any representations about the Products or Services shall have no effect unless expressly agreed In Writing and signed by an authorised representative of Communisis.

### 3. SPECIFICATION

- 3.1 The quantity and description of the Products and/or Services shall be as set out in Communisis' quotation or acknowledgement of order.
- 3.2 Communisis may make any changes to the specification, design, materials or finishes of the Products or provision of the Services:
  - 3.2.1 which are required to conform with any applicable safety or other statutory or regulatory requirements;
  - 3.2.2 are required to prevent the Products infringing third party Intellectual Property Rights; or
  - 3.2.3 which, in Communisis' reasonable opinion, do not materially affect their quality or performance.
- 3.3 Communisis reserves the right to cease provision of the Services and/or Products if necessary to comply with any Applicable Laws and/or any applicable safety or regulatory requirements.
- 3.4 All advertising, samples, artwork, specifications, illustrations or descriptive material made available by Communisis and any descriptions or illustrations contained in Communisis' sales literature, catalogues, brochures, quotation, price list, acknowledgement of order, invoice, service level agreement or other document or other information issued by Communisis (including on its website) are issued or published for the sole purpose of giving an approximate idea of the Products or Services described in them. They will not form part of the Contract unless specifically stated otherwise. All documents containing such illustrative or descriptive material (as well as the Intellectual Property Rights in such material) shall remain the exclusive property of Communisis or its third party licensors, and must not be copied, loaned or transferred.
- 3.5 Any typographical, clerical or other error or omission in any of the documents referred to in clause 3.3 shall be subject to correction without any liability on the part of Communisis.
- 3.6 The Customer must ensure that the terms of its order are complete and accurate, and any artwork, sketches, files containing Data, specifications, descriptions, information or other instructions supplied by the Customer or by any agent or representative of the Customer in connection with the manufacture or sale of the Products or provision of the Services are supplied to Communisis in the manner (including without limitation regarding format and method of delivery) directed by Communisis and are accurate, unambiguous and clearly legible and meet the Customer's requirements.
- 3.7 To the extent that the Customer's specification does not comply with the recommendations made by Communisis or with the requirements of the relevant delivery or postal company, Communisis shall not be liable for:
  - 3.7.1 any delay in or inability to perform the Services; or
  - 3.7.2 any additional costs incurred in performance of the Services; or
  - 3.7.3 any defect or error in the Products or Services; or
  - 3.7.4 errors in the delivery of the Products or Services; or
  - 3.7.5 additional costs associated with the delivery of the Products or Services,

and, to the extent that any additional costs are incurred by or charged to Communisis as a result of such failure, such costs shall be payable by the Customer.



- 3.8 Where Communisis is supplied with Customer Materials or is requested to use specific material by the Customer when undertaking the Services:
- 3.8.1 Communisis will not be liable for any delay in or inability to perform the Services or for any additional costs incurred in performance of the Services or for any defect or error in the Products or Services or errors in or additional costs associated with their delivery to the extent that such delay, inability, costs, defect or error were caused by defects in or unsuitability of the Customer Materials or specified materials, or the Customer's failure to supply the Customer Materials to Communisis in the manner (including without limitation regarding format and method of delivery) directed by Communisis, it being noted and agreed that Communisis may not be able to identify defects in the Customer Materials or specified materials, or the unsuitable nature of the Customer Materials or specified materials until production has commenced, and where additional costs are incurred by Communisis such costs shall be recoverable from the Customer;
  - 3.8.2 Communisis may reject any of the Customer Materials or specified materials which in its opinion are unsuitable;
  - 3.8.3 Communisis may, if the Customer Materials or specified materials are found to be unsuitable during production or have been supplied to Communisis otherwise than in the manner (including without limitation regarding format and method of delivery) directed by Communisis, charge the additional production costs incurred to the Customer after notifying, where possible, the Customer In Writing of the unsuitability of the Customer Materials or specified materials;
  - 3.8.4 Communisis accepts no responsibility for imperfect work caused by defects in or unsuitability of the Customer Materials or specified materials; and
  - 3.8.5 the Customer must ensure that the ordered quantities of the Customer Materials are adequate to cover spoilage.
- 3.9 Work done whether experimentally or otherwise at the Customer's request will be charged separately or included in Communisis' invoice at Communisis' option.
- 3.10 Unless otherwise specifically agreed In Writing by the parties, Communisis shall be entitled to affix to or print Communisis' name and/or trade or other marks on any Product and the year in which copyright arose in the Product.

#### **4. SIGN OFF**

- 4.1 Communisis will provide the Customer with proofs of the Products or Services prior to print or the provision of the Services, which the Customer will proof read and, if necessary, edit before returning to Communisis for amendment if amendment is necessary. The Customer must Sign-Off proofs in sufficient time for Communisis to meet the production schedule. Communisis shall advise the Customer of the latest date for Sign -Off. In the case of Multimedia Services the proofs may be sent to the Customer by e-mail with a link to a website, sample email (or any other item by which the Customer can validate such proof) which the Customer will access to check the proofs. The Customer will only proof read subsequent amended proofs provided by Communisis against the amendments made to the initial proof. It is Communisis' responsibility to ensure that the remainder of the proof is correct. Prior to print (or provision of Multimedia Services) but following final checking of the proof, Communisis will ask the Customer to Sign-Off the amended version of the proof.
- 4.2 Except as set out in clause 4.1 above, following Sign-Off Communisis will not be responsible for errors in the printed Products (or the Multimedia Services), unless it has failed to print (or complete the Multimedia Services) strictly in accordance with the proofs Signed -Off by the Customer.
- 4.3 The Customer shall pay for any re-prints that may be necessary due to the Customer's failure to amend the proofs correctly prior to Sign-Off. Communisis shall produce at no additional cost to the Customer any re-prints that may be necessary due to Communisis' failure to print the Products (or complete the Multimedia Services) strictly in accordance with the approved versions.

- 4.4 Communisis may charge the Customer an additional charge (which may include standing time if a printing press or other equipment is subsequently inactive) if alterations, additional proofs and/or other works are carried out:
- 4.4.1 at the Customer's request after proofs or samples have been Signed-Off;
  - 4.4.2 where style, type or layout is left to Communisis' judgment and the Customer requests variations to that aspect or aspects of the proof; or
  - 4.4.3 where drawings, proofs or other instructions supplied to Communisis by the Customer are not clear and/or legible.
- 4.5 Due to the large amount of data to be imported into communications sent via the Multimedia Services (and the possible resultant data combinations), Communisis recommends that the Customer fully explores and rigorously tests all possible combinations of data by carrying out testing scenarios, to ensure that the data is imported correctly into such communications. Although Communisis cannot advise the Customer in connection with the suitability of such testing scenarios to be carried out, it may provide the Customer with facilitative assistance in carrying out the testing scenarios chosen by the Customer. Communisis shall in no event be liable to the Customer under or in connection with errors in the Multimedia Services arising in whole or in part due to the carrying out, or failure to carry out, the requisite testing scenario.

## **5. CANCELLATION OF ORDERS**

- 5.1 Subject to clause 5.2, no order which has been accepted by Communisis may be cancelled by the Customer except with the agreement of Communisis In Writing and on the terms that the Customer shall indemnify Communisis in full against all losses including any loss of profit or any indirect or consequential loss or damage (whether for loss of business, depletion of goodwill or otherwise), costs (including the cost of all labour and materials used), expenses, damages, charges or other claims for consequential compensation whatsoever suffered or incurred by Communisis as a result of such cancellation, subject to Communisis' obligation to mitigate its loss.
- 5.2 Orders for Products that are, in Communisis' opinion, standard stock items may be cancelled by Written Notice to Communisis received before the Products are allocated to the Contract.

## **6. DATA PROTECTION**

- 6.1 The Customer authorises Communisis, on its own behalf and on behalf of the other members of its Group (as applicable), to Process the Agreement Personal Data during the term of the Contract as a Data Processor/Processor for the purpose set out in the Data Processing Annex.
- 6.2 The Customer warrants to Communisis, on its own behalf and on behalf of the other members of its Group, that:
- 6.2.1 it has all necessary rights to authorise Communisis and any Sub-Processors to Process Agreement Personal Data in accordance with the Contract and the Data Protection Laws; and
  - 6.2.2 its instructions to Communisis and/or any Sub-Processor(s) relating to Processing of Agreement Personal Data will not put Communisis or any Sub-Processors in breach of Data Protection Laws.
- 6.3 If Communisis reasonably considers that any instructions from the Customer or a member of its Group relating to Processing of Agreement Personal Data may put Communisis and/or any Sub-Processors in breach of Data Protection Laws and/or any provision of the Contract, Communisis will be entitled not to carry out that Processing and will not be in breach of the Contract or otherwise liable to the Customer or any member of its Group as a result of its failure to carry out or delays in carrying out that Processing.
- 6.4 Each party will comply with the Data Protection Laws in respect of Agreement Personal Data.

- 6.5 Without prejudice to any provisions in the Contract expressly relating to subcontracting, the Customer gives general authorisation for Communisis to appoint other Processors and/or Sub-Processors to Process Agreement Personal Data for the purposes of Communisis performing its obligations and exercising its rights under the Contract. Communisis will inform the Customer of (but will not be required to obtain the Customer's consent to) any intended changes concerning the addition or replacement of such Processors and/or Sub-Processors.
- 6.6 If Communisis appoints a Sub-Processor, Communisis will put a written contract in place between Communisis and the Sub-Processor that specifies the Sub-Processor's Processing activities and imposes on the Sub-Processor substantially similar terms as appropriate to the sub-Processing they will undertake. Communisis will remain liable to the Customer for performance of the Sub-Processor's obligations.
- 6.7 Communisis will:
- 6.7.1 Process the Agreement Personal Data only on documented instructions from the Customer or the relevant member of its Group (unless Communisis or the relevant Sub-Processor is required to Process Agreement Personal Data to comply with Applicable Laws, in which case Communisis will notify the Customer of such legal requirement prior to such Processing unless such Applicable Laws prohibit notice to the Customer). For the purpose of this **clause 6.7.1**, the obligations on Communisis to perform the Services and/ or deliver the Products are documented instructions. Nothing in this **clause 6.7.1** will permit the Customer to vary Communisis's obligations and/or any instructions under the Contract than with Communisis' prior written agreement. Any requests by the Customer to vary Communisis's obligations and/or any instructions must be sent to ContractManagement@communisis.com;
  - 6.7.2 without prejudice to **clauses 6.2.2** and **6.4**, promptly inform the Customer upon becoming aware if, in its reasonable opinion, any instruction received from the Customer or a member of its Group infringes any Data Protection Laws;
  - 6.7.3 ensure that any individual authorised to Process Agreement Personal Data is subject to confidentiality obligations or is under an appropriate statutory obligation of confidentiality;
  - 6.7.4 at the option of the Customer, delete or return to the Customer all Agreement Personal Data after the end of the provision of Services and/ or Products relating to Processing, and delete any remaining copies. Communisis will be entitled to retain any Agreement Personal Data which:
    - 6.7.4.1 it has to keep to comply with any Applicable Law;
    - 6.7.4.2 it is required to retain for insurance, accounting, taxation, legal, regulatory or record keeping purposes;
    - 6.7.4.3 is necessary to reproduce products, assess quality and investigate and resolve quality and performance issues.
- This **clause 6** will continue to apply to retained Agreement Personal Data; and
- 6.7.5 notwithstanding any provision to the contrary in the Contract, be entitled to delete the Agreement Personal Data in accordance with its normal data cleansing policies.
- 6.8 Communisis will only make an International Transfer if:
- 6.8.1 the government of the United Kingdom or the European Commission (as applicable) makes a binding decision that the country or territory to which the International Transfer is to be made ensures an adequate level of protection for Processing of Personal Data;
  - 6.8.2 Communisis or the relevant Sub-Processor provides adequate safeguards for that International Transfer in accordance with Data Protection Laws, in which case the Customer will execute any documents (including data transfer agreements) relating to that International Transfer which Communisis or the relevant Sub-Processor requires it to execute from time to time; or
  - 6.8.3 Communisis or the relevant Sub-Processor is required to make the International Transfer to comply with Applicable Laws, in which case Communisis will notify the Customer of

such legal requirement prior to such International Transfer unless such Applicable Laws prohibit notice to the Customer on public interest grounds.

Communis will, upon request from the Customer, provide the Customer with details of the locations of International Transfers where Agreement Personal Data is transferred and the adequate safeguards it has in place in respect of such International Transfers.

- 6.9 Communis will:
- 6.9.1 implement appropriate technical and organisational measures (i) as set out in the Contract; or (ii) where no specific security measures are set out, to ensure a level of security appropriate to the risk of the Processing undertaken by Communis under the Contract;
  - 6.9.2 notify the Customer without undue delay after becoming aware of a Data Security Incident;
  - 6.9.3 be entitled not to carry out Processing of Agreement Personal Data and will not be in breach of the Contract or otherwise liable to the Customer or any member of its Group as a result of its failure to carry out such Processing if Communis reasonably considers that the Processing of Agreement Personal Data may result in a Data Security Incident;
  - 6.9.4 with effect from 25 May 2018 provide reasonable assistance to the Customer (at the Customer's cost) in:
    - 6.9.4.1 complying with its obligations under the Data Protection Laws relating to the security of Processing Agreement Personal Data;
    - 6.9.4.2 responding to requests for exercising Data Subjects' rights under the Data Protection Laws, including by appropriate technical and organisational measures, insofar as this is possible;
    - 6.9.4.3 documenting any Data Security Incidents and reporting any Data Security Incidents to any Supervisory Authority and/or Data Subjects; and
    - 6.9.4.4 conducting privacy impact assessments of any Processing operations and consulting with Supervisory Authorities, Data Subjects and their representatives accordingly.
- 6.10 With effect from 25 May 2018, Communis will:
- 6.10.1 make available to the Customer all information necessary to demonstrate compliance with the obligations set out in this **clause 6**; and
  - 6.10.2 without prejudice to any audit provisions set out in the Contract, allow for and contribute to up to one audit per calendar year and any additional audits required in writing by the Information Commissioner's Office, including inspections, conducted by the Customer or another auditor mandated by the Customer, provided that the Customer gives Communis at least 14 days' prior written notice of each such audit and that each audit is carried out at the Customer's cost, during Communis's normal business hours, so as to cause the minimum disruption to Communis's business and without the Customer or its auditor having any access to any data belonging to a person other than the Customer or members of its Group. Any materials disclosed during such audits and the results of and/or outputs from such audits will be kept confidential by the Customer and each member of its Group.
- 6.11 The Customer has sole responsibility for and shall ensure (and shall procure that each member of the Customer's Group ensures) that:
- 6.11.1 it has all necessary rights to authorise Communis and its Sub-Processors to Process Agreement Personal Data in accordance with the Contract and the Data Protection Laws;
  - 6.11.2 it has provided adequate fair processing notices to, and obtained all necessary consents from all Data Subjects to enable Communis and its Sub-Processors to Process the Agreement Personal Data for the purposes of providing the Services and performing its obligations and exercising its rights as set out in the Contract in compliance with the Data Protection Laws and all guidance issued by the European Data Protection Board, Article 29 Working Party, Information Commissioner's Office and any other supervisory authorities;

- 6.11.3 it shall provide Communisis with only Agreement Personal Data that is adequate, readable, relevant, limited to what is necessary for the lawful purposes for which they are processed, permissible under the Data Protection Laws and not corrupt, lost, damaged, degraded or otherwise unusable;
  - 6.11.4 it will ensure that all Agreement Personal Data that it shares with or makes available to Communisis and/or any member of Communisis' Group is encrypted using AES-256 encryption or higher, password protected and otherwise subject to technical and organisational measures to ensure a level of security appropriate to the risk;
  - 6.11.5 it complies with information security management standards equivalent to ISO/IEC 27001 and, where payment card data will be processed by the Customer, PCI DSS;
  - 6.11.6 all Agreement Personal Data provided to Communisis is accurate and where necessary, kept up to date; and
  - 6.11.7 its instructions to Communisis relating to Processing of Agreement Personal Data will not breach, and will not put either party in breach of, Data Protection Laws.
- 6.12 The Customer will reimburse Communisis for all additional costs and liabilities incurred by Communisis resulting from any failure or delay(s) by the Customer to comply with its obligations under the Contract (including in **clause 6.11** of this Schedule).

## 7. PRINTING

- 7.1 Films, plates, dye cutters, perforations, stereos and other materials owned by Communisis or its subcontractors and used in the production of plates, film-setting, negatives, positives and the like shall remain the exclusive property of the owner. When such items are supplied by the Customer they shall remain the Customer's property.
- 7.2 Unless expressly agreed otherwise In Writing, and subject to the payment by the Customer of any storage costs agreed to be payable to Communisis in connection with any such agreement, Communisis and/or its sub-contractors shall be entitled to destroy any gravure cylinders after approval of delivered Products.
- 7.3 All final artwork and film (not in digital artwork) will be held by Communisis for a maximum period of 12 months from Sign Off.

## 8. DIRECT MAIL PACKS

If the Contract is for Direct Mail Packs:

- 8.1 the Customer shall specify the number of Direct Mail Packs to be produced and/or delivered and the date on which the Direct Mail Packs are to be delivered by Communisis to the Customer or the Customer's carrier and shall provide the Database to be used in preparing the Direct Mail Packs;
- 8.2 the Customer shall supply the Database and, where applicable, the Inserts to Communisis no later than the date and time specified In Writing by Communisis. If the Customer does not supply the Database and Inserts on time, Communisis shall not be liable for any delay;
- 8.3 where it has been agreed that the postage shall be charged to Communisis' account with Royal Mail or other carrier, the Customer shall pay to Communisis the gross amount of the postage (including VAT where required) or carriage charges due prior to the Direct Mail Packs being collected by Royal Mail or other carrier from Communisis. Communisis shall be entitled to withhold delivery of the Direct Mail Packs to Royal Mail or other carrier until the Customer has paid such sum; and
- 8.4 subject to clause 19.1, Communisis shall not be liable (including arising in negligence) for any loss, damage or expense incurred or sustained by the Customer as a result for whatever reason of any person not receiving a Direct Mail Pack, any person receiving an incorrect Direct Mail Pack, any person receiving a Direct Mail Pack more than once or any person incorrectly receiving a Direct Mail Pack.

## 9. MULTIMEDIA SERVICES

In addition to other provisions in these Conditions, if the Contract is for, or includes, the provision of Multimedia Services:

- 9.1 subject to clause 19.1, Communisis shall not be liable for any loss, damage or expense incurred or sustained by the Customer as a result for whatever reason of any person not receiving any electronic communication sent pursuant to the Multimedia Services (including as a result of such communications being dealt with by third party internet service providers as if they were "spam" communications), any person receiving an incorrect communication, any person receiving a communication more than once or any person incorrectly receiving a communication;
- 9.2 it may be necessary to temporarily suspend the Multimedia Services from time to time, in order for Communisis or any of its subcontractors, agents or service providers, to carry out maintenance work on the equipment or software used to provide the Multimedia Services. In such case, Communisis shall provide the Customer with as much notice as possible of temporary suspensions of the Multimedia Services and where possible any such planned suspensions will take place outside of core working hours in order to minimise disruption to the Multimedia Services provided to the Customer. The Multimedia Services may also be suspended (in whole or in part) where Communisis or any of its subcontractors, agents or service providers is obliged to comply with an order, instruction or request of government, a court or other competent administrative authority;
- 9.3 Communisis does not warrant that the operation of any Services (including, without limitation, Multimedia Services) will be uninterrupted or error free;
- 9.4 the Customer is responsible for ensuring that the Multimedia Services and any relevant specification complies with all Applicable Laws, codes of practice and regulations from time to time including, without limitation, Data Protection Laws, any regarding advertising and sales promotion such as the Direct Marketing Code of Practice, the British Code of Advertising, Sales Promotion and Direct Marketing and the rules of the Advertising Standards Authority, the APACS standards, the ICSTIS Code of Practice or any other relevant legislation, legal instrument or guidance and the Customer must sign off the Multimedia Services in accordance with clause 4;
- 9.5 where the Multimedia Services refer to, or contain links to other websites, Communisis accepts no liability for the content of any such websites or any links contained in the same. The inclusion of any link does not imply reliability and endorsement by Communisis of the content of any linked websites. The use of websites other than the Website is entirely at the Customer's own risk; and
- 9.6 Communisis will use reasonable endeavours to ensure that all electronic communications are free of any Viruses, but no warranty is given to this effect.
- 9.7 Subject to clause 19.1, Communisis shall not be liable for any loss, damage or expense incurred or sustained by the Customer or the Customer Employees as a result of the Customer or Customer Employees' inability to access Multimedia Services due to failed internet connections, incompatible or defective hardware and software or any power outages, which are not due to Communisis' breach of its obligations under the Contract.

## **10. CORPORATE VOTING SERVICES**

- 10.1 The Contract may include the provision of Corporate Voting Services in which case the following provisions of this clause 10 shall apply.
- 10.2 The Customer warrants and represents that it has all relevant consents in place to allow Communisis to contact Voters directly, whether through the use of electronic or non - electronic means of communication.
- 10.3 The Customer will test and approve the processes and materials to be used by Communisis in providing the Corporate Voting Services prior to such Services being made available to Voters. In particular, the Customer will approve, without limitation, the following:

10.3.1 the personalisation and content of the Direct Mail Packs and other communications

- provided to Voters;
- 10.3.2 the processes and formalities applicable to Voters making votes;
- 10.3.3 the methods used to count and record votes received from Voters;
- 10.3.4 the format and means of presenting the results of votes to the Customer;
- 10.3.5 any relevant dates and times including, where applicable, the availability of the Website, the dates by which Voters should receive a Direct Mail Pack or other communication advising them of the Customer's requirements in relation to the Corporate Voting Services, and the closing date for receipt of votes from Voters.
- 10.4 Communisis may suspend or withhold the provision of Corporate Voting Services without penalty if the Customer fails to undertake the testing and approval activities referred to in clause 10.3.
- 10.5 The Customer acknowledges and accepts that the Corporate Voting Services will be provided in reliance on the consents obtained under clause 10.2 and the testing and approvals made in accordance with clauses 10.3 and 10.4 and accordingly, where Communisis performs the Corporate Voting Services in accordance with these provisions (including through the use of any processes and/or materials approved by the Customer) Communisis will not be liable for any loss or damage whatsoever including without limitation the following:
- 10.5.1 any duplication or mistaken assembly of Direct Mail Packs or other communications made to Voters;
- 10.5.2 any legal or regulatory liability incurred by the Customer and/or a Voter as a result of the content of any vote or other communication, or a defect or error in the processes used to provide the Corporate Voting Services; and
- 10.5.3 any inaccuracies or other defects in the counting of votes made by Voters and/or the presentation of results or other information to the Customer.
- 10.6 A vote shall only be deemed to have been made by a Voter following receipt by Communisis of such vote (whether such votes have been made through a physical mailing or electronic communication to Communisis).
- 10.7 Where Communisis is to host and provide access to a Website as part of the Corporate Voting Services the Customer acknowledges and accepts:
- 10.7.1 Communisis is unable to and does not guarantee that the Website will be available at all times or any particular time, and no liability will be accepted in respect of losses or damages arising out of such unavailability;
- 10.7.2 Communisis does not guarantee that the Customer's software and/or hardware will be compatible with the Website and the Customer shall be responsible for such compatibility;
- 10.7.3 the Customer will have tested and approved the operation of and content available through the Website prior to Communisis making the Website available to Voters, and no liability will be accepted for any errors or defects on the Website; and
- 10.7.4 Corporate Voting Services are presented as a facility on the Website and it is the responsibility of:
- 10.7.4.1 the Customer to advise Voters to allow sufficient time to vote prior to the voting deadline due to the risk of unavailability of the internet and of Multimedia Services in general;
- 10.7.4.2 Voters to submit their votes in accordance with any timescales applicable to the Customer's relevant company meeting.
- 10.8 In the event of an error, defect or period of unavailability (including in relation to the Website) affecting the provision of the Corporate Voting Services, Communisis shall:

10.8.1 provide the Disaster Recovery Services where agreed with the Customer as part of the Contract; or

10.8.2 where Disaster Recovery Services have not been agreed as part of the Contract, use reasonable endeavours to rectify the error, defect or period of unavailability in question,

provided that in all cases, Communisis shall not be liable for any resulting delay, loss or damage whatsoever incurred by the Customer.

## **11. ONLINE PAYSLIP SERVICES**

11.1 The Contract may include the provision of Online Payslip Services in which case the following provisions of this clause 11 shall apply.

11.2 The Customer agrees that it will provide in accordance with clause 6.1, a Database to Communisis containing such Data and in such format and layout as Communisis may require and specify from time to time in order to perform the Online Payslip Services and that such Data shall include but not be limited to the Customer Employees’:

11.2.1 full name;

11.2.2 home address;

11.2.3 date of birth;

11.2.4 national insurance number;

11.2.5 email address; and

11.2.6 Payslip.

11.3 Subject to the Customer providing the Data and Database to Communisis in accordance with clause 11.2, Communisis and/or its employees, agents or sub-contractors shall:

11.3.1 upload the Payslip on to the Website once a month; and

11.3.2 contact the Customer Employees by email which shall contain a personal link through which the Customer Employees can access the Website and create an individual and unique password. The Customer Employees can access their Payslip on the Website by entering their password.

11.4 The Customer warrants and represents that it has all relevant consents in place to allow Communisis to contact Customer Employees directly, whether through use of electronic or non-electronic means of communication.

11.5 The Customer shall procure that the Customer Employees are aware of the Customer’s obligations under the Contract to comply with Data Protection Laws and to provide truthful, accurate and complete Data to Communisis for the purpose of the Services and that the Customer Employees comply with the same.

11.6 The Customer shall, and shall procure that each Customer Employee shall:

11.6.1 be responsible for the management, security and proper use of all user IDs and passwords allocated to the Customer Employee, and security checkwords which are used in connection with the Website (including changing such user IDs, passwords and security checkwords on a regular basis) and take all necessary steps to ensure that they are kept confidential and secure, used properly and not disclosed to unauthorised persons. In the event that a user ID or password is no longer required, the Customer will inform Communisis and Communisis will ensure that the user ID or password is removed;

11.6.2 maintains adequate security procedures in respect of any computer system (including



up to date anti-virus software and an appropriate firewall) which is used to access the Website;

- 11.6.3 not access the Website in an unauthorised manner;
  - 11.6.4 not introduce or cause to be introduced any computer virus into the Website;
  - 11.6.5 not disrupt or interfere with any part of the Website;
  - 11.6.6 not use the Website for any illegal or immoral activity; and
  - 11.6.7 not use the Website in any way which does or could cause nuisance or annoyance to any other party.
- 11.7 Subject always to the Customer's compliance with clause 11.6, the Customer Employees may access the Website and view, download and print their Payslips.
- 11.8 The Customer shall notify Communisis in Writing when a Customer Employee ceases to be an employee and Communisis shall deactivate that Customer Employee's account immediately, unless the Customer requests Communisis to maintain that individual's account, in which case Communisis may keep the account live subject to the Customer agreeing that it shall be responsible for and indemnify Communisis against all losses incurred as a result of the individual continuing to access its account when it is no longer a Customer Employee.
- 11.9 Where Communisis is to host and provide access to a Website as part of the Online Payslip Services the Customer acknowledges and accepts that:
- 11.9.1 Communisis is unable to and does not guarantee that the Website will be available at all times or any particular time, and no liability will be accepted in respect of losses or damages arising out of such unavailability; and
  - 11.9.2 Communisis does not guarantee that the Customer's and/or the Customer Employees software and/or hardware will be compatible with the Website and the Customer shall be responsible for such compatibility.
- 11.10 If the Contract expires or is otherwise terminated, Communisis may immediately cease performing the Online Payslip Service and close down the Website and all access to it.
- 11.11 Communisis may consider providing electronic copies of the Payslips to the Customer if requested prior to the expiry or termination of the Contract, subject to the parties entering agreeing appropriate written terms.

## 11A. MAILMARK SERVICES

- 11A.1 Where the Customer wishes items to be mailed using Royal Mail 'Mailmark' tariffs, the provisions of Annex 1 to these Conditions of Sale shall also apply.

## 12. DELIVERY/RISK

- 12.1 Except where expressly agreed In Writing between Communisis and the Customer, delivery of the Products shall be made ex-works (delivery to take place at Communisis' premises or the premises of its sub-contractors as applicable) as defined in Incoterms 2000 and the Services shall be performed at the place specified in the order. Delivery of a Direct Mail Pack shall take place when the Direct Mail Pack is collected from Communisis' premises or the premises of its sub-contractor (as applicable) by Royal Mail or other carrier.
- 12.2 The Customer will take delivery of the Products on a date to be agreed between the parties. Delivery of the Products or performance of the Services will be made during Communisis' usual business hours.
- 12.3 If the Customer has any special requirements regarding delivery (including in relation to the quantity of Products delivered, place of delivery or method of delivery) the Customer shall request this In Writing at the time of ordering.

- 12.4 Communisis shall use reasonable endeavours to deliver the Products or perform the Services within the time agreed when the Customer places an order and, if no time is agreed, then within a reasonable time, but the time of delivery or performance shall not be of the essence. If, despite those endeavours, Communisis is unable for any reason to fulfil any delivery or performance on the specified date, Communisis will be deemed not to be in breach of the Contract, nor (for the avoidance of doubt) will Communisis have any liability to the Customer for direct, indirect or consequential loss (all three of which terms include pure economic loss, loss of profit, loss of business, depletion of goodwill and like loss) howsoever caused (including as a result of negligence) for any delay or failure in delivery or performance except as set out in this clause 12.4. Any delay in delivery or performance will not entitle the Customer to cancel the order, unless and until the Customer has given 10 Working Days' Written Notice to Communisis, requiring the delivery or performance to be made, and Communisis has not fulfilled the delivery or performance within that period. If Communisis has failed to effect delivery or performance at the expiry of such 10 Working Day period, then the Customer may cancel any part of an order which has not been fulfilled. If the Customer cancels any part of an order which has not been fulfilled, in accordance with this clause 12.4, then:
- 12.4.1 Communisis will issue a credit note (at the pro-rata Contract rate) to the Customer in respect of sums which the Customer has paid to Communisis pursuant to that order or part of the order which relates to any Products which Communisis has failed to deliver, or Services which Communisis has failed to perform; and
- 12.4.2 the Customer will be under no liability to make any further payments under clause 17 in respect of that order or part of the order which relates to any Products which Communisis has failed to deliver, or Services which Communisis has failed to perform.
- 12.5 The quantity of any consignment of Products as recorded by Communisis upon despatch from Communisis' place of business shall be conclusive evidence of the quantity received by the Customer on delivery unless the Customer can provide conclusive evidence proving the contrary.
- 12.6 If, to assist the Customer in removing the Products from point of delivery, Communisis, its employees, agents or sub-contractors load any of the Products free of charge, no liability whatsoever (except liability for death or personal injury resulting from Communisis', its employees', agents' or its sub-contractor's negligence) shall be incurred by Communisis (including where arising from Communisis' negligence), its employees, agents or sub-contractors and the Customer shall indemnify Communisis, its employees, agents and subcontractors in respect of any such liability.
- 12.7 If the Customer, its employees, agents or sub-contractors, request the use of Communisis' property, including any lifting equipment or transport, to assist in the loading or unloading of the Products, the Customer accepts all liability for all the associated risks and agrees to comply fully with any instructions issued by Communisis.
- 12.8 If for any reason the Customer will not accept delivery of any of the Products when they are ready for delivery, or Communisis is unable to deliver the Products on time because the Customer has not provided appropriate instructions, documents, licences or authorisations:
- 12.8.1 risk in the Products will pass to the Customer and following risk passing to the Customer Communisis shall have no liability for those Products (including for loss or damage caused by Communisis' negligence);
- 12.8.2 the Products will be deemed to have been delivered and Services deemed to have been performed on the due date; and
- 12.8.3 Communisis may store the Products until delivery and the Customer will be liable for all related costs and expenses (including storage and insurance).
- 12.9 Unless otherwise expressly agreed In Writing between the parties, if Communisis delivers to the Customer a quantity of Products of up to 10% more or less than the quantity ordered, the Customer shall not be entitled to object to or reject the Products or any of them by reason of the surplus or shortfall and shall pay for any such surplus Products at the pro rata Contract rate.

### 13. STOCK OBSOLESCENCE POLICY

- 13.1 Communisis will hold at its premises such stocks of printed material and associated items as it deems reasonably necessary to fulfil its obligations under the Contract and will at all times manage such stock to ensure that the stock levels, and thereby the financial risks in relation to such stock borne by the Customer, are the minimum reasonably possible.
- 13.2 Communisis will periodically provide details of stock held and will bring to the Customer's attention changes in stock movement pattern which may result in a cost to the Customer pursuant to this clause 12. The Customer will endeavour to keep Communisis updated of any changes which may impact upon stock movement.
- 13.3 If there is No Demand (as defined below) for a particular item of stock in any period of six consecutive months, Communisis may submit an invoice to the Customer for 100% of the sales value to Communisis of that stock. For the purposes of this clause "No Demand" shall mean either: no sales of the relevant items to the Customer during six consecutive months; or actual demand during the six month period results in the remaining stock being in excess of 12 months' requirements.
- 13.4 If, following payment for stock by the Customer pursuant to clause 13.3, No Demand for that stock is received in the subsequent six month period, Communisis may, with the prior consent of the Customer, dispose of the remainder of that stock. If consent is not provided, notwithstanding any other terms or preferential rates agreed with the Customer, any ongoing storage of such items may be outsourced to a third party and shall be charged at Communisis' or such third party's standard rates.

### 14. OWNERSHIP

- 14.1 Ownership of the Products shall not pass to the Customer until Communisis has received in full (in cash or cleared funds) all sums due to it in respect of the Products and Services and all other sums which are or which become due to Communisis from the Customer on any account.
- 14.2 Until ownership of the Products passes to the Customer, the Customer must:
  - 14.2.1 hold the Products on a fiduciary basis as Communisis' bailee;
  - 14.2.2 store the Products (at no extra cost to Communisis) separately from all other products of the Customer or any third party in such a way that they remain readily identifiable as Communisis' property;
  - 14.2.3 not destroy, deface or obscure any identifying mark or packaging on or relating to the Products; and
  - 14.2.4 maintain the Products in satisfactory condition insured on Communisis' behalf for their full price against all risks to the reasonable satisfaction of Communisis. On request the Customer shall produce the policy of insurance to Communisis.
- 14.3 The Customer may resell the Products before ownership has passed to it solely on the following conditions:
  - 14.3.1 any sale shall be effected in the ordinary course of the Customer's business at full market value and the Customer shall account to Communisis accordingly; and
  - 14.3.2 any such sale shall be a sale of Communisis' property on the Customer's own behalf and the Customer shall deal as principal when making such a sale.
- 14.4 The Customer's rights to possession of the Products shall terminate immediately if any of the circumstances set out in clause 21.1 occur.
- 14.5 Communisis shall be entitled to recover payment for the Products notwithstanding that ownership of any of the Products has not passed from Communisis.
- 14.6 The Customer grants Communisis, its agents and employees an irrevocable licence at any time

to enter any premises where the Products are or may be stored in order to inspect them, or, where the Customer's right to possession has terminated, to recover them.

- 14.7 On termination of the Contract, howsoever caused, Communisis' rights contained in this clause 14 shall remain in effect.

## 15. CUSTOMER'S PROPERTY

- 15.1 Communisis will take reasonable care of any property of the Customer left with it for the purpose of the Contract (including any obsolete stock purchased by the Customer pursuant to clause 13) save that all property supplied to Communisis by or on behalf of the Customer will remain at the risk of the Customer.
- 15.2 Communisis reserves the right to make a reasonable charge for storage of any property of the Customer left with it, including excess Products and Customer Materials. If the Customer does not wish to pay for such storage Communisis may destroy the Products and/or Customer Materials after giving the Customer not less than four weeks' notice of the charge for storage.
- 15.3 Any Products rejected by the Customer or by Communisis shall remain the property of Communisis who may dispose of the same in any way in which it thinks fit.

## 16. PRICES

- 16.1 Quotations for Products or a Service which comprises printing are made subject to the suitability and availability of drawings, proofs or other instructions to be provided by the Customer to Communisis and of any Customer Materials (whether charged to Communisis or not) and of any materials to be supplied by Communisis which are specially requested by the Customer and which are not normally used by Communisis in the course of its business.
- 16.2 All quotations are made on the basis of the use of industry standard processed colours. If the Customer wishes to use other colours, Communisis may charge an additional charge.
- 16.3 Unless otherwise agreed In Writing the price payable by the Customer shall be the price set out in Communisis' quotation or, where applicable, Communisis' published price list or pricing matrix current at the date of delivery of the Products or provision of the Services and is exclusive of:
- 16.3.1 any costs of loading and carriage of the Products;
  - 16.3.2 any export or import tax and/or duties;
  - 16.3.3 any value added tax or other applicable sales tax or duty which will be added to the sum in question; and
  - 16.3.4 any expenses which Communisis reasonably incurs in the provision of the Services.
- 16.4 Prices may be altered by Communisis without notice to the Customer (although Communisis will endeavour to give reasonable notice to the Customer verbally or In Writing) to reflect increases in the cost of manufacture or distribution of the Products or increases in the cost of providing the Services which are due to:
- 16.4.1 any factor beyond the reasonable control of Communisis; this includes foreign exchange fluctuation, currency regulation, alteration of duties, charges and taxes, increases in the cost of labour, materials, other manufacturing costs, service costs and transport costs; or
  - 16.4.2 any change in delivery dates, quantities or specifications for the Products or Services requested by the Customer; or
  - 16.4.3 any delay in Communisis receiving Customer Materials or receiving Customer Materials of inferior quality which require replacing; or
  - 16.4.4 any delay caused by any instructions of the Customer or failure of the Customer to give

Communis adequate information or instructions; or

16.4.5 any failure of the Customer to provide Customer Materials and/or a specification which complies with the requirements of the relevant delivery or postal carrier.

Any dispute as to the amount of any increase in price shall be governed by the dispute resolution procedure in clause 24.

- 16.5 If the Customer requires delivery of the Products or provision of the Services to be expedited or notifies Communis of any special requirements regarding delivery of the Products or provision of the Services, Communis may charge the Customer an additional sum to cover additional costs incurred including overtime payable to its employees or sub-contractors.
- 16.6 The Customer acknowledges and agrees that Communis levies upon its suppliers and sub-contractors supply chain programme management charges which comprise allowances for, amongst other items, supplier contributions to environmental and quality improvement programmes, access to Communis' procurement teams, access to Communis' market, inclusion in (and administration associated with) IQ (Communis' IQ instant pricing tool, e-procurement and marketing data software), auditing, colour management, consultancy and associated overhead. It is agreed that Communis shall retain these charges and that they shall not be factored into (i) the price payable for the Services and/or the Products; (ii) any discounts and/or savings agreed between Communis and the Customer; and/or (iii) any other agreements between Communis and the Customer in respect of payments and/or calculations made under the Contract.

## 17. PAYMENT

- 17.1 Unless otherwise agreed In Writing or stated on Communis' quotation, invoices are due for payment by the Customer no later than 30 days from the invoice date.
- 17.2 Time for payment shall be of the essence.
- 17.3 Communis reserves the right at any time before proceeding or proceeding further with a Contract to demand full or partial payment of monies due and payable under the Contract and under any other contract between Communis and the Customer.
- 17.4 Payments shall be made in such currency and into such bank account as Communis shall nominate from time to time In Writing.
- 17.5 Payment will not be deemed to have been received until Communis has received cleared funds.
- 17.6 All payments payable to Communis under the Contract shall become due immediately upon termination of the Contract despite any other provision.
- 17.7 The Customer shall make all payments due under the Contract without any deduction whether by way of set-off, counterclaim, discount, abatement or otherwise unless the Customer has a valid court order requiring an amount equal to such deduction to be paid by Communis to the Customer.
- 17.8 If the production or delivery of the Products or the provision of the Service is suspended at the request of the Customer or delayed due to the default of the Customer, Communis may charge the Customer for the work carried out to such time, any materials ordered for the Customer and any other additional costs incurred as a result of such suspension or delay, and such charge shall be payable immediately by the Customer.
- 17.9 If the Customer defaults on any payment then, without prejudice and in addition to Communis' other rights under the Contract, Communis may suspend work, delay or withhold delivery or cancel the Contract or suspend work, delay or withhold delivery under or cancel any other contract between Communis and the Customer and retain any progress payments or payments on account already received under the Contract or under any other contract between Communis and the Customer.

- 17.10 If the Customer fails to make any payment under the Contract on the due date then (without prejudice to its other rights and remedies) Communisis may charge the Customer interest (both before and after judgment) on the amount unpaid at the annual rate of 4% above the Bank of England base rate from time to time, accruing on a daily basis, until payment is made in full.
- 17.11 Communisis shall have a lien on all undelivered Customer Materials or other goods being the subject of the Contract for all monies due from the Customer to Communisis under any contract between them.
- 17.12 The Customer shall indemnify and keep indemnified Communisis from and against any costs (including legal costs on an indemnity basis), expenses and other liabilities which Communisis may reasonably incur either before or after the commencement of any action, in connection with any legal proceedings Communisis may bring in respect of a breach by the Customer of any of its obligations under the Contract or warranties given by the Customer under the Contract including proceedings for the collection of any sums due from the Customer pursuant to the Contract together with the enforcement of any settlement or judgement obtained in respect thereof.

## 18. CONDITIONS, WARRANTIES AND QUALITY

- 18.1 It is a condition of the Contract that:
  - 18.1.1 any Data, specification or other materials (including the Customer Materials) provided by the Customer to Communisis for the purpose of Communisis carrying out the Services shall:
    - 18.1.1.1 not be defamatory, offensive or abusive; or
    - 18.1.1.2 not be of an obscene, nuisance or threatening nature; or
    - 18.1.1.3 not be calculated to demean or be discriminatory of any person or vitiate their human or moral rights; and
    - 18.1.1.4 comply with the provisions of clause 20.2;
  - 18.1.2 the Customer complies with the provisions of clause 6; and
  - 18.1.3 the Customer complies with the provisions of clause 20.4.
- 18.2 Communisis warrants that the Services will be provided with reasonable care and skill.
- 18.3 Communisis warrants that (subject to the other provisions of these Conditions) upon delivery and for a reasonable period of time from the date of delivery the Products will be of satisfactory quality within the meaning of the Sale of Goods Act 1979 (as amended by the Sale and Supply of Goods Act 1994). Unless otherwise expressly agreed In Writing between the parties, Communisis will have sole discretion to determine what constitutes a reasonable period of time for the purposes of this clause, taking certain factors into account (including the Customer's storage procedures).
- 18.4 Subject to clause 19.1, Communisis shall not be liable for any defects in the Products or in the performance of the Services, or for breach of the warranty in clauses 18.2 and 18.3 if:
  - 18.4.1 the defect arises because the Customer failed to follow Communisis' oral or written instructions as to the storage, installation, commissioning, use or maintenance of the Products or (if there are none) good trade practice; or
  - 18.4.2 Customer alters or repairs such Products without the written consent of Communisis;
  - 18.4.3 the defect in such Products or Services arises from any design defect in any drawing, design or specification supplied or approved by the Customer or from the Customer failing to amend the proofs correctly prior to Sign Off;
  - 18.4.4 the defect arises due to the Customer's failure to provide Communisis with Databases

on time and/or in accordance with clause 6; and/or

- 18.4.5 the defect arises due to the failure, inadequacy and/or incompatibility of the Customer's and/or the Customer Employees' hardware, software and/ or internet service provision.
- 18.5 Subject to clause 18.1, Communisis shall not be liable for a breach of any of the warranties in clauses 18.2 and 18.3 unless the Customer gives notice In Writing of such alleged breach within five Working Days of:
- 18.5.1 the date of the provision of the Services or date of delivery of the Products (where the defect would be apparent to the Customer upon a reasonable inspection); or
- 18.5.2 (in the case of non-delivery of the Products or non-provision of the Services) the date when the Products would in the ordinary course of events have been received or when the Services would have been performed; or
- 18.5.3 the date when the Customer knew or ought reasonably to have known of the defect (where the defect would not be apparent to the Customer upon a reasonable inspection).
- 18.6 Subject to clauses 18.4 and 18.5, if any of the Products or Services do not conform with any of the warranties in clauses 18.2 and 18.3 Communisis shall at its option repair or replace such Products (or the defective part) or re-perform the Services (or the defective part) or refund the price of such Products or Services at the pro rata Contract rate provided that, if Communisis so requests, the Customer shall return the Products or the part of such Products which is defective to Communisis.
- 18.7 If Communisis produces a Product or performs a Service which, in Communisis' reasonable opinion, is fit for its purpose, albeit not exactly conforming to the specification which has been agreed In Writing by the parties, the Customer shall not be entitled to reject the Product or Service immediately, but shall enter into good faith negotiations with Communisis to agree a suitable credit note or reduction in price.
- 18.8 If Communisis complies with clauses 18.6 and/or 18.7 it shall have no further liability for a breach of any of the warranties in clauses 18.2 and 18.3 in respect of such Products or Services.

## 19. LIMITATION OF LIABILITY

- 19.1 Communisis does not limit or exclude its Liability (if any) to the Customer:
- 19.1.1 for breach of Communisis' obligations arising under section 12 Sale of Goods Act 1979 or section 2 Supply of Goods and Services Act 1982;
- 19.1.2 for personal injury or death resulting from Communisis' negligence;
- 19.1.3 under section 2(3) Consumer Protection Act 1987;
- 19.1.4 for any matter which it is not permitted by law to exclude or limit, or attempt to exclude or limit, its liability; or
- 19.1.5 for fraud or fraudulent misrepresentation.
- 19.2 Except as provided in clauses 4.3, 12.4, 18.6, 18.7 and 19.1, and save for any failure by Communisis to comply with its obligations under clause 6 (Data Protection) and/ or any Data Protection Laws, which shall be subject to the provisions of clauses 19.3, 19.5 and 19.6, Communisis will be under no Liability to the Customer whatsoever for any injury, death, damage or direct, indirect or consequential loss (all three of which terms include pure economic loss, loss of profits, loss of business, depletion of goodwill and like loss) howsoever caused arising out of or in connection with:
- 19.2.1 any of the Products, Services, Multimedia Services, or the manufacture or sale or supply, or failure or delay in supply, of the Products, Services, Multimedia Services, by Communisis or on the part of Communisis' employees, agents or sub-contractors;

- 19.2.2 any breach by Communisis of any of the express or implied terms of the Contract;
  - 19.2.3 any use made or resale by the Customer of any of the Products, or of any product incorporating any of the Products; or
  - 19.2.4 any statement made or not made, or advice given or not given, by or on behalf of Communisis
- or otherwise under the Contract.

19.3 Subject to clause 19.1 Communisis will be under no Liability to the Customer and/or any member of the Customer's Group:

19.3.1 for any pure economic loss, loss of profits, loss of business, depletion of goodwill and like loss (whether direct, indirect or consequential) or any indirect or consequential loss howsoever caused and arising out of or in connection with any failure by Communisis to comply with its obligations under clause 6 (Data Protection) and/ or any Data Protection Laws; and/ or

19.3.2 to the extent:

- 19.3.2.1 arising from or in connection with any failure by the Customer and/or any member of the Customer's Group to comply with Data Protection Laws;
- 19.3.2.2 arising from or in connection with any failure by the Customer and/or any member of the Customer's Group to comply with the provisions of clauses 6, 9.4, 11.5 and 20.2.5 of the Contract;
- 19.3.2.3 arising from or in connection with Communisis complying with any written instructions from the Customer and/or any member of the Customer's Group; and
- 19.3.2.4 that any costs, claims, demands, expenses and liabilities result from or are aggravated by the Customer's and/or any member of the Customer's Group's failure to comply with Data Protection Laws and/or the Contract.

**The Customer's attention is in particular drawn to the provisions of clauses 19.4 to 19.7.**

19.4 Except as set out in clauses 4.3, 12.4, 18.6, 18.7 and 19.1, Communisis hereby excludes to the fullest extent permissible in law, all conditions, warranties and stipulations, express (other than those set out in the Contract) or implied, statutory, customary or otherwise which, but for such exclusion, would or might subsist in favour of the Customer.

19.5 Subject to clause 19.1, Communisis' Liability arising out of or in connection with any failure by Communisis to comply with its obligations under clause 6 (Data Protection) and/or any Data Protection Laws will be limited to the lesser of:

19.5.1 200% of the price paid and/or payable to Communisis by the Customer under the Contract; and

19.5.2 £1 million (one million pounds sterling).

19.6 Subject to clauses 19.1 and 19.5, Communisis' aggregate liability whether in contract, tort, misrepresentation, restitution, under statute or otherwise, in each case howsoever caused including if caused by negligence and arising out of or in connection with all failures by Communisis to comply with its obligations under any Data Protection Laws which occur in any calendar year will be limited to the lesser of:

19.6.1 200% of the price paid and/ or payable to Communisis by the Customer under all Contracts in the relevant calendar year; and

19.6.2 £1 million (one million pounds sterling).



- 19.7 Subject to clause 19.1 and except in respect of any liability to which clause 19.5 or 19.6 applies, Communisis Liability will be limited to the price paid and/or payable under the Contract or if delivery is by instalments or performance is in stages, that part of the Contract to which the delivery or performance relates together with any sums for which Communisis is liable pursuant to clause 12.4.
- 19.8 Subject to clause 19.1, Communisis shall not be liable to the Customer where the content of any Products and/or Services is in breach of any Applicable Laws where Communisis (or its sub-contractor and/or a member of the Communisis Group) has printed and/or prepared such content in accordance with the instructions of the Customer.
- 19.9 The Customer acknowledges that a failure by the Customer to comply with clauses 6, 9.4, 11.5 and 20.2.5 of the Contract and/or the Data Protection Laws could result in losses, liabilities, costs, damages, claims, proceedings and/or expenses being suffered by (i) Communisis; (ii) members of Communisis' Group; and/or (iii) its Sub-Processors.
- 19.10 The Customer shall indemnify Communisis against all liability, actions, proceedings, costs, claims, damages or demands in any way connected with the Contract brought or threatened to be brought against Communisis by any third party except to the extent Communisis is liable to the Customer in accordance with these Conditions.

## **20. CONTENT AND INTELLECTUAL PROPERTY RIGHTS**

- 20.1 Communisis shall not produce or deliver any Products or send (as part of the Services) any communications which, in Communisis' sole opinion, would contravene clause 20.2.
- 20.2 The Customer warrants that any Product, Customer Materials or communication sent as part of the Services:
- 20.2.1 where required by applicable law, prominently displays the identity of the Customer and its online and offline contact details (including the full company name, the legal address and other registration details, any other terrestrial contact address, the email address and the terrestrial telephone number) and the VAT number of the Customer;
- 20.2.2 is clear and unambiguous;
- 20.2.3 is truthful and does not contain any misrepresentation with respect to products or services offered by the Customer, or any misleading or deceptive information;
- 20.2.4 does not contain any unlawful, threatening, abusive, libellous, harassing, blasphemous, defamatory, obscene, pornographic, profane, or otherwise objectionable information, and in particular does not contain any statement constituting or encouraging conduct that would constitute a criminal offence, give rise to civil liability, or otherwise violate any law;
- 20.2.5 complies with and does not contravene any applicable laws, codes of practice and regulations from time to time including, without limitation, the Data Protection Laws, any regarding advertising and sales promotion such as the Direct Marketing Code of Practice, the British Code of Advertising, Sales Promotion and Direct Marketing and the rules of the Advertising Standards Authority, the APACS standards, the ICSTIS Code of Practice or any other relevant legislation, legal instrument or guidance and the Customer must sign off the proof of such Products or Services in accordance with clause 4;
- 20.2.6 does not contain anything which infringes or is alleged to infringe the Intellectual Property Rights of a third party; and
- 20.2.7 does not contain, by the Customer's design or intent, any Viruses.
- 20.3 The Customer shall indemnify and keep indemnified Communisis against all actions, costs (including reasonable legal fees), claims, proceedings and demands arising directly or indirectly from:

- 20.3.1 any breach or alleged breach by the Customer of clauses 6, 20.2 or 20.4; and
  - 20.3.2 any third party claim against Communisis, alleging infringement by Communisis of any Intellectual Property Rights contained in any Customer Materials.
- 20.4 In respect of Customer Materials:
- 20.4.1 the Customer shall grant to Communisis a non-exclusive licence (or, as the case may be, sub-licence) to use the Customer Materials (including all Intellectual Property Rights therein) for the purposes of Communisis carrying out its obligations under the Contract; and
  - 20.4.2 the Customer warrants that it owns (or is licensed to use in accordance with the Contract) all rights, including without limitation Intellectual Property Rights, in the Customer Materials, and that Communisis' use of the Customer Materials will not infringe any third party rights, including without limitation, Intellectual Property Rights.
- 20.5 Any film screens, drawings, artwork, designs, business forms or other materials prepared by Communisis in the production of the Products or provision of the Services including the Website and all Intellectual Property Rights therein are and shall remain the exclusive property of Communisis, unless provided by the Customer or otherwise agreed In Writing by Communisis.
- 20.6 In the event that any film screens, drawings, artwork, designs, business forms or other materials are created by Communisis as a result of a proposal by Communisis to the Customer that is not accepted or a commission from the Customer that is subsequently cancelled, then the Customer shall have no licence to use any Intellectual Property Rights in any such material and the Customer shall promptly return all such material to Communisis.
- 20.7 As between Communisis and the Customer, Communisis shall own and retain all Intellectual Property Rights in the Website and in any Software written or developed by it and the Customer shall obtain no rights in this by virtue of the Contract. The Customer owns the copyright in the Data and Communisis undertakes (at the cost of the Customer) to return the Data in a sequential file format at the request of the Customer.
- 20.8 Communisis shall grant to the Customer a non-exclusive licence to use Communisis' Intellectual Property Rights in the Website, Products and Services and the Software only for the sole express purpose for which the Products and Services were supplied, and the Customer shall have no licence for any other use without the express consent In Writing of Communisis.
- 20.9 The Customer consents to Communisis reproducing any design of the Customer in its own publicity material including brochures, catalogues, advertising material and Communisis' website. Where the Customer is an agent acting for the end user, the Customer shall ensure that the end user gives its consent.

## 21. TERMINATION

- 21.1 Communisis may by Written Notice served on the Customer immediately terminate the Contract if the Customer:
- 21.1.1 is in material breach of any of the terms of the Contract and, where the breach is capable of remedy, the Customer fails to remedy such breach within the number of days specified in any notice In Writing from Communisis, specifying the breach and requiring it to be remedied. Failure to pay any sums due in accordance with clause 17.1 is a material breach of the terms of the Contract which is not capable of remedy;
  - 21.1.2 becomes bankrupt, insolvent, has a receiver, manager or administrative receiver appointed, makes any composition with its creditors or has a receiver appointed under the Mental Health Act 1983;
  - 21.1.3 has any distraint, execution, or other process levied or enforced on any of its property;
  - 21.1.4 ceases or threatens to cease to trade;
  - 21.1.5 has a change in its management and/or control as defined by Sections 450 and 451

Corporation Tax Act 2010; or

21.1.6 any equivalent event occurs to the Customer in another jurisdiction

or if Communisis reasonably anticipates that one of the above set of circumstances is about to occur.

- 21.2 The termination of the Contract howsoever arising is without prejudice to the rights, duties and liabilities of either the Customer or Communisis accrued prior to termination. The conditions which expressly or impliedly have effect after termination shall continue to be enforceable notwithstanding termination.
- 21.3 Communisis shall be entitled to suspend any deliveries of Products or supply of Services as appropriate following service of a Written Notice under clause 21.1.1, until either the breach is remedied or the Contract terminates, whichever occurs first.

## **22. FORCE MAJEURE**

- 22.1 Subject to clause 22.2, Communisis shall not be deemed to be in breach of the Contract or otherwise liable to the Customer in any manner whatsoever for any failure or delay in performing its obligations under the Contract due to Force Majeure.
- 22.2 Communisis reserves the right to defer the date of delivery or to cancel the Contract or reduce the volume of the Products and/or Services ordered by the Customer (without liability to the Customer) if it is prevented from or delayed in the carrying on of its business due to Force Majeure.
- 22.3 Subject to clause 22.4, if the Force Majeure in question continues for a continuous period in excess of 30 days, the Customer shall be entitled to give Written Notice to Communisis to terminate the Contract. The notice to terminate must specify the termination date, which must not be less than 15 days after the date on which the notice is given, and once such notice has been validly given, the Contract will terminate on that termination date.
- 22.4 The Customer agrees that it shall give Communisis a reasonable opportunity to put forward alternative proposals for continuing the performance of the Contract in the event of Force Majeure and the Customer shall not unreasonably withhold its consent to Communisis' proposals.
- 22.5 If Communisis' performance of its obligations under the Contract is affected by Force Majeure Communisis shall not be required to obtain elsewhere in the market goods or services with which to replace or permit it to produce the Products or perform the Services, the production, delivery or performance of which has been postponed or cancelled as a result of Force Majeure. In the event of cancellation, Communisis shall be paid pro rata for work done to the date of cancellation.

## **23. CONFIDENTIALITY**

- 23.1 The parties shall keep confidential any and all Confidential Information that they may acquire about each other pursuant to the Contract. Confidentiality agreements must be signed and complied with by the Customer's employees and representatives during visits to Communisis sites. At all times, the parties shall protect the Confidentiality, Integrity and Availability of all information and data that they may interact with under or in connection with the Contract.
- 23.2 The parties shall not use the Confidential Information for any purpose other than to perform their obligations under the Contract. Each party shall ensure that its officers, employees, agents and sub-contractors comply with the provisions of this clause.
- 23.3 The obligations on the parties set out in clause 23.1 shall not apply to any information which:

23.3.1 is publicly available or becomes publicly available through no act or omission of the parties;

23.3.2 is in the possession of the receiving party without restriction in relation to disclosure before the date of receipt from the disclosing party;

23.3.3 is received from another person who (the receiving party can prove through written documentation) lawfully acquired it and who is under no obligation restricting its disclosure; or

23.3.4 the parties are required to disclose by order of a Court of competent jurisdiction or a competent regulatory authority.

23.4 The provisions of this clause 23 shall continue to apply after expiry or termination of the Contract.

## **24. DISPUTE RESOLUTION**

24.1 This clause 24 will not prevent either party from:

24.1.1 seeking injunctive relief in the case of any breach or threatened breach by the other;

24.1.2 commencing any proceedings where this is reasonably necessary to avoid any loss of a claim due to the rules on limitation of actions; or

24.1.3 commencing proceedings in the case of non-payment of an undisputed invoice.

24.2 If any dispute arises out of the Contract ("a Dispute") the parties will attempt to resolve it by negotiating in good faith. Subject to clause 24.1 the procedures set out in the rest of this clause 24 will be followed prior to the issue of any proceedings or in relation to any Dispute concerning matters of procedure and management.

24.3 Any Dispute which the parties fail to resolve within five Working Days of its first notification by one party to the other will be referred to the parties' respective contract managers for resolution.

24.4 If the relevant Dispute remains unresolved within 15 Working Days of its referral to the parties' respective contract managers the Dispute will be referred to Communisis' sales manager and the Customer's equivalent manager for resolution.

24.5 If the relevant Dispute remains unresolved within 15 Working Days of its referral to Communisis' sales manager and the Customer's equivalent manager the Dispute will be referred to a director of Communisis and a director (or equivalent senior manager) of the Customer for resolution.

24.6 If the relevant Dispute remains unresolved within 15 Working Days of its referral to a director of Communisis and director (or equivalent senior manager) of the Customer then either party is free to pursue the rights granted to it under the Contract through the courts.

## **25. NOTICES**

25.1 All notices between the parties about the Contract must, according to the type of notice, be In Writing or by Written Notice and delivered by hand or sent by first class post, facsimile transmission or (if permitted) by email:

25.1.1 in the case of notices to Communisis, to its registered office or such address as shall be notified to the Customer by Communisis from time to time; or

25.1.2 in the case of notices to the Customer, to the registered office of the Customer (if it is a company) or (in any other case) to any address of the Customer set out in any document which forms part of the Contract or such other address as shall be notified to Communisis by the Customer from time to time.

25.2 Notices shall be deemed to have been duly served:

25.2.1 if delivered by first class post, two Working Days after being posted;

25.2.2 if delivered by hand, at the time of delivery;

25.2.3 if delivered by facsimile transmission, at the time of successful transmission, provided that a confirming copy is sent by first class post to the other party within 24 hours of transmission;

25.2.4 if permitted to be delivered and delivered by email, at the time of sending, provided that a confirming copy is sent by first class post to the other party within 24 hours after sending and that no notification informing the sender that the message has not been delivered has been received by the sender.

22.3 Notices addressed to Communisis shall be marked for the attention of the Company Secretary.

## **26. GENERAL**

26.1 Each right or remedy of Communisis under the Contract is without prejudice to any other right or remedy of Communisis whether under the Contract or not.

26.2 Communisis may assign, license or sub-contract all or any part of its rights or obligations under the Contract without the Customer's consent.

26.3 The Customer shall not be entitled to assign the Contract or any part of it without the prior consent of Communisis In Writing.

26.4 Neither Communisis nor the Customer shall during the term of the Contract and for 12 months following its termination either directly or indirectly solicit or entice away (or seek to attempt to solicit or entice away) from the employment of the other party any person employed by such other party's group (in the case of Communisis) in the provision of the Products and Services to the Customer or (in the case of the Customer) in the receipt and/or administration of the Products and Services from Communisis without the other party's prior agreement In Writing providing that nothing in this clause 26.4 shall prohibit a party from engaging a person who replies to a general advertisement and who is not otherwise solicited or enticed.

26.5 No failure or delay by Communisis to exercise any right, power or remedy will operate as a waiver of it nor will any partial exercise preclude any further exercise of the same, or of some other right, power or remedy.

26.6 If any condition or part of the Contract is found by any court, tribunal, administrative body or authority of competent jurisdiction to be illegal, invalid or unenforceable then that provision will, to the extent required, be severed from the Contract and will be ineffective without, as far as is possible, modifying any other provision or part of the Contract and this will not affect any other provisions of the Contract which will remain in full force and effect.

26.7 Save as expressly stated otherwise in these Conditions, the parties to the Contract do not intend that any of its terms will be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person not a party to it.

26.8 The Contract and the specification contain all the terms which Communisis and the Customer have agreed in relation to the Products and/or Services and supersedes any prior written or oral agreements, representations or understandings between the parties relating to such Products and/or Services. The Customer acknowledges that it has not relied on any statement, promise or representation made or given by or on behalf of Communisis which is not set out in the Contract or specification. Nothing in this clause 26.8 will exclude any liability which one party would otherwise have to the other party in respect of any statements made fraudulently.

26.9 If the contract of employment of any employee is found, or alleged, to have effect after the date of the Contract as if originally made with Communisis or any member of the Communisis Group pursuant to TUPE, Communisis or the relevant member of the Communisis Group shall terminate the employment of the individual concerned within 1 month of the date of such finding or allegation and the Customer shall indemnify and keep Communisis fully indemnified against all claims, demands, costs, liabilities and losses (including all interest,

penalties and legal and other professional costs and expenses) arising or connected with such finding or allegation.

- 26.10 The indemnity at clause 26.9 above will include but not be limited to the costs of employing the individual concerned, the termination of that employment, any liabilities or costs relating to that individual which transfer to Communisis or any member of the Communisis Group under regulations 4 and 5 of TUPE and any liability for failure to inform and consult under regulation 13 of TUPE.
- 26.11 The Customer warrants and undertakes that: it has complied with, and each is presently in compliance with, all Applicable Laws restricting or prohibiting transactions with, or the export, provision, purchase or sale of goods and/or services to, any person pursuant to any sanctions administered or enforced by the U.S. Government (including, without limitation, the Office of Foreign Assets Control of the U.S. Treasury Department ("OFAC") or the U.S. Department of State), the United Nations Security Council, the European Union, Her Majesty's Treasury or other relevant sanctions authority (collectively, the "Sanctions Authorities"); Neither the Customer nor any of its affiliates is a person named on the list of Specially Designated Nationals maintained by OFAC or is otherwise the target or subject of sanctions administered by any other Sanctions Authority (each such person, a "Sanctioned Person") and, to the knowledge of the Customer none of their respective directors, officers and employees is a Sanctioned Person, and is owned or controlled more than 50% by a sanctioned person.
- 26.12 The Contract (and any non-contractual obligations arising out of it) shall be governed by and construed in accordance with English law and each party agrees to submit to the exclusive jurisdiction of the English Courts.

## **Annex 1: MAILMARK SERVICES**

In respect of items/products sent using the Royal Mail's "Mailmark" tariff, the terms of this Annex 1 shall also apply, in addition to the General Conditions of Sale.

1. In this Annex 1, the following terms are as defined as follows:
  - 1.1 "**Adjustment Charge**": is as set out in Royal Mail's Mailmark Adjustment Framework document as maybe amended from time to time by Royal Mail.
  - 1.2 "**Data Cleansing and/or Manipulation Services**": means any, some or all or the following as may be agreed by the Parties in writing: (i) apply the relevant DPS (Delivery Point Suffix) code; (ii) review address details against the Royal Mail "Postal Address File" (PAF) and update / process as agreed (iii) remove duplicates; (iv) screen against the Mailing Preference Service register and/or other industry standard suppression files such as bereavement and gone away registers (v) interpretation of data to allow for the processing and composition of documents in accordance with Royal Mail requirements.
  - 1.3 "**e-Manifest**": is as defined in the Royal Mail Mailmark Technical Handbook, as may be amended from time to time by Royal Mail.
  - 1.4 "**Mailmark Barcode**": is as defined in the Royal Mail Mailmark Technical Handbook, as may be amended from time to time by Royal Mail.
  - 1.5 "**Missort**": is as set out in the Royal Mail Mailmark Adjustment Framework document as may be amended from time to time by Royal Mail
  - 1.6 "**Print Ready Files**": means print files that have been created by a party other than Communisis for fulfilment by Supplier.
  - 1.7 "**Quality Assurance Process**": is as defined in section 4.3 of the Royal Mail Mailmark Technical Handbook, as may be amended from time to time by Royal Mail.
  - 1.8 "**Royal Mail Mailmark Specification**": means the Royal Mail requirements for Mailmark as set out in the Royal Mail Mailmark Technical Handbook, as maybe amended from time to time by Royal Mail and any further tolerance requirements or similar set by Communisis.
  - 1.9 "**Royal Mail Mailmark Technical Handbook**": means the Royal Mail document of that name, as may be amended from time to time by Royal Mail.

### **On Boarding Services**

2. The Parties acknowledge that compliance with the Royal Mail Mailmark Specification is required to avoid Adjustment Charges being levied by Royal Mail.
3. Accordingly, save where paragraph 7 below applies, the Parties agree to work together in good faith to ensure that each new product (or any change of the specification of a previously agreed product) is reviewed and agreed to ensure compliance with the Royal Mail Mailmark Specification (including, but not limited to the content of the Barcode, weight of item, etc.), prior to the product being sent by the Mailmark tariff.

4. If Communisis considers it necessary, Communisis shall (at the Customer's cost) present the product for review under the Royal Mail's Quality Assurance Process for Mailmark.
5. Once the Parties are in agreement, Communisis shall apply the Mailmark Barcode to the relevant items/product as agreed.
6. The Customer shall be responsible for obtaining a Royal Mail Supply Chain ID, as required by Royal Mail, in a timely fashion.

#### Mailmark and Print ready files

7. Where the Customer supplies print ready files to be sent by the Mailmark tariff, then the Customer shall ensure that such print ready files are compliant with the Royal Mail Mailmark Specification.

#### Customer Data

8. Save as set out in paragraph 9 below, in supplying data the Customer shall ensure that the data supplied is compliant with the Royal Mail Mailmark Specification and in particular, that
  - 8.1 the addresses supplied are correct and will be recognised as legitimate addresses by Royal Mail;
  - 8.2 the addresses supplied correctly match the addressee; and
  - 8.3 the addresses supplied correctly match the associated postcode.

#### Data Cleansing/Manipulation

9. The scope of any Data Cleansing and/or Data Manipulation Services to be provided by Communisis shall be agreed in writing. In the absence of such a written agreement, paragraph 8 above shall apply. Where such Data Cleansing and/or Data Manipulation Services are agreed in writing, Communisis shall be liable (subject to paragraph 19 below) for any Adjustment Charges that arise from its failure to properly perform the agreed Data Cleansing and/or Data Manipulation Services. For the avoidance of doubt, Communisis shall not be liable for any Adjustment Charges that arise from:
  - 9.1 any error in the underlying data (or part thereof) that is not subject to the agreed Data Cleansing and/or Data Manipulation Services provided by Communisis; and/or
  - 9.2 any error in the data that exists and could not be detected or avoided despite the proper performance of the Data Cleansing and/or Data Manipulation Services by Communisis.

#### e-Manifest

10. Save where paragraphs 11 and/or 12 below apply, Communisis shall be responsible for the accuracy of the e-manifest uploaded to Royal Mail.
11. Communisis shall not be responsible for any errors or delays arising from matters beyond its reasonable control in uploading the e-manifest.

#### e-Manifest and Third Parties

12. Where it is agreed by the Parties that a third party shall be responsible for uploading the e-Manifest to Royal Mail, Communisis shall supply the third party with the information that it reasonably requires in the format that it reasonably requires as agreed by Communisis with the third party from time to time. Communisis shall not be liable for the accuracy of and/or any delay in the e-manifest subsequently uploaded by the third party, or for any matter arising after the supply of the agreed information to the third party.



Customer led changes

13. Where the Customer requests the recall of any product and/or campaign after the relevant e-Manifest has been uploaded to Royal Mail then Communisis will use its reasonable endeavours to prevent the relevant product being delivered to the postal carrier and/or recall the relevant products.

Mis-sorts

14. Communisis shall not be liable to pay any Adjustment Charges for Mis-sorts unless there is clear evidence of a breach of this Annex 1 by Communisis.

Cooperation

15. The Customer shall promptly supply Communisis with all information and documentation it may reasonably require to fulfil its obligations under this Annex 1 and/or to address any issues that arise.

Adjustment charges

16. Any Adjustment Charges that arise from or in connection with a failure by Communisis to comply with its obligations under this Annex 1 shall (subject to paragraph 19 below) be payable by Communisis.
17. Any Adjustment Charges that arise from or in connection with
- a. A failure by the Customer to comply with its obligations under this Annex 1; and/or
  - b. the Customer's decision to use Mailmark prior to agreement that the product is compliant with the Royal Mail Mailmark Specification; and/or
  - c. the Customer's request to recall any product and/or campaign after the relevant e-Manifest has been uploaded to Royal Mail and/or
  - d. the Customer's decision to use Mailmark prior to agreement being reached by Communisis with any third party pursuant to paragraph 12 above;
  - e. any element of the product supplied by, or on behalf of, the Customer
- shall be payable by the Customer.

Charges

18. Additional charges for the Mailmark services will be as a set out in the relevant order.

Limitation of Liability

19. Communisis's total Liability arising out of or connected with this Annex 1, howsoever arising (including liability for Adjustment Charges), shall in no circumstances exceed either
- 19.1 a sum equal to the Charges payable by the Customer pursuant to paragraph 18 above, under the relevant order; or
  - 19.2 where no such Charges have been agreed, a sum equal to £0.50 per 1,000 items under the relevant order.

Variation/termination by Royal Mail

20. The parties acknowledge that the Royal Mail has the ability to terminate either Party's status as a "Participant" (as defined in the Royal Mail Mailmark Participant Terms and Conditions) on one months' notice (or less) without cause and can unilaterally change the Royal Mail Mailmark Specification and/or the level of or trigger points for Adjustment Charges.
21. In such circumstances, the Parties shall discuss in good faith what impact such changes will have and will amend this Annex 1 accordingly. If no agreement can be reached after a

reasonable period of time, either Party may immediately terminate this Annex 1 on written notice. For the avoidance of doubt, the other conditions of Communisis's General Conditions of Sale shall remain unaffected by any such termination of this Annex 1.

Conflict

22. Should there be any conflict between the terms of this Annex 1 and other provisions of the Contract, the terms of this Annex 1 will prevail.

**Annex 2**

**DATA PROCESSING ANNEX**

<b>Subject matter of Processing</b>	[DETAILS]
<b>Duration of Processing</b>	[DETAILS]
<b>Nature of Processing</b>	[DETAILS]
<b>Purpose of Processing</b>	[DETAILS]
<b>Type of Personal Data</b>	[DETAILS]
<b>Categories of Data Subject</b>	[DETAILS]