

MASTER SERVICES AGREEMENT (MSA)

Unless a separate executed agreement is in place between yourselves and Purple Square CX, all Services delivered by "Purple Square CX" (hereafter "PSCX"), are governed under this Master Services Agreement (MSA). "Purple Square CX" is a trading name of "Purple Square Consulting Ltd", registered in England and Wales, No. 7586167, with its principal place of business at The Beehive, Beehive Ring Rd, Crawley, Gatwick RH6 0PA.

Using this MSA, you (hereafter CLIENT) may order (PSCX) Services. Specific details regarding these services are provided in Statements of Work (SOWs). This agreement and applicable Statements of Work and Transaction Documents are the complete agreement (Agreement) regarding transactions under this Agreement.

WHEREAS:

- (A) PSCX is willing to provide and/or deliver to CLIENT various Marketing Services and/or Deliverables.
- (B) CLIENT wishes to purchase such Services and/or Deliverables from time to time.
- (C) PSCX and CLIENT wish to establish an overall contractual MSA for the provision and delivery of Services and/or Deliverables to CLIENT. Accordingly, it has been agreed that during the Term the provision of any Services and the supply of any Deliverables by PSCX for the benefit of CLIENT shall be governed by this MSA.

IT IS AGREED AS FOLLOWS:

1. DEFINITIONS AND INTERPRETATION

- 1.1 Capitalised terms used in this MSA shall have the meanings given to them in SCHEDULE 1: DEFINITIONS AND INTERPRETATIONS

2. STRUCTURE OF MSA

- 2.1 This MSA is structured so that individual Statements of Work may be entered into by the Parties. Statements of Work are governed by and subject to this MSA.
- 2.2 The terms of this MSA shall, subject to any agreed changes set out in each relevant Statement of Work, be incorporated into and shall form part of each Statement of Work to the express exclusion of any other terms and conditions of whatever nature (oral or written):
 - 2.2.1 on which any form of proposal is given to CLIENT; or
 - 2.2.2 subject to which the Statement of Work is accepted or purportedly accepted by PSCX; or

- 2.2.3 are contained in correspondence or elsewhere or implied by trade, custom or course of dealing.
- 2.3 Unless otherwise expressly agreed by the Parties, each Statement of Work shall constitute a separate contract under this MSA and, unless it is defined for the first time in a Statement of Work, any defined term used in each Statement of Work shall have the same meaning as set out in this MSA.
- 2.4 No Statement of Work will be binding on either Party until that Statement of Work has been executed by both CLIENT and PSCX.
- 2.5 In the event of any inconsistency or conflict between this MSA and any Statement of Work, the Statement of Work shall take precedence.

3. SUPPLIER STATUS

- 3.1 This MSA does not commit CLIENT to purchase Services and/or Deliverables, nor does it commit PSCX to provide any Services or deliver any Deliverables. CLIENT only becomes committed to purchasing, and PSCX only becomes committed to providing any Services or delivering any Deliverables upon signature by both Parties of a Statement of Work in respect of such Services and/or Deliverables. If Services are performed or Deliverables are delivered by PSCX to CLIENT in circumstances where a Statement of Work has not been signed by both Parties, this MSA shall apply to the provision of any and all such Services and Deliverables.
- 3.2 PSCX does not have an exclusive right to perform the Services or to deliver the Deliverables and CLIENT and its Service Beneficiaries may, in their sole discretion:
 - 3.2.1 perform, or retain any third party to perform, any of the Services or any new service that is the same as or similar to the Services, or deliver the Deliverables or any new deliverables that are the same as or similar to the Deliverables; or
 - 3.2.2 cease to receive any of the Services and/or Deliverables.

4. PSCX OBLIGATIONS

- 4.1 PSCX shall:
 - 4.1.1 provide the Services and/or deliver the Deliverables in accordance with the terms and conditions of this MSA and each Statement of Work;
 - 4.1.2 comply with its obligations under this MSA and each Statement of Work;
 - 4.1.3 ensure that the Services and Deliverables comply with any agreed Specifications;

- 4.1.4 provide any Services and deliver any Deliverables promptly and in accordance with Good Industry Practice;
- 4.1.5 procure that all PSCX Personnel shall comply with all policies and working procedures of CLIENT (and any amendments thereto) made known by CLIENT to PSCX or any PSCX Personnel;
- 4.1.6 procure that all PSCX Personnel shall, while on CLIENT's premises, conform in all respects with CLIENT's reasonable instructions and requirements and any security, health and safety or any other policies and regulations that apply to CLIENT's sites which are from time to time in force;
- 4.1.7 co-operate and liaise with CLIENT and with all other PSCXs of related services to CLIENT to the extent reasonably necessary to facilitate the smooth and seamless provision of the Services and Deliverables to CLIENT;
- 4.1.8 not tamper with, modify or repair or alter in any way (whether indirectly or directly) any equipment or facilities of CLIENT and/or any Service Beneficiary except:
 - (A) where it demonstrates to CLIENT's reasonable satisfaction that such tampering, modification, repair or alteration is necessary for PSCX to fulfil its obligations under this MSA or any Statement of Work; or
 - (B) with CLIENT's and/or the Service Beneficiaries' prior written consent; and
- 4.1.9 in the absence of any Timescales in a Statement of Work for completion of the Services and/or delivery of the Deliverables, provide the Services and deliver the Deliverables to CLIENT within a reasonable timeframe.

5. CLIENT OBLIGATIONS

- 5.1 The CLIENT shall:
 - 5.1.1 provide PSCX promptly with any information and assistance required in the delivery of the Services and Deliverables as may be required from time to time.
 - 5.1.2 afford PSCX full and safe access to the CLIENT's premises during normal working hours as required in the delivery of the Services.
 - 5.1.3 provide PSCX with copies of all policies and working procedures which shall apply to PSCX Personnel whilst on-site at the CLIENT's premises.

5.1.4 carry out its responsibilities to PSCX in a timely and efficient manner. In default of such obligation, PSCX may adjust any Timescale or Deliverable as reasonably necessary.

6. CLIENT BENEFICIARIES

6.1 PSCX shall provide the Services and deliver the Deliverables to CLIENT and as designated by CLIENT from time to time, to any of CLIENT's Service Beneficiaries in line with the Statements of Work as specified in section 7.

6.2 CLIENT may subcontract from time to time the performance of any obligations it may have pursuant to a Statement of Work to its Service Beneficiaries and/or other third parties provided that CLIENT remains at all times primarily responsible for the performance thereof.

7. STATEMENTS OF WORK

7.1 PSCX shall ensure that all Services and Deliverables accurately reflect CLIENT's requirements as notified to PSCX from time to time. The Parties shall document their agreement of the Services and Deliverables to be provided by PSCX in respect of a Project in a Statement of Work.

7.2 PSCX shall:

7.2.1 provide reasonable assistance to CLIENT's personnel in obtaining all necessary internal CLIENT approvals, including that of a representative of CLIENT's legal department where applicable, of all Deliverables prior to their manufacture, printing, production, reproduction, distribution, release and/or use;

7.2.2 where CLIENT is arranging for the manufacture, printing, production, reproduction, distribution, release and/or use of the Deliverables independently of PSCX, provide reasonable assistance to CLIENT in relation to that manufacture, printing, production, reproduction, distribution, release and use of all Deliverables; and

7.2.3 provide such other reasonable assistance as requested by CLIENT or as required for the successful operation and completion of Projects.

7.3 CLIENT will give PSCX clear briefings and ensure that all the facts given by CLIENT to PSCX about the Projects are, to the best of CLIENT's knowledge, accurate at the time they are given.

7.4 PSCX shall provide the Services and any Deliverables at competitive costs for the industry concerned and undertakes to consult, where required, in advance and in writing with CLIENT's procurement department for that purpose.

- 7.5 CLIENT may request PSCX to change, reject, cancel or stop any and all Projects, plans, schedules or work in progress and PSCX shall take all reasonable steps to comply with any such request provided that PSCX is able to do so within its contractual obligations to third parties, and subject to the provisions of 11.6 Termination of a Statement of Work for Convenience and 11.7 Pause of a Statement of Work for Convenience.
- 7.6 If CLIENT wishes to change any Services or Deliverables, it will notify PSCX in writing and PSCX will promptly advise whether it is possible to implement the change and the effects (if any) on performance, time and cost. If CLIENT still requires the change to be implemented, the Parties shall negotiate in good faith concerning any costs of implementing an agreed change, then PSCX shall effect such change.
- 7.7 Agreed changes shall be documented by way of a written change order or addendum executed by the Parties, and PSCX shall promptly procure all amendments to any applicable documentation.
- 7.8 Any failure of the Parties to agree a change will not affect the performance of Services or delivery of Deliverables under a Statement of Work.

8. APPROVALS AND AUTHORITY

- 8.1 Where CLIENT is required to give its approval in relation to matters concerning the Services or Deliverables under this MSA, PSCX shall only accept such approvals if given by an Authorised Person (an "**Approval**"). Any approval given by someone other than an Authorised Person shall be invalid.
- 8.2 CLIENT may change the Authorised Person(s) by giving PSCX written notice of the changes.
- 8.3 For the purposes of this MSA, an Approval may be given:
- 8.3.1 by letter on CLIENT's letter head bearing the signature of an Authorised Person;
 - 8.3.2 by email emanating from the personal e-mail address of an Authorised Person.
- 8.4 PSCX must obtain CLIENT's Approval for all estimates or quotations of the cost of the various Deliverables and Services covered by this MSA and any Statement of Work.
- 8.5 PSCX will advise CLIENT immediately of any changes in the estimated cost of items (including Deliverables) or any changes in plans, schedules or work in progress previously Approved by CLIENT and CLIENT's prior Approval of such changes shall be required before the work proceeds on the basis of such changes.

8.6 Any costs and expenses of a third party procured by PSCX to provide services or products in relation to the performance of the Services and/or delivery of the Deliverables for CLIENT must be Approved by CLIENT in advance of such costs and expenses being incurred. Such third-party expenses and costs must be net of overriding discounts and rebates and shall be charged back to CLIENT exclusive of any mark-up or administration charges. All such rebates or discounts received by PSCX shall be returned to CLIENT.

9. DELIVERY AND ACCEPTANCE OF DELIVERABLES

9.1 PSCX shall perform the Services and deliver all Deliverables in accordance with the Timescales or other Project Plan as set out in a Statement of Work.

9.2 In the event that PSCX fails to perform the Services and/or deliver the Deliverables in accordance with the Timescales or Project Plan set out in any Statement of Work, then without prejudice to CLIENT's other rights and remedies and provided such delays are not as a result of the CLIENT's actions, PSCX shall reimburse CLIENT on an indemnity basis for any costs incurred by CLIENT resulting from such late delivery.

9.3 PSCX shall deliver each Deliverable upon completion for review and Acceptance by CLIENT.

9.4 CLIENT may reject Deliverables if the Deliverables do not accord with PSCX's obligations under this MSA, including the specific requirements or criteria for the relevant Deliverables as set out in the relevant Statement of Work.

9.4.1 If the CLIENT does not reject the deliverables within 5 (five) working days, the Deliverable will be deemed to have been accepted.

9.5 Acceptance of any Deliverables shall in no way prejudice or affect any other rights of CLIENT whether arising under Clause 11 or otherwise.

9.6 If Deliverables consist of, or contain, any software, PSCX shall:

9.6.1 deliver the Deliverables in any format, and on any media, specified in the Statement of Work or otherwise reasonably specified by CLIENT; and

9.6.2 supply both the object code and the Source Code Materials for the software to CLIENT.

9.7 Title in the Deliverables (excluding any Intellectual Property Rights contained or embedded in the Deliverables which shall be governed by Clause 13) shall pass to CLIENT upon payment for the Deliverables.

9.8 The risk in the Deliverables (excluding any Intellectual Property Rights contained or embedded in the Deliverables which shall be governed by Clause 13) shall pass to

CLIENT upon delivery of the Deliverables to CLIENT or its nominated representatives.

10. PAYMENT

- 10.1 In consideration of PSCX's performance of its obligations under this MSA and any Statement of Work, CLIENT shall pay the Charges to PSCX. Unless otherwise agreed and documented (in the form of a Statement of Work signed by both parties), PSCX payment terms are fourteen (14) days from the date of the invoice.
- 10.2 Unless otherwise agreed between the Parties in writing, PSCX may only invoice CLIENT for the Charges payable in relation to a Statement of Work on or at any time after the performance of the Services under the relevant Statement of Work has been completed and the relevant Deliverables have been accepted in accordance with Clause 9.3.
- 10.3 CLIENT shall not reimburse PSCX for any travel, accommodation, subsistence or other expenses unless expressly agreed pursuant to a Statement of Work.
- 10.4 Unless otherwise agreed in a Statement of Work, the Charges for the Services and/or Deliverables shall be:
- 10.4.1 exclusive of any applicable VAT (which shall be payable by CLIENT subject to receipt of a valid VAT invoice); and
- 10.4.2 inclusive of any licence fees to use any Deliverables delivered by PSCX, all charges for packaging, shipping, carriage, insurance and delivery of Deliverables and any duties or levies other than VAT.
- 10.5 If CLIENT reasonably and in good faith disputes the amount of any invoice (a "**Disputed Invoice**") under a Statement of Work, CLIENT shall issue a notice in writing setting out in reasonable detail its objection to the Disputed Invoice (including the amount in dispute) before the relevant due date for payment of such Disputed Invoice. PSCX shall respond in writing to CLIENT following receipt of any such objection. If the Parties cannot reach agreement within thirty (30) days following receipt of PSCX's response, either Party shall be entitled to pursue whatever remedies may be available to them at law.
- 10.6 PSCX shall be entitled to charge interest in respect of any undisputed amounts which are not paid by the relevant due date, at a rate per annum of two per cent. (2%) above the Bank of England base rate, such interest to be calculated on a daily basis from the date the invoice becomes due and payable until the date payment of the undisputed amount is made in full. The Parties acknowledge that the interest payable as set out in this Clause is intended to be a substantial remedy for sums payable pursuant to the Statement of Work or Contract and are in lieu of any sums due pursuant to the Late Payment of Commercial Debts (Interest) Act 1998 and/or the Late Payment of Commercial Debts Regulations 2002.

11. TERM AND TERMINATION

11.1 This MSA shall commence on the Commencement Date or, failing such date being specified, the date that this MSA is signed by both Parties and shall continue thereafter unless and until terminated in accordance with this Clause 11 (the "Term").

11.2 Each Statement of Work shall commence on the Effective Date and accordingly PSCX shall commence the provision of the Services and the delivery of the Deliverables on the Effective Date and shall continue to provide the Services and/or deliver the Deliverables until either:

11.2.1 such Services are completed, or Deliverables delivered in accordance with this MSA and any Statement of Work (and any Deliverables have been accepted in accordance with Clause 9);

11.2.2 the date for expiry of the Services and delivery of the Deliverables as set out in the Statement of Work; or

11.2.3 the provision of such Services and/or the delivery of the Deliverables is terminated in accordance with the terms of this MSA or any express term in the relevant Statement of Work.

11.3 Termination of MSA for Convenience

11.3.1 Either Party may terminate this MSA at any time by service of not less than thirty (30) days' written notice on the other Party (without incurring any liability in respect of such termination), save that a termination of this MSA shall not be effective against a continuing Statement of Work. The Parties acknowledge that the termination of an individual Statement of Work shall not affect the continuation of this MSA or any other Statement of Work then in force.

11.4 Termination for Breach

11.4.1 Without prejudice to any other rights or remedies that a Party may have under or in connection with this MSA or any Statement of Work, either Party may terminate this MSA and/or a Statement of Work upon written notice to the other Party:

(A) if the other Party commits a material or persistent breach of that Statement of Work that:

(1) is capable of being remedied and, following written notice to remedy the breach, that Party does not remedy the breach within thirty (30) days (or any longer period agreed by the Parties in writing); or

- (2) is not capable of being remedied;
- (B) as otherwise set out in this MSA or any Statement of Work.

11.5 Termination for Insolvency

11.5.1 Either Party may terminate this MSA and/or any Statement of Work upon written notice to the other Party, if the other Party is unable to pay its debts or becomes insolvent or an order is made or a resolution passed for the administration, winding-up or dissolution of the other Party (otherwise than for the purposes of a solvent amalgamation or reconstruction) or an administrative or other receiver, manager, trustee, liquidator, administrator, or similar officer is appointed over all or any substantial part of the assets of the other Party or the other Party enters into or proposes any composition or arrangement with its creditors generally or anything analogous to the foregoing occurs in any applicable jurisdiction.

11.6 Termination of a Statement of Work for Convenience

11.6.1 Unless stated otherwise in the Statement of Work (e.g. for term-based Managed Services agreements), CLIENT may terminate a Statement of Work upon ten (10) Working Days' (or such longer period as may be set out in the Statement of Work) written notice to PSCX at any time prior to or during the provision of the Services or delivery of the Deliverables.

11.6.2 Termination within ten (10) Working Days' will result in a 50% charge for time up to and including the 10th day.

11.7 Pause of a Statement of Work for Convenience

11.7.1 Unless stated otherwise in a Statement of Work (e.g. for term-based Managed Services agreements or Fixed Price engagements), CLIENT may Pause a Time & Materials (T&M) Statement of Work upon ten (10) Working Days' (or such longer period as may be set out in the Statement of Work) by written notice to PSCX at any time prior to or during the provision of the Services or delivery of the Deliverables.

11.7.2 Pause within ten (10) Working Days' for a T&M Statement of Work will result in a 50% charge for time up to and including the 10th day.

11.7.3 T&M Statement of Work will be rescheduled after a Pause based on PSCX resource availability.

11.7.4 Where a Statement of Work is a Fixed Price engagement, CLIENT may Pause a Fixed Price Payment Milestone where delay is due to internal dependencies, (e.g. specialised resource availability) upon ten (10) Working Days' notice, for a maximum of thirty (30) days.

11.7.5 Should a Milestone within a Fixed Price engagement be paused for a second time, this will result in a 50% charge for that periods milestone cost.

11.7.6 Fixed Price Statement of Work will be rescheduled after a Pause based on PSCX current workload and availability.

11.8 Termination for Change of Control

11.8.1 CLIENT may terminate this MSA and/or any Statement of Work if there is a change in Control of PSCX or any parent company of PSCX.

11.8.2 PSCX may terminate this MSA and/or any Statement of Work if there is a change in Control of the CLIENT or any parent company of the CLIENT.

11.9 Any termination of this MSA or a Statement of Work shall not affect any accrued rights or liabilities of either Party up to the effective date of termination (nor, in the case of CLIENT, any accrued rights of any Service Beneficiaries), nor shall it affect the coming into force or the continuance in force of any provision of this MSA or the Statement of Work which is expressly or by implication intended to come into force or continue in force on or after such termination including without limitation, Clause 1 (Definitions and Interpretation), Clause 10 (Payment), Clause 11 (Term and Termination), Clause 13 (Intellectual Property), Clause 15 (Liability), Clause 16 (Data Protection), Clause 17 (Assignment), Clause 19 (Confidentiality), Clause 20 (Publicity), Clause 21 (Non-Solicitation) and Clause 23 (General) of this MSA.

11.10 On termination of an individual Statement of Work:

11.10.1 PSCX shall immediately discontinue the provision of the Services and delivery of the Deliverables pursuant to the relevant Statement of Work;

11.10.2 each Party shall either destroy or promptly return to the other Party all copies in whatever medium of all Confidential Information provided or obtained in respect of that Statement of Work, subject to Clause 19.3; and

11.10.3 PSCX shall, unless notified otherwise by CLIENT or required by law, cease all Processing of Personal Data in relation to that Statement of Work and return to CLIENT on suitable media, all copies of the Personal Data held in whatever form by PSCX, or on its behalf, in relation to that Statement of Work or on its behalf in relation to that Statement of Work.

12. FORCE MAJEURE

12.1 Neither party shall be liable, for any failure of or delay in the performance of this agreement for the period that such failure or delay is occasioned by pandemic, an epidemic, fire, act of war, information network malfunction, government order or any other:

- 12.2 beyond the reasonable control of a party,
- 12.3 materially affects the performance of any of its obligations under this agreement, and
- 12.4 could not reasonably have been foreseen or provided against but will not be excused for failure or delay resulting from only general economic conditions or other general market effects.

13. INTELLECTUAL PROPERTY

- 13.1 All Intellectual Property Rights existing prior to the Effective Date of each Statement of Work shall belong to the Party that owned such rights immediately prior to such date ("**Existing IPRs**").
- 13.2 PSCX shall ensure that it is either the owner of or is authorised to use for CLIENT and the Service Beneficiaries' benefit (or provide to CLIENT or the Service Beneficiaries) all software, equipment and materials used by PSCX in the performance of the Services or provided by PSCX to CLIENT and/or the Service Beneficiaries.
- 13.3 PSCX hereby grants to CLIENT and/or its Affiliates and Service Recipients a perpetual, irrevocable, non-exclusive, transferable, world-wide, royalty-free licence to use the Existing IPRs of PSCX to the extent necessary and/or desirable for CLIENT and/or its Affiliates and Service Recipients to enjoy the Services and/or Deliverables. Such licence shall include the right for CLIENT and/or its Affiliates and Service Recipients to copy, modify, adapt or further develop the Deliverables. Save to the extent expressly provided to the contrary in the relevant Statement of Work, PSCX shall procure for CLIENT and/or its Affiliates and Service Recipients, a licence on the same terms as the foregoing in respect of any material comprised in any Deliverable in which the Intellectual Property Rights are proprietary to any third party.
- 13.4 PSCX hereby grants to CLIENT's Service Providers, a non-exclusive, transferable, world-wide, royalty-free licence for the term of this MSA and any Statement of Work to use the Existing IPRs of PSCX solely for the purpose of providing services to CLIENT, its Affiliates and its Service Recipients.
- 13.5 Any and all Intellectual Property Rights developed by or on behalf of PSCX in the provision of the Services and comprised within the Deliverables and delivered under any Statement of Work ("**New IPRs**"), shall automatically vest in CLIENT and/or its Affiliates and Service Recipients as appropriate.
- 13.6 To the extent that any New IPRs do not automatically vest in CLIENT, and/or its Affiliates and Service Recipients as appropriate, PSCX shall, at no additional cost or expense to CLIENT assign or procure the assignment thereof to CLIENT and/or its Affiliates and Service Recipients as appropriate, with full title guarantee, free from

all charges or other encumbrances whatsoever (to the extent possible under applicable law, by way of present assignment of future Intellectual Property Rights), and agrees that such Intellectual Property Rights shall be the exclusive property of CLIENT, and/or its Affiliates and Service Recipients as appropriate, for the full period of any such Intellectual Property Rights including (as appropriate) any and all renewals, revisions and extensions thereof, together with the right to take action for any past, present and future damages and other remedies in respect of any infringement thereof. PSCX shall, and shall procure that any sub-contractor or employee of PSCX shall, do all such acts and execute and deliver all such documents as CLIENT may reasonably require from time to time (whether during or after the term of this MSA or the relevant Statement of Work) to give full effect to the foregoing assignment and to perfect CLIENT's, and/or its Affiliates and Service Recipients as appropriate, title to the New IPRs.

13.7 PSCX warrants, represents and undertakes that:

13.7.1 in respect of the Services, the Deliverables, the Existing IPRs and any New IPRs, that neither the supply to, nor the use by, CLIENT and/or the Service Beneficiaries of the Services, the Deliverables, the Existing IPRs and any New IPRs in accordance with this MSA constitutes an infringement of the Intellectual Property Rights of any third party; and

13.7.2 in respect of any moral rights, it shall waive, and shall procure that any PSCX Personnel and sub-contractors waive, to the extent legally possible, any moral rights which they may have in any of the Services and/or Deliverables (including in any New IPRs) for the benefit of CLIENT and the Service Beneficiaries.

13.8 PSCX shall indemnify, keep indemnified and hold CLIENT and the Service Beneficiaries, harmless from and against all Losses arising out of or in connection with any Relevant Claim. For the purposes of this Clause 13, a "**Relevant Claim**" means any actual or threatened third party claim, demand or action that the receipt, use or possession of any Services and/or Deliverables by CLIENT, and/or the Service Beneficiaries infringes or may infringe the Intellectual Property Rights of that third party.

13.9 In the event that CLIENT receives a Relevant Claim, CLIENT shall:

13.9.1 as soon as reasonably practicable give written notice of the Relevant Claim (with reasonable detail) to PSCX;

13.9.2 not make any admission of liability, agreement or compromise in relation to the Relevant Claim (save where required by applicable law or regulation) which may be prejudicial to the defence or settlement of that Relevant Claim without the prior written consent of PSCX (such consent not to be unreasonably withheld or delayed); and

- 13.9.3 at the written request of PSCX afford all reasonable assistance for the purpose of contesting any Relevant Claim, provided that PSCX shall pay to CLIENT all reasonable costs and expenses (including but not limited to legal costs and disbursements on a solicitor and CLIENT basis) incurred by CLIENT in so doing.
- 13.10 PSCX shall at its own expense conduct any litigation arising from a Relevant Claim and all negotiations in connection therewith. PSCX shall obtain the prior written approval of CLIENT before entering into any settlement of the Relevant Claim.
- 13.11 PSCX shall forthwith notify CLIENT if any third party challenges or makes a claim or demand or brings an action against, or notifies an intention to challenge, make or bring a claim, demand or action against PSCX in relation to PSCX's Intellectual Property Rights.
- 13.12 Without prejudice to Clauses 13.8 to 13.10 (inclusive), in the event of a Relevant Claim or the notification of a claim against PSCX under Clause 13.11, PSCX shall:
- 13.12.1 procure for CLIENT and/or any Service Beneficiary (at no cost to CLIENT) the right to continue to use and enjoy the Deliverables and/or the Services; or
- 13.12.2 subject to CLIENT's prior written consent (such consent not to be unreasonably withheld or delayed), re-perform or modify the Services and/or Deliverables in a manner which renders the Services and/or any Deliverables non-infringing whilst still being in compliance with the Specifications.
- 13.13 All Software which comprises New IPRs, shall be delivered to CLIENT in both object code form and Source Code Materials form, and on such media as CLIENT may request, provided that PSCX shall not use any open-source software in the preparation or creation of any Deliverables unless specifically agreed otherwise in the Statement of Work.
- 13.14 Nothing contained in this MSA will restrict either Party from using any ideas, concepts, know-how, background methodologies, processes, technologies, algorithms or techniques relating to, or developed as part of, the Services (but which do not form part of the Deliverables), that either Party develops pursuant to this MSA, provided that, in so doing, the Party does not infringe the Intellectual Property Rights of the other Party (including any Existing IPRs and any New IPRs) or of third parties who have licensed or provided material to the other Party, or breach or use any Confidential Information of the other Party.
- 13.15 PSCX shall not use CLIENT's Trademarks unless expressly authorised in writing by CLIENT for the sole purpose of providing the Services or delivering the Deliverables and strictly in accordance with any other instructions given by CLIENT to PSCX from time to time.

14. WARRANTIES AND REPRESENTATIONS

14.1 Without prejudice to Clause 4.1, PSCX represents, warrants and undertakes that:

- 14.1.1 it has the requisite power and authority to enter into and perform this MSA and each Statement of Work and to carry out its obligations thereunder;
- 14.1.2 it will provide the Services and Deliverables in a timely and efficient manner and with all due skill and care;
- 14.1.3 it will use personnel who have suitable skills, qualifications and experience to provide the Services and shall ensure that such persons are managed by suitably experienced management staff;
- 14.1.4 the Services and Deliverables shall comply with any and all specifications, requirements and standards set out in this MSA and any Statement of Work; (including the Deliverables Specification, Services Specification and all agreed Service Levels and KPI's);
- 14.1.5 the supply and delivery of the Services and Deliverables will not result in the degradation or interruption of existing systems or business processes of CLIENT or the Service Beneficiaries, other than where PSCX has notified and agreed such interruption with CLIENT and/or the Service Beneficiaries in writing in advance;
- 14.1.6 the Deliverables will be of satisfactory quality and shall be fit for the purpose specified in or reasonably contemplated by this MSA and any Statement of Work;
- 14.1.7 the Services and Deliverables will be free from defects in design, materials, workmanship, delivery and installation;
- 14.1.8 it shall not incur any expenses or enter into any engagement or make any representation or commit CLIENT in any way whatsoever, without first obtaining CLIENT's Approval, and PSCX will indemnify, keep indemnified and hold harmless CLIENT from any Losses which CLIENT and/or any Service Beneficiary may incur as a result of PSCX's failure to observe requirements of this Clause 14.1.8;
- 14.1.9 it will ensure there are no matters within its control which might or will materially adversely affect its ability to perform its obligations under this MSA and each Statement of Work;
- 14.1.10 it has and will maintain for the duration of this MSA and any Statement of Work, all permissions, licences and consents necessary for PSCX to provide the Services and/or deliver the Deliverables;

- 14.1.11 it will ensure that in the performance of its obligations under any Statement of Work or this MSA it does not act or omit to act in any way which may or will bring the name and/or reputation of CLIENT or any of CLIENT's Service Beneficiaries into disrepute or injure or damage any persons or the property of any persons (whether or not employees, agents or representatives of CLIENT and/or any of its Service Beneficiaries), CLIENT's facilities or any equipment owned or controlled by CLIENT;
- 14.1.12 it will implement and maintain information and security policies and safeguards to preserve the security, integrity and confidentiality of CLIENT's Data; and
- 14.1.13 nothing produced by it under this MSA or any Statement of Work (including the Deliverables), will contain anything that is libellous, defamatory, illegal, or indecent;
- 14.1.14 the Services and the Deliverables will be in compliance with all applicable laws, enactments, orders, regulations, codes, standards and other similar instruments, including but not limited to, where applicable, the:
- (A) MRS Code of Conduct;
 - (B) Committee of Advertising Practice code;
 - (C) Broadcasting Committee of Advertising Practice code;
 - (D) Ofcom Broadcasting code;
 - (E) Radio Advertising Code;
 - (F) The Consumer Protection from Unfair Trading Regulations 2008; and
 - (G) The Business Protection from Misleading Marketing Regulations 2008.
- 14.1.15 to the extent that the Deliverables contain any software, the Deliverables will:
- (A) not contain any disabling programs or devices;
 - (B) have been screened for viruses, worms and trojan horses in accordance with Good Industry Practice and using a current release of virus detection software and shown to be free of viruses, worms and trojan horses before being delivered to CLIENT; and
 - (C) not cause any interruption to the business processes of CLIENT and/or its Service Beneficiaries (other than any agreed and

unavoidable interruption which is required for the installation or use of the Deliverables).

15. LIABILITY

15.1 Limits on Liability

15.1.1 Circumstances may arise where, because of a default on PSCX's part or other liability, Customer is entitled to recover damages from PSCX. Regardless of the basis on which Customer is entitled to claim damages from PSCX (including fundamental breach, negligence, misrepresentation, or other contract or tort claim), PSCX's entire liability for all claims in the aggregate arising from or related to each Service or otherwise arising under this Agreement will not exceed the amount of any actual direct damages up to the greater of £50,000 or the charges (if recurring, 12 months' charges apply) for the Service that is the subject of the claim.

15.1.2 This limit also applies to any of PSCX's subcontractors and any program developers. It is the maximum for which PSCX and its subcontractors are collectively responsible. The following amounts are not subject to a cap on the amount of damages:

- (A) payments referred to in the Intellectual Property Protection section above; and
- (B) damages for bodily injury (including death), and damage to real property and tangible personal property for which PSCX is legally liable.

15.2 Items for Which PSCX is Not Liable

15.2.1 Except as expressly required by law without the possibility of contractual waiver, under no circumstances is PSCX, its program developers or its subcontractors liable for any of the following even if informed of their possibility:

- (A) loss of, or damage to, data;
- (B) special, incidental, exemplary, or indirect damages or for any economic consequential damages; or
- (C) lost profits, business, revenue, goodwill, or anticipated savings.

15.3 The limitations and exclusions of liability set out in Clauses 15.1.1 and 15.2.1 will not apply in respect of:

- (A) a breach by a Party of Clauses 16 and 19;

- (B) any intentionally harmful or fraudulent act or omission of a Party;
- (C) any indemnity obligations set out in this MSA or under any Statement of Work;
- (D) damage to, loss or destruction of real property or tangible personal property;
- (E) fraudulent misrepresentation or misstatement;
- (F) death or personal injury caused by its negligence or that of its employees or authorised representatives; or
- (G) any liability that may not otherwise be limited or excluded by law or regulation.

16. DATA PROTECTION

- 16.1 PSCX acknowledges that CLIENT is the Data Controller in respect of the Personally Identifiable Information that PSCX Processes on behalf of CLIENT in the course of providing the Services.
- 16.2 PSCX shall Process, and shall ensure PSCX Personnel Process Personally Identifiable Information only on, and in accordance with, the binding written instructions of CLIENT, having regard to the provisions of the General Data Protection Regulations (GDPR) (EU Directive 2016/679) and only to the extent necessary to perform the Services in accordance with the terms of this MSA and any Statement of Work.
- 16.3 PSCX shall enable CLIENT to ascertain and monitor compliance by PSCX with its obligations under this MSA and any Statement of Work including but not limited to allowing CLIENT and/or its Auditors to have access to and audit any processes, procedures, documentation, and/or any premises where Processing of Personally Identifiable Information is carried out. Such access may take place on reasonable notice and PSCX shall provide prompt assistance to CLIENT and/or its Auditors without charge. If, in CLIENT's reasonable opinion, PSCX is or is likely to be in breach of its obligations under this MSA and/or any Statement of Work then PSCX shall reimburse CLIENT's reasonable audit costs within forty-five (45) days of receipt of an invoice from CLIENT.
- 16.4 PSCX shall:
- 16.4.1 ensure appropriate technical and organisational measures are in place to safeguard against any unauthorised access, loss, destruction, theft, use or disclosure of Personally Identifiable Information and, having regard to the state of technological development and the cost of implementing any measures, the measures shall ensure a level of security appropriate to the harm that might result from unauthorised or unlawful processing or

accidental loss, destruction or damage. In addition, PSCX shall provide CLIENT with any assurance in respect of the security of any Personal Data processed by PSCX as may reasonably be required by CLIENT to comply with its obligations under the GDPR (EU Directive 2016/679).

- 16.4.2 co-operate with CLIENT and, on request by CLIENT, meet with CLIENT to discuss the appropriate technical and organisational measures by which Personal Data may be kept secure and up to date and implement such appropriate measures as may be reasonably required by CLIENT. Such measures may include, but are not limited to changes to PSCX's operations, policies, processes, systems or procedures, that are identified by CLIENT as being necessary for PSCX to comply with its obligations in relation to the Processing of Personally Identifiable Information under the terms of this MSA or any Statement of Work, or that are otherwise agreed in writing between the Parties. If, for whatever reason, in CLIENT's opinion PSCX cannot provide such compliance then CLIENT is entitled to immediately suspend and/or terminate the Processing of Personally Identifiable Information and/or terminate this MSA and/or any Statement of Work for material breach.
- 16.4.3 will impose a duty of confidentiality upon all PSCX personnel and ensure that only those PSCX Personnel who are required by PSCX to assist it in providing the Services under this MSA and any Statement of Work will have access to Personally Identifiable Information. In addition, PSCX will ensure that all employees, permitted agents and/or sub-contractors used by it to provide the Services are reliable and have undergone training (and receive on-going training as required) in data protection law and in the care of handling Personally Identifiable Information; and
- 16.4.4 not, without the prior written consent of CLIENT, and then only in accordance with Clauses 15.1.1 and/or 15.2.1 below, divulge any of the Personally Identifiable Information to any person, firm or company, or make use of it, unless disclosure or use is required to comply with a statutory obligation or order of court and then only after PSCX has notified CLIENT promptly in writing of the intended disclosure.
- 16.5 PSCX warrants that:
- 16.5.1 it will carry out the Services in compliance with all applicable laws and regulations of which it is notified by CLIENT are applicable; and
- 16.5.2 it has full legal authority to enter into this MSA and any Statement of Work.
- 16.6 All Personally Identifiable Information processed by PSCX whilst providing the Services is, and shall remain, CLIENT's property absolutely. On termination of this MSA and/or any Statement of Work, for whatever reason, PSCX shall immediately cease to use Personal Data and Confidential Information and shall arrange for its

safe return or secure destruction as instructed by CLIENT. PSCX grants CLIENT the right, following termination of this MSA and/or any Statement of Work, to audit and inspect PSCX and any sub-contractors' compliance with CLIENT's instructions.

- 16.7 PSCX shall, upon discovery, immediately notify CLIENT of any personal data breach. This is defined by the GDPR as any breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to, personal data transmitted, stored or otherwise processed; or any other non-compliance with this Clause 16 and assist CLIENT with any breach investigation, mitigation and remediation. the PSCX will assist CLIENT with carrying out data protection impact assessments and any related consultations with data protection authorities.
- 16.8 PSCX shall immediately pass to CLIENT any requests, notices or other communications from Data Subjects and will, to the extent possible, assist CLIENT in responding to requests from data subjects exercising their rights to information, access, rectification/correction, erasure/deletion, restriction of processing, objection and portability. This also applies to requests from the Information Commissioner's Office or any other law enforcement body it receives, for CLIENT to respond. PSCX shall, at no additional cost, provide CLIENT with assistance as CLIENT may reasonably require, and within the timescales specified by the regulations, to enable CLIENT to respond.
- 16.9 If at any time during the Term of this MSA or any Statement of Work, PSCX wishes to appoint a sub-Data Processor, PSCX may appoint such a sub-Data Processor provided that:
- 16.9.1 PSCX supplies CLIENT with full details of the sub-Data Processor before its appointment and CLIENT has consented to such appointment in writing;
- 16.9.2 PSCX ensures there is a written contract in place with the sub-Data Processor and that it is on terms, which are the same or substantially similar to the ones set out in this MSA and any Statement of Work and CLIENT is a named third-party beneficiary (for the purpose of the Contracts (Rights of Third Parties) Act 1999) to the contract;
- 16.9.3 the sub-Data Processor contract terminates automatically on termination of this Agreement and/or any Statement of Work as appropriate for whatever reason; and
- 16.9.4 the grant of any approval by CLIENT in respect of the appointment of any sub- Data Processor will not relieve PSCX from any liability under this MSA and/or any Statement of Work and PSCX will remain responsible for obligations, services and functions performed by any of its sub-Data Processors to the same extent as if those obligations, services and functions were performed by PSCX.

- 16.10 PSCX shall not transfer or permit any transfer of Personally Identifiable Information to any place outside the European Economic Area (or Third Country whose data privacy regulations have been designated as 'Adequate'), whether by itself or a third party, unless CLIENT has agreed in writing. In agreeing, PSCX will assume that CLIENT has established grounds for such a transfer that meets the criteria for Internal Transfers within the GDPR regulations.
- 16.11 PSCX hereby indemnifies CLIENT against all Losses which CLIENT may incur arising out of any breach of this Clause 16 by PSCX.
- 16.12 Without prejudice to any other provision of this MSA a breach by PSCX of any provision of this Clause 16 shall constitute a material breach of this MSA.

17. ASSIGNMENT

- 17.1 This MSA and each Statement of Work shall be binding upon and shall inure for the benefit of the successors in title of the Parties to this MSA or each Statement of Work.
- 17.2 This MSA and each Statement of Work is personal to PSCX. PSCX shall not sub-contract any of its obligations, assign any of its rights or otherwise seek to dispose of, or transfer any of its rights and obligations, under any Statement of Work, without the prior written consent of CLIENT.
- 17.3 In any event, PSCX shall be liable for the acts and omissions of any sub-contractor and/or assignee.
- 17.4 PSCX shall indemnify CLIENT and any Service Beneficiaries against all Losses that may be assessed against or incurred by CLIENT or any Service Beneficiaries arising out of or in connection with any claims brought by any PSCX relating to this MSA or any Statement of Work and arising under, or in connection with, an agreement between PSCX.

18. NOTICES

- 18.1 Any notice given or made under or in connection with the matters contemplated by this MSA or any Statement of Work will be in writing and shall be deemed to have been given if delivered personally (including by commercial messenger or courier service), or sent, or prepaid, recorded delivery, first class post (or prepaid, recorded delivery, air mail, if posted to or from a place outside England) to the respective addresses of each party
- 18.2 Notice so given will be deemed to have been duly given and received as follows:
- 18.2.1 if personally delivered, upon delivery at the address of the relevant Party;

18.2.2 if sent by prepaid, recorded delivery or first-class post to and from addresses within England, two (2) Working Days after the date of posting; and

18.2.3 if sent by prepaid, recorded delivery or air mail to or from an address outside of England, seven (7) Working Days after the date of posting;

provided that, if, in accordance with the above provision, any such notice would otherwise be deemed to be given or made outside of the hours of 0830 and 1730 on a Working Day, such notice, demand or other communication will be deemed to be given or made at 0830 on the next Working Day.

19. CONFIDENTIALITY

19.1 General Obligations

19.1.1 Each Party (the "**Receiving Party**") undertakes to the other Party (the "**Disclosing Party**") to:

- (A) hold all Confidential Information of the Disclosing Party which it obtains in relation to this MSA and any Statement of Work in strict confidence, using at least the same degree of care as it employs to prevent unauthorised disclosure of its own confidential information but in any event not less than a reasonable degree of care;
- (B) not disclose, or authorise the disclosure of, the Disclosing Party's Confidential Information to any third party other than pursuant to Clauses 19.2.1 and 19.3.1;
- (C) not use, or authorise anyone to use, the Disclosing Party's Confidential Information for any purpose other than the performance of its obligations or the exercise of its rights or the receipt of any benefits pursuant to this MSA and any Statement of Work; and
- (D) promptly notify the Disclosing Party of any suspected or actual unauthorised use or disclosure of the Disclosing Party's Confidential Information of which it becomes aware and promptly take all reasonable steps that the Disclosing Party may require in order to prevent, stop or remedy the unauthorised use or disclosure.

19.1.2 Without prejudice to any other rights or remedies that the Disclosing Party may have, the Receiving Party acknowledges and agrees that if the Confidential Information is used or disclosed other than in accordance with the terms of this Clause 19.1, the Disclosing Party shall, without proof of special damage, be entitled to seek an injunction or other equitable relief for

any threatened or actual breach of the provisions of this Clause 19.1, in addition to any damages or other remedy to which it may be entitled.

19.1.3 In the event of a request for the return or destruction of Confidential Information under Clause 11.10.2, the Receiving Party may retain such Confidential Information as forms part of the permanent records which it is bound by law or regulatory requirements to preserve or which the Receiving Party may reasonably require for archive purposes and the provisions of this Clause 19.1 shall continue to apply to all such retained Confidential Information.

19.2 Authorised Disclosure

19.2.1 The Receiving Party may disclose the Disclosing Party's Confidential Information to the following persons:

- (A) in the case of CLIENT: to the Service Beneficiaries and their (and CLIENT's) respective officers, directors, employees, professional advisors, contractors and auditors; or
- (B) in the case of PSCX: to PSCX's Affiliates and subcontractors engaged pursuant to Clause 19 and their (and PSCX and PSCX Affiliate's) respective officers, directors, employees, professional advisors, and auditors;

(together the "**Further Recipients**") but, in each case, only to the extent and provided that such persons:

- (1) need to know the Confidential Information disclosed to them for the purposes of providing, or receiving the benefit of, the Services under or in connection with this MSA and any Statement of Work; and
- (2) have been informed in writing of the confidential nature of the Confidential Information and the purpose for which it may be lawfully used.

19.2.2 The Receiving Party will ensure that its respective Further Recipients comply with the terms of Clause 19.1 in respect of any Confidential Information of the Disclosing Party disclosed to them by the Receiving Party.

19.3 Mandatory Disclosure

19.3.1 The Receiving Party may disclose the Disclosing Party's Confidential Information if, and to the extent that, it is required to do so by a Regulator, a relevant stock exchange or otherwise by law, including but not limited to any requirements for disclosure under the FOIA or Code of Practice on

Access to Government Information provided that, to the extent it is permitted to do so, it will:

- (A) notify the Disclosing Party as soon as practicable upon becoming aware of the obligation to disclose; and
- (B) co-operate with the Disclosing Party in avoiding or limiting the disclosure and obtaining assurances as to confidentiality from the body to whom the Confidential Information is to be disclosed.

19.4 Exceptions to Obligations of Confidentiality

19.4.1 Clause 19.1.1 will not apply to Confidential Information to the extent that:

- (A) such Confidential Information has been placed in the public domain other than through the fault of the Receiving Party;
- (B) such Confidential Information has been independently developed by the Receiving Party without reference to the Confidential Information of the Disclosing Party;
- (C) the Disclosing Party has approved in writing the particular use or disclosure of the Confidential Information;
- (D) such Confidential Information was already known by the Receiving Party prior to the disclosure without an obligation of confidentiality;
- (E) such Confidential Information is independently received from a third party without any obligation of confidence and the Receiving Party has made reasonable enquiries that the third party owed no obligation of confidence to the Disclosing Party;
- (F) such Confidential Information is disclosed in circumstances where such disclosure is a "protected disclosure" as defined in section 43A of the Employment Rights Act 1996; or
- (G) it would detract in any way from, or inhibit the exercise of, the rights granted to CLIENT, and/or any Service Beneficiaries under Clauses 13.3, 13.4, 13.5 and 13.6.

20. PUBLICITY

20.1 CLIENT authorises PSCX to use its name, logo and/or trademark in connection with certain promotional materials that PSCX may disseminate to clients and prospects; provided that PSCX has provided CLIENT with at least 2 weeks prior written notice of any such use and CLIENT has consented in writing. CLIENT agrees that consent will not be withheld unreasonably. The promotional materials may include, but are

not limited to, case studies, brochures, video tape, website, press releases, advertising in newspaper and/or other periodicals, and any other materials relating to the services provided to CLIENT by PSCX.

21. NON-SOLICITATION

21.1 During the term of a Statement of Work and for a period of six (6) months thereafter, neither party shall:

21.1.1 solicit or induce any Employee(s) (as defined below) to terminate his or her employment or contract; or

21.1.2 hire such Employee(s) (as defined below),

without the prior written approval of the other party.

21.2 For the purposes of this Clause, "**hire**" includes any employment arrangement, independent contract, consulting or other similar contractual arrangements and "**Employee(s)**" means any persons employed by the company or any of its Affiliates (or who were employed or any of its Affiliates within six (6) months of the prohibited solicitation, inducement or hiring) who have had personal dealings with each party during the course of any Statement of Work.

21.3 In the event of breach of this Clause then the other party shall be entitled (subject to any other rights or remedies that party may have at law or pursuant to this MSA and any Statement of Work) to claim damages in respect of such breach equal to one year's salary of the relevant Employee.

22. DISPUTE RESOLUTION PROCEDURE

22.1 If a Dispute arises out of or in connection with this MSA or the Statement of Work or the performance, validity or enforceability of the MSA or the Statement of Work (Dispute) then the parties shall follow the procedure set out in this clause:

22.1.1 either party shall give to the other written notice of the Dispute, setting out its nature and full particulars (Dispute Notice), together with relevant supporting documents. On service of the Dispute Notice, the CLIENT and PSCX shall attempt in good faith to resolve the Dispute;

22.1.2 if the CLIENT and PSCX are for any reason unable to resolve the Dispute within 30 days of the Dispute Notice, the parties will attempt to settle it by mediation in accordance with the CEDR Model Mediation Procedure. Unless otherwise agreed between the parties, the mediator shall be nominated by CEDR. To initiate the mediation, a party must serve notice in writing (ADR notice) to the other party to the Dispute, requesting a mediation. A copy of the ADR notice should be sent to CEDR. Unless otherwise agreed between

the parties, the mediation will start not later than 14 days after the date of the ADR notice.

23. GENERAL

23.1 **Counterparts:** This MSA and each Statement of Work may be executed in any number of counterparts. This has the same effect as if the signatures on the counterparts were on a single copy of this MSA and each Statement of Work (as applicable).

23.2 **Further Assurance:** PSCX shall at its own expense do or procure the doing of all such acts and/or execute or procure the execution of all such documents in a form reasonably satisfactory to CLIENT for the purpose of giving effect to this MSA and each Statement of Work.

23.3 Waiver

23.3.1 The failure to exercise or delay in exercising a right or remedy provided by this MSA and/or Statement of Work or by law does not constitute a waiver of the right or remedy or a waiver of other rights or remedies. A waiver of a breach of any of the terms of this MSA and/or any Statement of Work or a default under this MSA and/or any Statement of Work does not constitute a waiver of any other breach or default and shall not affect the other terms of this MSA and/or that Statement of Work.

23.3.2 The rights of each Party under this MSA and/or any Statement of Work are cumulative with, and subject as otherwise provided in this MSA and/or the relevant Statement of Work, are not exclusive of, rights or remedies provided by law.

23.3.3 The rights of each Party under this MSA and/or the relevant Statement of Work may be waived only in writing and specifically.

23.4 **Amendments:** Any amendment of this MSA and each Statement of Work will not be binding on the Parties unless set out in writing, expressed to amend this MSA and any Statement of Work and signed by authorised representatives of each of the Parties.

23.5 Severability:

23.5.1 If any term of this MSA and/or any Statement of Work is or becomes illegal, invalid or unenforceable in any jurisdiction that will not affect:

- (A) the legality, validity or enforceability in that jurisdiction of any other term of this MSA, that Statement of Work and/or any other Statement of Work; or

- (B) the legality, validity or enforceability in other jurisdictions of that or any other provision of this MSA, that Statement of Work and/or any other Statement of Work.

23.6 **No Partnership or Agency:** Nothing in this MSA or any Statement of Work is intended to or shall operate to create a partnership or joint venture of any kind between the Parties, or to authorise either Party to act as agent for the other, and neither Party shall have authority to act in the name or on behalf of or otherwise to bind the other in any way (including but not limited to the making of any representation or warranty, the assumption of any obligation or liability and the exercise of any right or power). In particular, but without limitation to the foregoing, PSCX shall not act or describe itself as the agent of CLIENT, or its Service Beneficiaries nor shall it represent that it has any authority to make commitments on behalf of CLIENT, or any Service Beneficiaries.

23.7 **Costs:** Each Party will pay their own costs and expenses incurred by it in connection with the entering into this MSA and/or any Statement of Work (as applicable).

23.8 **Contracts (Rights of Third Parties) Act 1999:**

23.8.1 Any of CLIENT's Affiliates that makes use of any Services or Deliverables, or for whose benefit any Services or Deliverables are supplied, pursuant to a Statement of Work, shall have the benefit of, and may, in respect of the Affiliates, enforce, PSCX's obligations in respect of such Services and/or Deliverables pursuant to such Statement of Work under the Contracts (Rights of Third Parties) Act 1999. Notwithstanding the foregoing, the Parties shall not require the consent of any such Affiliate to vary the provisions of, or to terminate, this MSA and/or any Statement of Work.

23.8.2 Without prejudice to the rights or remedies available to CLIENT's Affiliates under this MSA or a Statement of Work, CLIENT may, as agent and trustee for any of its Affiliates, enforce on behalf of its Affiliates, any term in this MSA or Statement of Work under which PSCX undertakes any obligation or liability to any of CLIENT, and/or its Affiliates.

23.8.3 Subject to Clause 23.8.1, a person who is not a party to this MSA may not enforce any of its terms (or the terms of any Statement of Work formed under and in accordance with this MSA) under the Contracts (Rights of Third Parties) Act 1999, but this does not affect any right or remedy of a third party which exists or is available apart from that Act.

23.9 **Entire Agreement:**

23.9.1 Save in the case of fraud or fraudulent concealment, in respect of each Statement of Work, this MSA and the documents referred to in them:

- (A) constitute the entire agreement and understanding of the Parties relating to the subject matter of this MSA and each Statement of Work (as applicable); and
- (B) supersede any previous agreements between the Parties relating to the subject matter of this MSA and each Statement of Work (as applicable).

23.9.2 Each Party acknowledges that it has not been induced to enter into this MSA and/or any Statement of Work in reliance on, nor has it been given, any warranty, representation, statement, assurance, covenant, agreement, undertaking, indemnity or commitment of any nature whatsoever in respect of the subject matter of this MSA and each Statement of Work, other than as expressly set out in this MSA and each Statement of Work and, to the extent that either Party has been so induced, it unconditionally and irrevocably waives any claims, rights or remedies which it might otherwise have had in relation to the same.

23.9.3 Notwithstanding Clause 23.9.1, if a number of Statements of Work relate to the same subject matter, such Statements of Work shall be read in conjunction with one another.

23.10 **Bribery Act:**

23.10.1 PSCX will not, and nor will any of its officers, employees, shareholders, representatives or agents ("**Associated Parties**"), directly or indirectly, either in private business dealings or in dealings with the public sector, offer, give or agree to offer or give (either itself or in agreement with others) any payment, gift or other advantage (whether or not by using any payments under this MSA or any Statement of Work with respect to any matters which are the subject of this MSA or any Statement of Work which (i) would violate any anti-corruption laws or regulations applicable to PSCX or CLIENT and its Affiliates, (ii) is intended to, or does, influence any person to act or reward any person for acting in breach of an expectation of good faith, impartiality or trust, or which it would otherwise be improper for the recipient to accept, (iii) is made to or for a public official with the intention of influencing them and obtaining or retaining an advantage in the conduct of business, or (iv) which a reasonable person would otherwise consider to be unethical, illegal or improper ("**Corrupt Act**").

23.10.2 Without prejudice to Clause 11 (Termination), in the event CLIENT reasonably suspects there to have been a breach of Clause 23.10.1, CLIENT may terminate this MSA and any Statement of Work immediately upon giving notice in writing to PSCX.

23.11 **Law and Jurisdiction:**

23.11.1 This MSA and each Statement of Work and any dispute arising out of them (whether contractual or non-contractual) shall be governed by and construed in accordance with the laws of England.

23.11.2 Each Party irrevocably agrees to submit to the exclusive jurisdiction of the courts of England over any claim or matter arising under or in connection with this MSA and/or any Statement of Work (save that exclusivity shall not apply for enforcement of judgements from the English Courts and in respect of any equitable remedies or equivalent remedy in any jurisdiction (including where a Party is seeking injunctive relief) or actions to preserve a superior position with regard to other creditors of the other Party).

SCHEDULE 1: DEFINITIONS AND INTERPRETATIONS

"Acceptance"	means that the Deliverables have successfully: (a) passed the acceptance criteria (as may be set out in a Statement of Work); or, where no such acceptance criteria are specified (b) met the requirements or specifications as set out in a Statement of Work to CLIENT's reasonable satisfaction (and "Accept" shall be construed accordingly).
"ADR Notice"	shall have the meaning as set out in Clause 22.1.2.
"Affiliate"	means in relation to any Party, a person which, directly or indirectly: (i) is Controlled by that Party; (ii) Controls that Party; or (iii) is Controlled by a person referred to in (ii) above.
"Auditor"	means CLIENT and its Affiliates' internal audit staff and CLIENT and its Affiliate's' external auditors and their appointed contractors.
"Authorised Person"	means a person having authority to give Approval under this Agreement on behalf of CLIENT as listed in any Transaction Document or with respect to each Statement of Work as listed in that Statement of Work.
"CEDR"	means the Centre for Effective Dispute Resolution.
"Charges"	means the charges payable by CLIENT to PSCX in accordance with a Statement of Work.
"Commencement Date"	means the date on which any transaction document is signed.
"Commercially Reasonable Efforts"	means taking such steps and performing in such a manner as a well-managed company would undertake where such company was acting in a professional, prudent, and reasonable manner to achieve the particular result for its own benefit.
"Confidential Information"	means; (i) all financial, business, operational,

PSCX, customer and technical information or data including any know how and all other information (whether written, oral or in electronic form or on magnetic or other media) concerning the business and affairs of a Party (or if that Party is CLIENT, the business and affairs of CLIENT, or any Service Beneficiary) that the other Party obtains, receives or has access to, under or in connection with this MSA, a Request for Proposal or Statement of Work (including as a result of the discussions leading up to or the entering into or the performance of the MSA, a Request for Proposal or a Statement of Work); and (ii) this MSA and any Statement of Work.

"Control"

means the power of a person to secure (whether by the holding of shares, possession of voting rights or by virtue of any powers conferred by articles of association, constitution, partnership agreement or other document regulating such person) that the affairs of another are conducted in accordance with its wishes and **"Controlled"** shall be construed accordingly.

"Data Controller"

shall have the meaning ascribed to that term in the DPA.

"Deliverables"

means all items and materials to be provided or made available to CLIENT pursuant to a Statement of Work or in consequence of, or arising out of, the provision of the Services together with any deliverables and/or materials commissioned by PSCX from third parties.

"Deliverables Specification"

means the description, specification and performance criteria for the Deliverables set out in the relevant Statement of Work.

"Disclosing Party"

shall have the meaning set out in Clause 19.1.

"Dispute"

shall have the meaning set out in Clause 22.1.

"Dispute Notice"

shall have the meaning set out in Clause 22.1.1.

"DPA"	means Data Protection Act 1998.
"Effective Date"	means the date of signature by both Parties of a Statement of Work or such other date set out as the Effective Date in the Statement of Work.
"Employees"	means any employee, sub-contractor or agent wholly or mainly employed by PSCX and engaged in the provision of the Services and delivery of the Deliverables to CLIENT and/or any Service Beneficiaries under the terms of this MSA, or any Statement of Work.
"Existing IPRs"	has the meaning given in Clause 13.1.
"FOIA"	means the Freedom of Information Act 2000 and any subordinate legislation made under this Act from time to time together with any guidance and/or codes of practice issued by the Information Commissioner in relation to such legislation.
"Further Recipients"	shall have the meaning set out in Clause 19.2.
"Good Industry Practice"	means the exercise of such care, skill, diligence, prudence, efficiency, timeliness, professional and workmanlike manner, and judgement as would be expected from a professional and experienced entity engaged in the same type of undertaking under the same or similar circumstances.
"Intellectual Property Rights"	means patents, rights in design, trademarks, rights in trading, business or domain names and e-mail addresses, copyrights (including any such rights in typographical arrangements, web sites or software), rights in inventions, know-how, trade secrets and similar confidential information, rights in databases and all other intellectual property rights of a similar or corresponding character which subsist now or in the future in any part of the world whether registered or not and any applications to register or rights to apply for

registration of any of the foregoing in all parts of the world.

"Loss"

means all losses (including fines, penalties, and tax liabilities), liabilities, claims, proceedings and damages and all related costs, expenses and payments, including those made to third parties (including additional taxes, irrecoverable VAT, reasonable legal fees, and disbursements and costs of investigation, litigation, settlement, judgement, interest and penalties).

"MSA"

has the meaning Master Services Agreement.

"New IPRs"

has the meaning given in Clause 13.5.

"Personal Data"

has the meaning given to that term in the Data Protection Act 1998.

"Processing"

has the meaning given to that term in the Data Protection Act 1998 and **"Process"** shall be interpreted accordingly.

"Project"

means a CLIENT marketing project in respect of which the Parties have entered into a Statement of Work.

"Project Plan"

means the timetable for the provision of the Services and the delivery of the Deliverables included in the Statement of Work.

"Receiving Party"

shall have the meaning set out in Clause 19.1.

"Regulator"

means any supervisory or government agency body or authority having regulatory or supervisory authority over CLIENT, the Service Beneficiaries, or PSCX or any subcontractors' assets, resources or business or over the Services, including any organisation reporting to such bodies.

"Relevant Claim"

shall have the meaning set out in Clause 13.8.

"Services"

means the research, account management, strategic planning, marketing and/or creative

services to be provided by PSCX to CLIENT under this MSA and as further defined in each Statement of Work and any services that are incidental thereto.

“Service Beneficiary”

means:

- a) Any Affiliate of CLIENT;
- b) Any Service Recipient; and
- c) Any Service Provider.

“Service Provider”

means any third-party providing services to and/or on behalf of CLIENT to CLIENT’s Affiliates or Service Recipients.

“Service Recipient”

means any third-party receiving services from CLIENT and/or CLIENT’s Affiliates or Service Providers.

“Services Specification”

means the description, specification, performance criteria and standard for the Services set out in the Statement of Work as otherwise agreed between the Parties in writing.

“CLIENT Account Manager”

means the person that is assigned as primary point of contact by PSCX.

“CLIENT Data”

means any of the following:

(a) any data and information which is provided by CLIENT or any Service Beneficiaries to PSCX in relation to this MSA or any Statement of Work;

(b) any performance or event related data or records relating to the Services that are created by PSCX; or

(c) any derivatives, compilations and copies of the foregoing in whatever form, including any redacted and/or aggregated versions of the same.

“CLIENT Trademarks”

means any trademarks, symbols, or logos (registered or unregistered) of CLIENT or any of

its Affiliates to be used on or in relation to the Deliverables or the Services.

"Source Code Materials"

means the source code for any software and/or any modifications made to the software by PSCX, together with all technical information and documentation required to enable CLIENT to modify and operate the software and/or any such modifications made to the software.

"Specification"

means the Deliverable Specification and the Services Specification.

"PSCX Personnel"

means any Employee, contractor or agent (including the employees of such contractor or agent) of PSCX engaged by PSCX to provide the Services and deliver the Deliverables.

"PSCX Records"

means all data, records, manuals and other information relating to the Services (including CLIENT Data).

"Statement of Work"

means a document signed by the Parties for the provision of Services and/or Deliverables pursuant to this MSA, as agreed between the Parties from time to time and including a description of the Services, the Deliverables and the Charges which shall form a contract on signature for the purposes of this MSA.

"Timescales"

means any timescales set out in a Statement of Work for the completion and acceptance of Services and/or delivery and/or acceptance of Deliverables.

"Working Day"

means any day between the hours of 9.00 a.m. and 5.30 p.m. other than a Saturday, Sunday or public holiday in England.