



## **PSONA 12 Limited (T/A TWELVE)**

### **TERMS AND CONDITIONS OF PURCHASE**

#### **Background**

PSONA 12 Limited wishes to engage the services of (Company/Supplier name) whose registered number is XXXXX on a non-exclusive basis under the terms and conditions set out below. By signing these terms and conditions, both parties agree this does not form any partnership, association or employment relationship of any kind as defined by the Companies Act 2006 or Employment Act 2008 between the two entities. Both parties also agree that by signing this agreement the Company is not obliged to use the services of the Supplier and is free to use any other supplier that provides the same or similar services.

#### **1 DEFINITIONS**

1.1 In these Terms and Conditions ("the Conditions"):

- 1.1.1 "Agreement Personal Data" means Personal Data which is to be Processed under the Contract, as more particularly described in the Data Processing Annex.
- 1.1.2 "Applicable Laws" means (a) law including any statute, statutory instrument, bye law, order, regulation, directive, treaty, decree, decision (according to the law of England and Wales); (b) legally binding rule, policy, guidance or recommendation issued by any governmental, statutory or regulatory body; and/or (c) legally binding industry code of conduct or guideline in force from time to time which relates to the Contract and/or any products, Goods, and Services provided in connection with the Contract and/or the activities which are comprised in all or some of the Goods and/ or Services or the use or application of the output from the Goods and/ or Services.
- 1.1.3 "Authorised Sub-Processors" means the Sub-Processors authorised by the Company to Process Agreement Personal Data to the extent set out in the relevant Data Processing Annex.
- 1.1.4 "Authority" means any government, agency, regulator or prosecutor.
- 1.1.5 "CFA" means the Criminal Finance Act 2017.
- 1.1.6 "CFA Offence" means an offence under section 45 or section 46 of the CFA.
- 1.1.7 "Company" means PSONA 12 Limited.
- 1.1.8 "Contract" means the contract between the Company and the Supplier consisting of the Order incorporating these Conditions and any other conditions or documents (or part thereof) specified on the Order. Should there be any inconsistency between the documents

comprising or alleged to be comprising the Contract, the documents referred to on the face of the Order shall have precedence.

1.1.9 "Creative Work" means any artwork, photographs, copy, software, computer programs, drawings, sketches, designs, film, sound recordings, musical works, sculptures or any other work or materials subject to copyright or design right protection.

1.1.10 "Data Processing Annex" means the applicable annex(es) agreed by the parties in writing (as amended and updated from time to time) in relation to the Contract which sets out:

- (i) in respect of the Agreement Personal Data: the subject-matter and duration of the Processing, the nature and purpose of the Processing, and the type of Personal Data and categories of Data Subjects;
- (ii) any Authorised Sub-Processors permitted to Process Agreement Personal Data in connection with the Agreement

an example of which is set out in the Annex to these Conditions.

1.1.11 "Data Protection Laws" means all Applicable Laws relating to data protection, the processing of personal data and privacy, including:

- (a) the Data Protection Act 2018;
- (b) the General Data Protection Regulation (being Regulation EU) 2016/679 as amended by The Data Protection, Privacy and Electronic Communications (Amendments etc) (EU Exit) Regulations 2019); and
- (c) the Privacy and Electronic Communications (EC Directive) Regulations 2003;

and references to "Controller", "Data Subjects", "Personal Data", "Process", "Processed", "Processing", "Processor" and "Supervisory Authority" have the meanings set out in, and will be interpreted in accordance with, such Applicable Laws.

1.1.12 "Data Security Incident" means

- (a) 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; or
- (b) any vulnerability in any technological and/or organisational measure(s) used to protect any Agreement Personal Data which may result in exploitation or exposure of that Agreement Personal Data.

1.1.13 "Delivery Address" means the Company's address or address specified on the Order.

- 1.1.14 "Facilitation of Tax Evasion Offence" means a UK tax evasion facilitation offence or a foreign tax evasion facilitation offence, as those terms are defined in the CFA.
- 1.1.15 "Goods" means the goods or Creative Works to be supplied to the Company by the Supplier, details of which are set out in the Order;
- 1.1.16 "International Transfer" means a transfer of Agreement Personal Data which is undergoing Processing, or which is intended to be Processed after transfer, to a country outside the United Kingdom (or that part of it) and the countries that comprise the European Economic Area.
- 1.1.17 "Order" means the written order of the Company relating to the Goods, together with any covering letter issued by the Company setting out additional details;
- 1.1.18 "Services" means the services to be performed by the Supplier, details of which are set out in the Order.
- 1.1.19 "Sub-Processor" means any third party appointed by the Supplier to Process Agreement Personal Data.
- 1.1.20 "Supplier" means the party named in the Order who is to supply the Goods to the Company.
- 1.1.21 "Term" means the time required to supply the Goods or perform the Services, details of which are set out in the Order.
- 1.2 Headings in these Conditions are for ease of reference only and shall not affect the construction or interpretation of any provision.

## **2 GENERAL CONDITIONS**

- 2.1 Work must not be commenced by the Supplier without a valid purchase order being issued by the Company
- 2.2 The Conditions are complete and exhaustive and shall be in substitution for any oral arrangements made between the Company and the Supplier. The Conditions shall prevail over any inconsistent terms or conditions contained in or referred to in the Supplier's quotation or delivery note, acceptance of order or correspondence or elsewhere agreed by trade, custom or practice or course of dealing. No other terms and conditions (apart from any conditions or documents specified on the Order) shall apply to the Contract relating to the supply by the Supplier to the Company (or by the Supplier on the Company's behalf direct to any client of the Company) of any Goods or Services. The terms and conditions of the Supplier (whether supplied previously or at any time in the future) shall not apply.
- 2.3 By accepting the Order the Supplier is deemed to have accepted the Conditions in their entirety. No addition or amendment to the Conditions, any exclusion of the Conditions or any

substitution of any other terms by the Supplier will be accepted by the Company unless such addition, exclusion, amendment or substitution has been confirmed by a Director of the Company in writing.

### **3 APPROVAL AND AUTHORITY**

- 3.1 If required by the Company, on receipt of instructions from the Company, in relation to a particular project, the Supplier shall submit an estimate to the Company for the Goods and/or Services requested by the Company. All estimates and quotations submitted by the Supplier to the Company under this Contract shall be in writing, itemised in full and contain all relevant details.
- 3.2 The Company may place an Order with the Supplier on the basis of the quotation, and the Supplier shall accept the Order on the basis of these Conditions. The execution and return of the acknowledgement copy of the Order by the Supplier or the Supplier's commencement of work or commencement of delivery under the Order shall constitute acceptance of the Order (and of the terms of the Contract) by the Supplier.
- 3.3 The Company shall not be obliged to accept delivery of Goods and/or the performance of the Services in respect of which an Order has not been issued by the Company.
- 3.4 If required by the Company, meetings shall be organised from time to time as agreed between the parties to discuss strategies and progress, and any changes which may be required. The Supplier shall prepare a contact report setting out detailed minutes of any such meeting, which shall be submitted to the Company within five working days of the relevant meeting. The Company will be deemed to have approved the contents of any such contact report unless it notifies the Supplier otherwise within seven working days from the receipt of the report by the Company.

### **4 CHANGES**

- 4.1 The Supplier shall not make any changes to the Goods and/or Services (whether to their quality, nature, quantity or otherwise) without the Company's prior written approval.
- 4.2 The Company reserves the right to request the Supplier to change, reject, cancel or stop any or all plans, schedules or work in progress at any time without recourse relating to the Goods and/or Services and the Supplier will immediately take all possible steps to comply, provided that where applicable, it can do so within its own contractual obligations to sub-contractors. The Supplier shall use its best endeavours to incorporate an equivalent provision in its own contracts with sub-contractors insofar as they relate to the Order.
- 4.3 In the event of any cancellation or amendment relating to the Goods and/or Services requested by the Company, the Company shall reimburse the Supplier for any third party charges or expenses to which the Supplier is committed, provided that such charges or expenses had been approved by the Company and provided also that the Supplier takes all

reasonable steps to minimise such charges and expenses. In the event of a cancellation, subject to the provisions of clause 4.2 and 4.3, the Company will have no further obligation or financial liability to the Supplier and the remainder of the Term of the Order becomes void.

- 4.4 The Supplier shall not alter any of the Goods and/or the Services, except as directed in writing by the Company. The Company shall have the right, from time to time by notice in writing to direct the Supplier to add to or otherwise vary the Goods and/or the Services. The Supplier shall carry out such variations and be bound by the same conditions, so far as applicable as though the said variations were stated in the Contract. Where the Supplier receives any such direction from the Company which would occasion an amendment to the Contract price or delivery dates, the Supplier shall, within 7 days, advise the Company in writing as to the effect of any such amendment on the Contract price or delivery dates, which shall be ascertained and determined at the same level of pricing as that contained in the Supplier's relevant tender, quotation or price list. Until the Company confirms any revised payment terms or delivery dates, the variation or change shall not be deemed to have been accepted. The Company reserves the right to cancel the Order without recourse if such changes cannot be agreed upon as per clauses 4.2 and 4.3.

## **5 QUALITY**

- 5.1 All Goods and/or Services shall be of a high industry standard, shall conform with the requirements or specifications of the Company and shall fully comply in all respects with any agreed samples.
- 5.2 The Services shall be executed to the best of the Supplier's skill and ability by properly qualified and experienced persons, and to the highest professional standard within the Supplier's industry.
- 5.3 The Supplier shall at all times keep the Company informed of progress of all matters relating to the provision of the Goods and Services and will comply with all requests for information by the Company.
- 5.4 The Supplier shall provide the Goods and Services in accordance with the Company's timetable requirements as notified to the Supplier in the Order or otherwise from time to time. Time shall be of the essence in relation to the delivery of the Goods and the performance of the Services.
- 5.5 In carrying out its obligations under the Contract, the Supplier shall abide by and ensure full compliance with all applicable legal and regulatory requirements and with all relevant codes of practice.
- 5.6 In the event that the provision of Services or Goods does not meet the quality or standards expected of the Company, the Company reserves the right to cancel the Order without recourse in accordance with clauses 4.2 and 4.3.



## **6 PRICES/TAXES**

6.1 Unless otherwise stated on the Order, the Supplier warrants that the price specified on the Order:

6.1.1 is exclusive to all taxes, fees, duties or charges which may be levied in respect of the Goods and/or the Services;

6.1.2 includes all charges or costs associated with the packing, packaging, preparation for delivery and delivery of the Goods to the Delivery Address;

6.1.3 shall be fixed and firm for the duration of the Contract.

6.2 All taxes, fees, duties or charges (including VAT) where applicable, shall be shown separately on all invoices as a net extra charge.

## **7 TERMS OF PAYMENT**

7.1 Unless otherwise stated on the Order, payment will be made by the Company within 60 (sixty) days of receipt of the Supplier's valid invoice provided that the Company is satisfied with the Goods and/or Services and all documentation relating to the supply of the Goods.

7.2 Supplier invoices must clearly detail a valid purchase order number. Invoices submitted without a valid Purchase Order will not be paid by the Company

## **8 DELIVERY OF GOODS**

8.1 The Supplier shall deliver all Goods to the Delivery Address on the date(s) of delivery specified on the Order unless agreed otherwise in writing between the Company and the Supplier. Time shall be of the essence of delivery. If Goods are incorrectly delivered, the Supplier will be held responsible for any additional expenses incurred in delivering such Goods to the Delivery Address.

## **9 PASSING OF TITLE AND RISK TO THE COMPANY**

9.1 The title and risk in the Goods shall remain with the Supplier until they are received at the Delivery Address and accepted by the Company under Condition 10.

## **10 ACCEPTANCE**

10.1 In the case of Goods delivered by the Supplier to the Delivery Address or Services supplied by the Supplier not conforming with the Contract or Order whether by reason of:

10.1.1 being of a quality not stipulated or in a quantity measurement not stipulated; or

10.1.2 being not wholly fit for the purpose for which they are required; or

10.1.3 the supply of Good and/or Services being delayed beyond the date(s) specified on the face of the Order; or

10.1.4 not conforming with the Contract and/or Order in any other way,

the Company shall have the right to reject such Goods or Services within a reasonable time of their delivery to the Delivery Address or their performance and shall give the Supplier opportunity (within a stipulated timescale) to replace rejected Goods or Services with ones which conform to the Contract at no additional cost to the Company.

10.2 In the event that the Supplier does not replace rejected Goods or Services within the required time, the Company shall have the right to purchase the Goods and/or Services from a third party but without prejudice to any other right which the Company may have against the Supplier. If the cost of purchasing such Goods elsewhere exceeds the price stated on the Order then the Supplier shall pay to the Company the difference between the cost incurred by the Company and the price stated on the Order.

10.3 The making of payment by the Company in respect of the Goods or Services shall not prejudice the Company's right of rejection or the Company's rights to damages or other rights under the Contract and the Supplier shall promptly repay to the Company any monies paid by the Company to the Supplier in respect of such rejected Goods or Services.

## **11 COPYRIGHT**

11.1 Where the Order involves Creative Work, the Supplier hereby grants a royalty free, exclusive, transferable, sub-licensable licence to the Company full title guarantee all copyright and all other intellectual property rights howsoever arising in any territory in the world in the Creative Work to use the Creative Work for any purpose (including incorporation with other works), any number of times within the period of one year from delivery of the Creative Work (such period may be extended by mutual agreement). The Supplier further agrees to do all other things necessary to confirm the vesting of such rights as necessary.

11.2 In the event that the Order specifies that a licence is to be granted in respect of the Creative Work, the Supplier hereby grants the Company a licence to use the Creative Work in the media, territory and for the duration specified on the Order.

11.3 The Contract is conditional upon the Supplier entering into such an assignment and/or licence and the Contract will only become unconditional when the Supplier has formally assigned or licensed the copyright and all other intellectual property rights in the Creative Work either by executing an assignment deed or written licence in a form acceptable to the Company or by signing the transfer of copyright provisions or licence terms set out on the front of the Order and returning the original to the Company and or by signing these terms and conditions.

## **12 WARRANTIES**

- 12.1 Unless otherwise agreed in writing by both parties the Supplier shall at the Company's option either refund in full or as soon as reasonably practicable repair or replace all Goods or Services which become defective during a period of 12 months from the delivery or installation. Repairs and replacements shall themselves be subject to the foregoing obligations for a period of 12 months from the date of delivery or installation.
- 12.2 The Seller warrants and undertakes to the Company that:
- 12.2.1 all Creative Work will be original work which has not wholly or substantially been copied from any other work; and
  - 12.2.2 insofar as the Goods provided by the Seller are Creative Works, that no Creative Work will infringe the rights of any third party and no third party has been or will be involved in the creation of the Creative Works without the prior consent or direction of the Company; and
  - 12.2.3 unless otherwise agreed by the Company the Supplier has not granted nor will it grant any rights in or to the Creative Works to any third party; and
  - 12.2.4 the Supplier is the owner of all copyright and all other intellectual property rights in the Creative Works; and
  - 12.2.5 the Supplier is a "qualifying person" for the purposes of the Copyright, Designs and Patents Act 1988; and
  - 12.2.6 that it will use its best endeavours to assist the Company if requested to enable the Company to resist any action, claim or proceedings brought against the Company as a result of such breach.
- 12.3 The Supplier hereby agrees to indemnify the Company against all and any loss, damages and costs sustained by the Company or any of its clients as a result of the Supplier being in breach of any of the above warranties and undertakings.

## **13 LIABILITIES**

- 13.1 Neither party shall exclude or limit its liability for deceit or fraud, death or personal injury resulting from its negligence or for fraud or misrepresentation or for any kind of liability which cannot be excluded by law.
- 13.2 In no circumstances will either party be liable to the other party for any indirect, consequential, financial or economic loss or damage, costs or expenses (whether direct or indirect, known or unknown, current or future and including, without limitation, loss of profits, business, revenue or opportunity) whether in contract, tort, negligence, breach of statutory duty or otherwise whatsoever or howsoever arising out of or in connection with this Agreement.



13.3 With the exception of Clause 13.1, the maximum liability of the Company under this Agreement shall be limited to the total Fee payable.

#### **14 INDEMNITY**

14.1 The Supplier shall indemnify and keep the Company, its agents, employees, officers, affiliates and assigns indemnified against any and all liability, claims, costs, expenses, damages or other losses incurred or suffered by the Company arising directly or indirectly from:

14.1.1 any act or omission in the performance of or in connection with any or all of the obligations undertaken by the Supplier pursuant to the Contract, whether by reason of the negligence of the Supplier, its agents, employees, or sub-contractors or their agents or employees, or otherwise, including without limitation to the generality of the foregoing any liability arising as aforesaid from any injury to any person or persons but excluding any such liability, damage or loss arising directly or indirectly from negligence on the part of the Company; or

14.1.2 insofar as the Seller provides the Goods or Services to the Company, any infringement or alleged infringement of trade marks, trade names, patents, design rights, registered designs or copyright or of any other rights whatsoever of third parties by the purchase use or sale of the Goods or Services by the Company, its servants, agents or customers of the Goods or Services or any part thereof, or the packaging, appearance, or labelling (including without limitation, any passing-off or alleged passing-off of any of the Goods as those of any third party),

provided that the Supplier shall have no obligation to indemnify under this Clause if and to the extent that any relevant liability, damage, loss, cost or expense incurred was only incurred because the Supplier performed the Services or delivered the Goods strictly in accordance with designs, plans or specifications supplied by the Company to the Supplier or where the relevant liability, damage, loss, cost or expense incurred was only incurred because of the subsequent modification of the Services or Goods by the Company .

14.2 The Company reserves the right to request a copy of the Suppliers valid Professional Indemnity certificate prior to commencement of any work. If the Supplier is unable to produce a valid certificate the Company reserves the right to immediately terminate any agreement without recourse.

#### **15 FORCE MAJEURE**

15.1 Neither party shall be liable for failure to perform its obligations under the Contract if such failure is caused by any matter wholly beyond that party's control (which shall not include any industrial action by its own or any subcontractor's employees) provided that the party relying on this position shall give immediate written notice of that fact to the other party and such party shall be entitled to a reasonable extension of time for the performance of such obligations.

## **16 SUB-CONTRACTS AND THIRD PARTIES.**

- 16.1 The Contract shall not be assigned by the Supplier nor sub-contracted without the Company's prior written consent. The Company reserves the right to inspect the terms of appointment (and invoices) of any sub-contractor. The Supplier shall be responsible for all Services performed and Goods supplied by such sub-contractors and shall not be relieved of any of its obligations to the Company under the Contract.
- 16.2 The parties confirm their understanding that a person who is not a party to this Agreement may have the right under the Contracts (Rights of Third Parties) Act 1999 to rely upon or enforce any term of this Agreement.

## **17 DOCUMENTATION AND PACKAGING**

- 17.1 Any specification, plans, drawings, process, information, patterns or designs supplied by the Company to the Supplier in connection with the Contract shall remain the property of the Company and be clearly marked as such.
- 17.2 All Goods must be packaged delivered and documented in accordance with all appropriate BS Standards and all other UK and EU Regulations.
- 17.3 The Company may request specific documentation layouts and distribution which the Supplier will comply with. All documentation must be clear and accurate and relate to the details on the Order.

## **18 INSOLVENCY AND BANKRUPTCY**

- 18.1 If the Supplier becomes insolvent or bankrupt, makes any arrangement with creditors, is unable to pay its debts as and when they fall due, or being a company has an administrative receiver or administrator appointed or commences to be wound up (other than for the purpose of amalgamation or reconstruction) the Company may, without prejudice to any other of its rights, terminate the Contract forthwith by notice to the Supplier or any person in whom the Contract may have become vested.

## **19 TERMINATION FOR CONVENIENCE**

- 19.1 By written notice, the Company may terminate all or any part of this Contract if the Company determines that a termination is in the Company's interest. In such event the Company and the Supplier will agree upon an equitable adjustment of the price specified on the Order based on the work carried out by the Supplier on the Goods at the date of termination provided that:
- 19.1.1 such adjustment shall not exceed the price specified on the Order; and
- 19.1.2 such adjustment shall be based on the Supplier's relevant tender, quotation or price list; and

- 19.1.3 no amount will be allowed for anticipated profit for performance not rendered or any other loss of profits which the Supplier has or may incur; and
- 19.1.4 the Supplier notifies the Company of intent to submit a claim for adjustment within thirty (30) days from the date of termination.

## **20 CONFIDENTIALITY**

- 20.1 The Contract and all information disclosed under or in connection with the Contract (including any and all information relating to the Company's clients) shall be treated by the Supplier as confidential and shall not without the Company's prior written consent be copied, divulged to any other person or used for any purposes except as shall be reasonably necessary for the Supplier to carry out its obligations hereunder.
- 20.2 "Confidential Information" means all information not in the public domain concerning the business and/or finances of the Company or customers, or clients of the Company, which the Supplier shall have received or obtained at any time by reason of or in connection with the Services including, without limitation: trade secrets; customers/client lists; contact details of clients; customers, suppliers and individuals within those organisations; details of clients' requirements; brands and markets; terms of business; technical information; know-how; research and development; financial projections; records and corporate and business plans; planned products and services; marketing and advertising plans; requirements and materials; marketing surveys and research reports and market share and pricing statistics; any information which you are told is confidential; any information which has been given to the Company in confidence by customers or other persons; and computer software and passwords.
- 20.3 The Supplier shall neither during the Term (except in the proper production of the Goods or performance of the Services) nor at any time (without limit) after the termination of the Term:
  - 20.3.1 use any Confidential Information for the Suppliers own or another's purpose or otherwise than in performing the Services for the Company;
  - 20.3.2 disclose or allow any Confidential Information to be divulged to any person, company, business entity or other organisation otherwise than in the course of performing the Services for the Company;
  - 20.3.3 through any failure to exercise due care and diligence, cause any unauthorised disclosure of any Confidential Information relating to the Company.
- 20.4 In addition, the Supplier must take all reasonable steps to safeguard any Confidential Information in their possession or control and in particular must take care not to discuss it or reveal it in any public place.

- 20.5 If the Supplier relies on any information being publicly available, for example if the information is contained in client's literature, the Supplier must ensure that the information used or disclosed is taken from that public source only.
- 20.6 For the avoidance of doubt, the Supplier should be aware that because of the nature of the Company's business, any disclosure by the Supplier of any information of any kind relating to the Company, their business or clients to members of the press is prohibited unless such disclosure is made with the prior written consent of the Directors.
- 20.7 As a condition of the Supplier working on matters for certain clients of the Company, the Supplier may be required to sign and observe separate confidentiality agreements with those clients.

## **21 DATA PROTECTION AND DATA SERVICES**

- 21.1 Where the Supplier provides Data Services (which term shall mean the provision of data Goods and data Services) to the Company or to any member of the Company's Group under the Contract, it shall do so on the terms of the Company's standard data licence and sub-licence agreement notified to the Supplier from time to time provided always that the parties will comply with the Data Protection Laws in connection with the supply of the Data Services. In all other cases, the terms at clauses 21.2 to 21.13 apply.
- 21.2 The Company authorises the Supplier to Process the Agreement Personal Data during the term of the Contract (and such further period as notified to the Supplier by the Company in writing) as a Data Processor/Processor solely for the purpose and to the extent described in the Data Processing Annex for the purpose of providing products, Goods and/or Services to the Company in accordance with the Contract.
- 21.3 In performing the Services and its other obligations under the Contract the Supplier will:
- 21.3.1 comply with the Data Protection Laws;
  - 21.3.2 not cause (i) the Company, (ii) any other member of its Group and/or (iii) any client of the Company and/or any member of its Group to breach any obligation under the Data Protection Laws; and
  - 21.3.3 notify the Company without undue delay if it identifies any areas of actual or potential non-compliance with the Data Protection Laws or the Contract, without prejudice to its obligations to comply with, or to any rights or remedies which the Company may have for breach of, the Data Protection Laws or the Contract.
- 21.4 Except for Authorised Sub-Processors to the extent set out in the Data Processing Annex, the Supplier will not engage or use any third party for the Processing of Agreement Personal Data or permit any third party to Process Agreement Personal Data or otherwise publish, disclose or divulge Agreement Personal Data to any third party without the prior written consent of the Company.

- 21.5 If the Supplier appoints a Sub-Processor, the Supplier will ensure that, prior to the Processing taking place, there is a written contract in place between the Supplier and the Sub-Processor that specifies the Sub-Processor's Processing activities and imposes on the Sub-Processor equivalent and no less onerous terms as those imposed on the Supplier in the Contract. The Supplier will procure that Sub-Processors will perform all obligations set out in the Contract and the Supplier will remain responsible and liable to the Company, the other members of the Company's Group and each of their clients for all acts and omissions of Sub-Processors as if they were its own.
- 21.6 The Supplier will:
- 21.6.1 Process the Agreement Personal Data only on documented instructions (including the Contract) from the Company or the relevant member of its Group (acting on behalf of the relevant Data Controller / Controller where relevant) unless the Supplier or the relevant Sub-Processor is required to Process Agreement Personal Data to comply with United Kingdom, European Union (as it is made up from time to time) or European Union member state Applicable Laws, in which case the Supplier will notify the Company of such legal requirement prior to such Processing unless such Applicable Laws prohibit notice to the Company on public interest grounds;
  - 21.6.2 if the Supplier has any uncertainty regarding the Company's instructions and the parameters of its processing activities in connection with them, immediately notify the Company to seek clarification on such instructions and/or parameters (as relevant);
  - 21.6.3 immediately inform the Company in writing if, in its reasonable opinion, any instruction received from the Company or a member of its Group infringes any Data Protection Laws;
  - 21.6.4 without prejudice to clause 21.6.1, ensure that Agreement Personal Data will only be used for the purpose and to the extent described in the Data Processing Annex;
  - 21.6.5 without prejudice to clause 21.6.4, not without the prior written consent of the Company:
    - 21.6.5.1 convert or use any Agreement Personal Data into anonymised, pseudonymised, depersonalised, aggregated or statistical data;
    - 21.6.5.2 use any Agreement Personal Data for "big data" analysis or purposes;  
or
    - 21.6.5.3 match or compare any Agreement Personal Data with or against any other Personal Data (whether the Supplier's or any third party's);
  - 21.6.6 ensure that any person authorised to Process Agreement Personal Data:

- 21.6.6.1 has committed themselves to confidentiality or is under an appropriate statutory obligation of confidentiality; and
  - 21.6.6.2 complies with this clause 21; and
  - 21.6.6.3 is appropriately reliable, qualified and trained in relation to their Processing of Agreement Personal Data;
  - 21.6.7 keep all Agreement Personal Data confidential in accordance with clause 20 save that any provisions under clause 20 permitting the Processing (including disclosure) of Agreement Personal Data will be subject to the provisions of this clause 21;
  - 21.6.8 at the option of the Company at any time upon request, securely delete or return to the Company or transfer to any replacement supplier, customer or other third party nominated in writing by the Company any and/or all Agreement Personal Data promptly, and securely delete any remaining copies and, as requested by the Company, promptly certify (via a director) when this exercise has been completed; and
  - 21.6.9 except as otherwise stated in any other provision(s) of the Contract that expressly deal with the deletion or retention of data, securely delete Agreement Personal Data within 90 days of (i) the performance of the Services that relate to such Agreement Personal Data; or (ii) expiry or termination of the Contract (whichever the sooner). This Supplier will, as requested by the Company, promptly certify (via a director) when this exercise has been completed.
- 21.7 The Supplier will not make an International Transfer without the Company's prior written consent (save that this clause 21.7 will not affect any International Transfers permitted under the Contract). If the Company gives its prior written consent to an International Transfer, before making that International Transfer the Supplier will demonstrate or implement, to the Company's satisfaction, appropriate safeguards for that International Transfer in accordance with Data Protection Laws and will ensure that enforceable rights and effective legal remedies for Data Subjects are available. If the appropriate safeguards demonstrated or implemented by the Supplier (or the relevant Data Processor/Processor) in accordance with this clause 21.7 are deemed at any time not to provide an adequate level of protection in relation to Agreement Personal Data, the Supplier will, without undue delay and within any timeframes notified to the Supplier by the Company in writing, implement such alternative measures as may be required by (i) the Company, (ii) the relevant member of the Company's Group and/or (iii) the client of the Company and/or member of its Group, (as required by the Company) to ensure that the relevant International Transfer and all resulting Processing are compliant with Data Protection Laws. The Supplier or the relevant Sub-Processor will not need to comply with the conditions set out in this clause 21.7 if it is required to make an International Transfer to comply with United Kingdom, European Union (as it is made up from time to time) or European Union member state Applicable Laws, in which case the Supplier will notify the Company of such

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

21.8 The Supplier will:

21.8.1 implement, and assist (i) the Company, (ii) the relevant member of the Company's Group and (iii) where relevant, each client of the Company and/or member of its Group to implement, technical and organisational measures to ensure a level of security appropriate to the risk presented by Processing the Agreement Personal Data, in particular from a Data Security Incident;

21.8.2 notify the Company immediately:

21.8.2.1 if at any time the Supplier or a Sub-Processor is aware of any reason why it is unable to comply with clause 21.8.1, without prejudice to its obligation to comply with, or to any rights or remedies which the Company may have for breach of, clause 21.8.1; and

21.8.2.2 of any changes that it makes to the technical and organisational measures to protect the Agreement Personal Data and shall not be entitled to reduce any of the security measures that protect the Agreement Personal Data without the Company's express written consent;

21.8.3 comply with:

21.8.3.1 the Company's Security Baseline Standards (copies available upon request) as updated, amended and/or replaced by the Company giving written notice to the Supplier from time to time; and

21.8.3.2 with such encryption obligations as are notified to it by the Company, but in any event shall ensure (i) the encryption using AES-256 encryption or higher of all Agreement Personal Data stored in digital or electronic form and/or transmitted across external networks; and (ii) the secure management of cryptographic keys; and

21.8.4 notify the Company by e-mail at [data.protection-supplier@communisis.com](mailto:data.protection-supplier@communisis.com) and in writing addressed to the Company's Data Protection Compliance Team to the Company's registered address (or such other address as the Company may have communicated to the Supplier from time to time) without undue delay and in any event within 24 hours after becoming aware of a reasonably suspected, "near miss" or actual Data Security Incident, including the nature of the Data Security Incident, the categories and approximate number of Data Subjects and Agreement Personal Data records concerned, the likely consequences of the Data Security Incident and any measure proposed to be taken to address the Data Security Incident and to mitigate its possible adverse effects. Where, and in so far as, it is not possible to

provide all the relevant information at the same time, the information may be provided in phases without undue delay, but the Supplier (and Sub-Processors) may not delay notification under this clause 21.8.4 on the basis that an investigation is incomplete or ongoing;

- 21.8.5 promptly (and in any event within two Business Days) notify the Company of any request that it receives for exercise of a Data Subject's rights under the Data Protection Laws or communication or complaint that it receives from a Data Subject or Supervisory Authority or other third party in connection with Agreement Personal Data;
- 21.8.6 provide reasonable assistance to (i) the Company, (ii) the relevant member of the Company's Group and (iii) where relevant, each client of the Company and/or member of its Group in responding to requests for exercising Data Subjects' rights under the Data Protection Laws and communications and complaints from Data Subjects and Supervisory Authorities and other third parties in connection with Agreement Personal Data, including by appropriate technical and organisational measures, insofar as this is possible;
- 21.8.7 not, without the Company's prior written consent, make or permit any announcement in respect of a Data Security Incident or respond to any request for exercise of a Data Subject's rights under the Data Protection Laws or communication or complaint from a Data Subject or Supervisory Authority in connection with Agreement Personal Data; and
- 21.8.8 assist (i) the Company, (ii) the relevant member of the Company's Group and/or (iii) where relevant, each client of the Company and/or member of its Group in:
  - 21.8.8.1 documenting any Data Security Incidents and reporting any Data Security Incidents to any Supervisory Authority and/or Data Subjects;
  - 21.8.8.2 taking measures to address Data Security Incidents, including, where appropriate, measures to mitigate their possible adverse effects; and
  - 21.8.8.3 conducting privacy impact assessments of any Processing operations and consulting with Supervisory Authorities, Data Subjects and their representatives accordingly.
- 21.8.9 make available to (i) the Company, (ii) the relevant member of the Company's Group and (iii) where relevant, each client of the Company and/or member of its Group all information necessary to demonstrate compliance with the obligations set out in this clause 21;
- 21.8.10 allow for and contribute to audits, including inspections, conducted by the Company or another auditor mandated by the Company;



21.8.11 promptly provide complete and accurate information in response to any due diligence requests or questionnaires as requested by the Company relating to any actual or potential Processing or Personal Data by the Supplier; and

21.8.12 except to the extent expressly permitted in accordance with the Contract, ensure that it does not transmit in any form or by any means whatsoever Agreement Personal Data outside its usual places of business or that of its Sub-Processors.

21.9 The Supplier:

21.9.1 warrants on an ongoing basis that the Data Processing Annex (as amended and updated) contain accurate and complete details of the Processing of Agreement Personal Data;

21.9.2 will promptly notify the Company in writing in advance of any changes required to the Data Processing Annex to reflect any changes to the Processing of Agreement Personal Data;

21.9.3 will be responsible for its own costs in complying with its obligations under this clause 21;

21.9.4 acknowledges that the Agreement Personal Data may contain Personal Data obtained by third parties and the Company will be reliant on such third parties to ensure that any such Personal Data provided for Processing in connection with the Contract is provided in compliance with the Data Protection Laws. Subject to clause 13.1, provided that the Company has used reasonable endeavours to require the relevant third party or third parties to provide information that complies with the Data Protection Laws, the Company shall have no liability (whether in contract, tort (including negligence), breach of statutory duty, restitution, pursuant to an indemnity or otherwise) 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) to the Supplier arising out of or in connection with any failure of Agreement Personal Data that has been supplied to the Company by a third party (including any clients of the Company and/or any member of the Company's Group) to comply with the requirements of Data Protection Laws; and

21.9.5 will act reasonably and in good faith to agree to amendments to the Contract as requested by the Company to reflect the impact of any changes to Data Protection Laws on the Contract and/or the Goods and/or Services.

21.10 The Supplier will prepare and securely maintain a record of all categories of Processing activities carried out on behalf of (i) the Company, (ii) the relevant member of the Company's Group and (iii) each client of the Company and/or member of its Group in relation to the Agreement Personal Data, including as a minimum: (i) its name and contact details and details

of its Data Protection officer or other person with responsibility for data protection compliance; (ii) the categories of Processing it carries out on behalf of the Company, other members of the Company's Group and each of their clients; (iii) International Transfers; (iv) a general description of the technical and organisational security measures referred to in clause 21.8.1; and (v) the same information in relation to any Sub-Processor, together with its name and contact details (together the "Data Record"). The Supplier will promptly upon request securely supply a copy of the Data Record to the Company.

- 21.11 The Supplier acknowledges that the Company and its Group are reliant on the Supplier to provide Goods and Services to their clients that are compliant with Data Protection Laws and that a failure by the Supplier to comply with this clause 21 and/or the Data Protection Laws could result in losses, liabilities, costs, damages, claims, proceedings and/or expenses being suffered by (i) the Company; (ii) members of the Company's Group; and/or (iii) clients of the Company and/or the members of its Group.
- 21.12 The Supplier will indemnify the Company, each other member of the Company's Group and each client of the Company and/or the members of its Group against the Recoverable Liabilities, in each case arising out of or in connection with any breach by the Supplier or any Sub-Processor of any of its obligations under this clause 21 (including any failure or delay in performing, or negligent performance or non-performance of, any of those obligations) and/ or the Data Protection Laws.
- 21.13 Any breach of this clause 21 by the Supplier or any Sub-Processor will be a material breach of the Contract which is not capable of being remedied, irrespective of whether any financial loss or reputational damage arises, and irrespective of the level of any financial loss or deprivation of benefit arising, as a consequence of such breach.

## **22 PREVENTION OF TAX EVASION**

- 22.1 The Supplier will, and will procure that its officers, employees, agents, sub-contractors and any other persons who perform services for or on behalf of it in connection with this Agreement will:
- 22.1.1 not do or omit to do any act or thing which constitutes or may constitute a UK tax evasion offence or a foreign tax evasion offence (as those terms are defined in the CFA) or a Facilitation of Tax Evasion Offence;
- 22.1.2 not do or omit to do any act or thing which causes or may cause the Company to commit a CFA Offence;
- 22.1.3 without prejudice to clause 22.1.2, not do or omit to do any act or thing which would cause the Company to commit a CFA Offence or may do so if the Company was unable to prove that it had in place prevention procedures as referred to in section 45(2) or section 46(4) of the CFA; and

22.1.4 provide the Company (at the Supplier's cost) with such assistance as it may require from time to time to enable it to perform any activity required by any relevant Authority in any relevant jurisdiction for the purpose of compliance with any proceeds of crime, anti-money laundering or prevention of tax evasion law (including, without limitation, the CFA) or to enable it to self-disclose any conduct to or to co-operate with any Authority.

22.2 The Supplier warrants to the Company that it has not, and its officers, employees, agents, sub-contractors and any other persons who perform services for or on behalf of it in connection with this Agreement have not:

22.2.1 been convicted in any jurisdiction of any offence of cheating the public revenue, fraudulently evading any tax or facilitating the fraudulent evasion of any tax or been the subject of any agreement (including, without limitation, any deferred prosecution agreement or similar arrangement) with any Authority concerning any such offence or alleged offence;

22.2.2 done or omitted to do any act or thing which caused or may cause any person to commit an offence under the CFA (or would or may do so if the relevant person was unable to prove that it had in place prevention procedures as referred to in section 45(2) or section 46(4) of the CFA);

22.2.3 been, and are not, the subject of any investigation, enquiry or enforcement proceedings by any Authority regarding any offence or alleged offence of cheating the public revenue, fraudulently evading any tax or facilitating the evasion of any tax in each case in any jurisdiction;

22.2.4 been, and is not, listed by any government agency as being debarred, suspended, proposed for suspension or debarment, or otherwise ineligible for participation in government procurement programmes or other government contracts including, without limitation, any exclusion under regulation 57 of the Public Contracts Regulations 2015 or regulation 80 of the Utilities Contracts Regulations 2016 by reason of it doing any act or thing which constitutes a UK tax evasion offence or a foreign tax evasion offence (as those terms are defined in the CFA) or a Facilitation of Tax Evasion Offence, or being under investigation in respect of any of the same.

22.3 The Supplier will immediately give written notice to the Company upon the occurrence of a breach or suspected breach of any of its obligations or warranties under this clause 22.

22.4 The Company may terminate this Agreement immediately by giving written notice to that effect to the Supplier if the Supplier is in breach of any of its obligations or warranties under this clause 22 or if the Company has reasonable cause to believe that the Supplier has facilitated fraudulent evasion of any tax.

22.5 The Company will be entitled, by giving written notice to that effect to the Supplier, to require the Supplier to remove from the performance of this Agreement any of the Supplier's officers, employees, agents, sub-contractors or any other person who performs services for or on behalf of it in connection with this Agreement and in respect of whom the Supplier is in breach of any of its obligations under clause 22.1 or any of its warranties under clause 22.2.

22.6 The Supplier will ensure that any person associated with the Supplier (as determined in accordance with section 44 Criminal Finances Act 2017) who is performing services in connection with this Agreement and any permitted sub-contractor does so only on the basis of a written contract which imposes on and secures from such person terms equivalent to those imposed on the Supplier by this clause 22. The Supplier will be responsible for the observance and performance by such persons and subcontractors of those terms and will be directly liable to the Company for any breach by such persons and subcontractors of any of such terms

### **23 RESTRICTIVE COVENANTS**

23.1 The Supplier acknowledges that, during the course of the Term, they could be privy to Confidential Information and that they may make, maintain and develop personal knowledge of, and have influence over, valuable personal contacts with clients, staff and third parties. The Supplier therefore covenant with the Company that they will not for a period of five (5) years after the Term whether as principal or agent directly or indirectly:

23.1.1 tender for, canvass, solicit or endeavour to entice away from the Company the business of any person, firm or company who or which at any time during the twelve (12) months prior to the Term was a client of the Company and with whom the Supplier had contact in the normal course of the Term at any time during that period of 12 (twelve) months. This restriction is limited to activities which involve the Supplier offering or providing services which are the same as or similar to those which the Supplier will have provided to that client;

23.1.2 employ or attempt to employ or negotiate or arrange the employment or engagement by any person, of any person who was at the end of the Term or within twelve (12) months prior to that date had been an officer, consultant or senior or managerial employee of the Company and who is known personally by the Supplier;

23.1.3 solicit, interfere with, tender for or endeavour to entice away from the Company any contact, project or business, or the renewal of any of them, carried on by the Company which is current and in progress during or at the end of the Term or which was in the process of negotiation and in respect of which the Supplier had contact with any client or agency of the Company at any time during the period of twelve (12) months prior to the end of Term; or

23.1.4 interfere or seek to interfere with contractual or other trade relations between the Company and any of its or their suppliers.

23.2 The Supplier agrees that, having regard to all the circumstances, the restrictions contained in clause 23.1 are reasonable and necessary for the protection of the Company.

23.3 At no time after the Term in the course of carrying on any trade or business shall the Supplier directly or indirectly claim, represent or otherwise indicate any present association with the Company or the Company's work or indicate any past association with the Company or any of the Company's work to its detriment.

## **24 NOTICE**

24.1 Any notice or other document to be given under this agreement shall be in writing and shall be deemed to have been duly given if delivered personally or sent by pre-paid post or by e-mail to the Suppliers last known e-mail address or facsimile to the other party at their last known address.

24.2 Any such notice or other documents shall be deemed to have been received by the addressee two working days following the date of dispatch if the notice or other document is sent by post, or simultaneously if personally delivered or by e-mail or upon receipt of the fax confirmation page.

## **25 SANCTIONS**

25.1 The Supplier 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 Supplier 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 Supplier 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 GOVERNING LAW AND JURISDICTION**

26.1 The construction, validity and performance of the Contract shall be governed and construed in accordance with the Laws of England and Wales.

26.2 The English Courts shall have exclusive jurisdiction in the event of any dispute other than in relation to the enforcement of judgments, where their jurisdiction shall be non-exclusive.



**Signed and dated in acceptance on behalf of the Supplier**

.....

**Print name**

.....

**Position**

.....

**Name of company**

.....

**PSONA 12 Ltd**

**Preferred Supplier Details – to be completed by supplier as part of Terms & Conditions**

<b>Company Details</b>	
<b>Company Name:</b>	
<b>Full Address:</b>	
<b>Company Registration No:</b>	
<b>VAT Registration No:</b>	
<b>Telephone No:</b>	
<b>Supply Type (e.g. photographer, printer etc)</b>	
<b>Fax No:</b>	
<b>Key Contact Details</b>	
<b>Name &amp; Position:</b>	
<b>Key Contact Email:</b>	
<b>Key Contact Tel No.</b>	
<b>Bank Details</b>	
<b>Bank Name &amp; Address:</b>	
<b>Sort Code:</b>	
<b>Account No.</b>	
<b>Accounts Department Details</b>	
<b>Accounts Contact Name:</b>	
<b>Accounts Contact Email:</b>	

## Data Processing Annex

### Part A – Supplier

<b>Subject matter of Processing</b>	
<b>Duration of Processing</b>	
<b>Nature of Processing</b>	
<b>Purpose of Processing</b>	



<b>Type of Personal Data</b>	
<b>Categories of Data Subject</b>	
<b>Location of Processing including International Transfers</b>	
<b>The Supplier's primary point of contact for Data Protection matters</b>	

**Part B - Authorised Sub-Processors**

Authorised Sub-Processor	Details of Processing Authorised by Communis
	<p><b>Subject matter of Processing:</b></p> <p><b>Duration of Processing:</b></p> <p><b>Nature of Processing:</b></p> <p><b>Type of Personal Data:</b></p> <p><b>Categories of Data Subject:</b></p>
	<p><b>Subject matter of Processing:</b></p> <p><b>Duration of Processing:</b></p> <p><b>Nature of Processing:</b></p> <p><b>Type of Personal Data:</b></p> <p><b>Categories of Data Subject:</b></p>

	<p><b>Subject matter of Processing:</b></p> <p><b>Duration of Processing:</b></p> <p><b>Nature of Processing:</b></p> <p><b>Type of Personal Data:</b></p> <p><b>Categories of Data Subject:</b></p>
	<p><b>Subject matter of Processing:</b></p> <p><b>Duration of Processing:</b></p> <p><b>Nature of Processing:</b></p> <p><b>Type of Personal Data:</b></p> <p><b>Categories of Data Subject:</b></p>