



CO-OPERATIVE GROUP TERMS AND CONDITIONS

1.	DEFINITIONS AND INTERPRETATION	1
2.	APPLICATION OF THIS AGREEMENT	6
3.	COMMENCEMENT AND TERM	6
4.	PROVISION OF GOODS AND SERVICES	6
5.	GOODS	7
6.	SERVICES	7
7.	PERSONNEL	8
8.	DELIVERY, RISK & TITLE	8
9.	CO-OP MATERIAL AND INTELLECTUAL PROPERTY RIGHTS	9
10.	WARRANTIES	10
11.	DATA PROTECTION	10
12.	AUDIT AND INSPECTION	12
13.	COMPUTER ACCESS	12
14.	CO-OP POLICIES	12
15.	CHARGES AND PAYMENT	13
16.	VARIATION AND CANCELLATION	14
17.	TERMINATION	14
18.	CO-OP'S RIGHTS AND REMEDIES	15
19.	INDEMNITY	15
20.	LIABILITY	16
21.	INSURANCE	17
22.	CONFIDENTIALITY & NO ENDORSEMENT	17
23.	FORCE MAJEURE	18
24.	ASSIGNMENT AND NOVATION	18
25.	OUTSOURCING	18
26.	COMPLIANCE WITH RELEVANT REQUIREMENTS	19
27.	THIRD PARTY RIGHTS	21
28.	PROVIDING SERVICES TO ACQUIRED AND DIVESTED ENTITIES	21
29.	GENERAL	22

1. DEFINITIONS AND INTEPRETATION

1.1 In this Agreement, unless the context otherwise requires, the following expressions have the following meanings:

Acceptance Criteria	the criteria (if any) identified as such in the Agreement Schedule;
Affiliate	means, in respect of either party, a company or other undertaking which is a Group Undertaking (as defined in section 1161(5) of the Companies Act 2006), in each case for the time being;
Agreement	the Terms and Conditions, the Agreement Schedule, and all other documents attached to or otherwise incorporated into this Agreement, or any amended version agreed between the parties in accordance with clause 2.2;
Agreement Schedule	the Schedule identified as such which sets out, amongst other things, details of the contracting parties and the Goods and/or Services to be provided by the Supplier;
Authority	means any local, national, multinational, governmental or non-governmental authority, statutory undertaking or public or regulatory, administrative, fiscal or judicial body or body corporate which has any jurisdiction, control or influence over a party or which has responsibility for providing any decision, consent or licence which is required in order for a party to fulfil its obligations in accordance with and pursuant to this Agreement (including, in the United Kingdom, HM Revenue & Customs, the Funeral Planning Authority, the Groceries Code Adjudicator, the Financial Conduct Authority and Prudential Regulation Authority, the Information Commissioner and the Competition and Markets Authority (and each of their successors) and including such equivalent bodies in relation to the Goods or Services provided outside of the United Kingdom);
Business Day	means a day other than a Saturday, Sunday or public holiday recognised in England
Charges	the amount payable for the Goods supplied/or Services performed in accordance with this Agreement;
Claim	means any one or more of the following: a claim, action, proceeding, demand, allegation, threat of any of the foregoing of whatever nature, in each case whether in contract, tort (including negligence) or otherwise;
Confidential Information	in relation to either party to this Agreement (“first party”) or its Affiliates, any and all Information that (i) is by its nature confidential; (ii) the other party knows or ought to know is confidential; (iii) is designated by the first party as confidential;

Contract Year	means the period of 12 calendar months from the Effective Date and each subsequent consecutive period of 12 calendar months during the Term;
Co-op	that member of the Co-op Group identified in the Agreement Schedule as the contracting entity to this Agreement;
Co-op Background Material	means Material (excluding New Material) provided by, for or on behalf of any member of the Co-op Group to the Supplier in connection with the provision of the Goods and/or performance or receipt of the Services (whether or not it is incorporated in New Material);
Co-op Group	Co-operative Group Limited, a registered society registered in England and Wales under the Co-operative and Community Benefit Societies Act 2014 (registered No. 525R) whose registered office is at 1 Angel Square, Manchester M60 0AG, and each of its Affiliates from time to time and “member of the Co-op Group” shall be construed accordingly;
Co-op IS Standard	Co-op's information security standards as updated and notified to the Supplier from time to time
Co-op Material	means Co-op Background Material and New Material;
Co-op Policies	those policies and procedures notified to the Supplier from time to time, and all amendments thereto, including the Co-op IS Standard, and the GSNFR Supplier Guide to Ethical Trade from time to time
Co-op Premises	any premises owned, leased, licensed or otherwise controlled and/or occupied by Co-op and/or any member of the Co-op Group from time to time;
Data Protection Legislation	all laws that relate to data protection, privacy, the use of information relating to individuals, and or the information rights of individuals including, without limitation, the Data Protection Act 2018, the Privacy and Electronic Communication (EC Directive) Regulations 2003, the Regulation of Investigatory Powers Act 2000, the Telecommunications (Lawful Business Practice) (Interception of Communications) Regulations 2000, the Consumer Protection from Unfair Trading Regulations 2008, the Regulation and any relevant national laws implementing the same all as amended or replaced from time to time;
Effective Date	the date identified as such in the Agreement Schedule;
Force Majeure Event	an occurrence beyond the control and without the fault or negligence of the party affected and which that party is unable to prevent or provide against by the exercise of reasonable diligence, including acts of God, fire, flood, earthquake, unusually severe weather or elements of nature, war, embargo, riot, civil disorder, rebellion or revolution;

Franchisee	means a business licensed to operate under any one or more of the Co-op Group brands;
Goods	the items (if any) identified as such in the Agreement Schedule;
Indemnified Party	has the meaning set out in clause 19.1;
Information	all information of a technical, commercial, business, financial, operational, administrative, marketing or any other nature whatsoever including information relating to its current, prospective and previous customers, members, employees and suppliers, (including Personal Data), whether in oral, tangible or documentary form (including digital, electronic and magnetic media), whether marked or identified as being proprietary or not;
Insolvency Event	one or more of the following events: (i) an administrator, administrative receiver, receiver or manager, liquidator or similar officer is appointed in respect of the whole or any part of the Supplier's assets and/or a winding up petition is issued against the Supplier; or (ii) the Supplier proposes to enter or enters into any composition or arrangement with its creditors generally or any class of creditors; (iii) the Supplier is unable to pay its debts or is deemed to be unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 (assuming, if necessary, that section 123 aforesaid applies to the Supplier); (iv) distress, execution or other legal process is taken or steps are taken to enforce any encumbrance over all or part of the assets and/or undertaking of the Supplier; or (v) any event or proceeding with respect to the Supplier that has an effect equivalent or similar to any of the foregoing;
Intellectual Property Rights (IPR)	patents, utility model rights, copyright, trade marks, service marks, trade, business and domain names, database rights, design rights, topography rights, moral rights, goodwill, rights in any Confidential Information (including know-how, business methods, data and trade secrets) and all other similar or analogous rights, in each case whether registered or unregistered and including all applications for and renewals or extensions of such rights in each case in any part of the world;
Losses	all losses, liabilities, costs (including legal costs), charges, fines, expenses, actions, procedures, claims, demands and damages (including the amount of damages awarded by a court of competent jurisdiction);
Material	means any document, information, data or other material (in whatever form) including software, firmware, documented methodology, process and procedure (including any reports, specifications, business rules and requirements, user manuals, user guides, operations manuals, training materials

	and instruction, and any other output (in whatever form);
Milestone	an event (if any) identified as such in the Agreement Schedule;
Milestone Date	in relation to a Milestone, the date by which such Milestone is to be achieved (including, if applicable, by achieving all applicable acceptance criteria identified in the Agreement Schedule) as specified in the Agreement Schedule;
New Material	any Material which is created by, for or on behalf of any one or more member(s) of the Co-op Group (whether by or on behalf of the Supplier) in anticipation of, in connection with and/or in the course of the performance or receipt of the Services and any Goods or other items of whatever nature created or developed pursuant to this Agreement;
Outsource Provider	has the meaning set out in clause 25.1;
Outsource Service	has the meaning set out in clause 25.1;
Personnel	in relation to the Supplier, any of its employees, agents, officers, contractors, sub-contractors or any other third party in each case for the time being;
Receiving Party	has the meaning set out in clause 22.1;
Regulation	the General Data Protection Regulation (EU) 2016/679);
Relevant Law	the common law and any statute, enactment, ordinance, order, regulation, guidance or other similar instrument in any jurisdiction, including any jurisdiction from which the Goods and/or Services are provided or in which any Goods and/or Services are received (or both), which relate to the performance of this Agreement, including (for the avoidance of doubt) the Data Protection Legislation;
Relevant Policies	has the meaning set out in clause 26.1;
Relevant Requirements	has the meaning set out in clause 26.1;
Reorganisation	has the meaning set out in clause 28.1;
Schedule	any schedule appended to these Terms and Conditions;
Services	all the obligations of the Supplier under this Agreement, including the provision of any Goods and performance of the services described in the Agreement Schedule (if any) and including the supply of any items or other deliverables required to be supplied as a consequence of performing such obligations;
Service Level	a level of performance (if any) identified as such in the

Agreement Schedule;

Slavery and Human Trafficking	has the meaning given to it in Section 54(12) of the Modern Slavery Act 2015;
Specification	means the relevant specification for the Goods set out in the Agreement Schedule;
Term	the period starting on the Effective Date until termination or expiry of this Agreement as specified in the Agreement Schedule or otherwise in accordance with these Terms and Conditions;
Terms and Conditions	Clauses 1 to 28 of this Agreement including, for the avoidance of doubt and where the context requires, all Schedules to which they refer;
The Co-operative Movement	means collectively all co-operative societies in the UK, Jersey and Guernsey existing at the date of this Agreement which are not part of the Co-op Group but excluding The Co-operative Bank p.l.c. (registered company no 990937) and “member of The Co-operative Movement” shall be construed accordingly;
Warranty Period	means the warranty period agreed between the Supplier and Co-op which shall in any event (and where no such period is agreed) be no less than three (3) months.

- 1.2 In this context, unless otherwise stated or unless the context otherwise requires:
- 1.2.1 a reference to a particular law is, unless otherwise stated, a reference to it as amended, replaced or superseded and in force for the time being, and to any legislation which re-enacts or consolidates it, and includes all orders, regulations, instruments and other subordinate legislation for the time being in force made under it;
 - 1.2.2 headings do not affect their interpretation or the interpretation of this Agreement;
 - 1.2.3 references to this Agreement or any other document are to this Agreement or that document as in force for the time being and as amended, supplemented, varied, modified, renewed or replaced or extended from time to time in accordance with the requirements of this Agreement or that document (as the case may be);
 - 1.2.4 references to any law, statute, enactment, order, regulation or other similar instrument ('**Legislation**') (and Legislation having effect in the UK shall be '**UK Legislation**') shall, unless otherwise stated, be construed as a reference to each of the same as amended, replaced or superseded by any subsequent statute, enactment, order, regulation or instrument or as contained in any subsequent re-enactment thereof;
 - 1.2.5 where the UK ceases to be (or where UK Legislation is passed in anticipation of the UK ceasing to be) a member of the EU, references to Legislation originating from the EU (whether directly effective in the in the UK or which was effective in the UK via UK

Legislation) ('**EU Legislation**') shall be construed as including a reference to any UK Legislation which replaces EU Legislation, or which implements or transposes EU Legislation into UK Legislation;

- 1.2.6 references to clauses are to clauses of the Terms and Conditions; and a reference to a clause is, unless otherwise specified, a reference to all its sub-clauses;
 - 1.2.7 the words 'other', 'including', 'includes', 'for example' and 'in particular' do not limit the generality of the words preceding those words and any words which follow them shall not be construed as being limited in scope to the same class as the preceding words where a wider construction is possible;
 - 1.2.8 in the event of any conflict, inconsistency or ambiguity between the Terms and Conditions and the Agreement Schedule, the Agreement Schedule shall prevail to the extent of such conflict.
- 1.3 For the purposes of this Agreement, the terms "**Controller**", "**Personal Data**", "**Processor**", "**Personal Data Breach**", "**Supervisory Authority**", "**process**", "**processing**", "**processed**" and "**Data Subject**" shall have the meaning given under the Regulation in relation to the Personal Data processed by the Supplier as a result of this Agreement.

2. APPLICATION OF THIS AGREEMENT

- 2.1 Each and every obligation of the Supplier under this Agreement is owed to Co-op and each member of the Co-op Group who may enforce the terms of this Agreement under the Contracts (Rights of Third Parties) Act 1999 and references to Co-op in the context of the Supplier's obligations shall be construed accordingly.
- 2.2 This Agreement may be varied only by written agreement which is signed by an authorised representative of each party. Unless expressly stated otherwise and agreed to in writing by an authorised representative of Co-op, any quotation, confirmation of order, delivery note or other standard document of the Supplier shall not operate to amend or vary this Agreement.
- 2.3 The Supplier acknowledges and agrees that Co-op shall not be bound by any minimum purchase commitments in respect of the purchase of Goods and/or Services.

3. COMMENCEMENT AND TERM

- 3.1 This Agreement shall commence on the Effective Date, and if applicable, shall continue for the Term unless terminated earlier in accordance with the terms of this Agreement.

4. PROVISION OF GOODS AND SERVICES

- 4.1 The Supplier represents, warrants and undertakes to each member of the Co-op Group as at the Effective Date and throughout the Term that it shall:
 - 4.1.1 provide the Goods and/or perform Services in accordance with this Agreement;
 - 4.1.2 shall devote such time, attention and abilities to the provision of the Goods and/or performance of the Services as may be necessary for the provision or performance thereof in accordance with this Agreement; and
 - 4.1.3 at all times perform the Services in accordance with good industry practice.

- 4.2 If the Supplier is unable to supply the Goods and/or perform the Services for any reason, it will immediately inform Co-op of this fact giving the reason and the likely duration of the inability, but this shall be without prejudice to any rights or remedies available to Co-op.
- 4.3 The parties agree that:
- 4.3.1 the Supplier shall provide the Services in accordance with all applicable timescales and shall achieve each Milestone by the applicable Milestone Date; and
- 4.3.2 if a Milestone is not achieved by the relevant Milestone Date, this shall be deemed a material breach incapable of remedy and Co-op shall be entitled to claim damages for loss and damage incurred in respect of any delay and/or terminate this Agreement in whole or in part.
- 4.4 The Supplier shall at all times comply with all reasonable requests and directions of the Co-op Group and any other third party working with (and authorised by) Co-op and will take reasonable care to ensure that the provision of Goods and/or performance of the Services shall not interfere with the operations of Co-op, its employees or any other third party working with any member of Co-op.
- 4.5 If any member of The Co-operative Movement orders from the Supplier goods and/or services similar to the Goods and/or Services, then the Supplier agrees to provide such goods and/or services on the same terms as those set out in this Agreement including at the same charges and in accordance with any agreed Service Levels. The limits of liability set out in clause 20 shall be deemed to apply to any such orders, but such orders shall not be included in any calculation under clause 20.4.2.

5. GOODS

- 5.1 The Supplier shall ensure that the Goods (and all other deliverables provided by the Supplier pursuant to this Agreement):
- 5.1.1 shall be of appropriate design, quality, material and workmanship and free from defects;
- 5.1.2 conform to the quantities, quality, standards, descriptions, stipulations, drawings, samples, patterns and specifications set out or referred to in the Specification;
- 5.1.3 shall be fit for any purpose held out by the Supplier or made known to it either expressly or by implication by Co-op;
- 5.1.4 comply with the Acceptance Criteria and continue to do so throughout the Warranty Period;
- 5.1.5 comply with all Relevant Laws relating to the manufacture, packaging, supply and sale of the Goods at the time when the same are supplied.

6. SERVICES

- 6.1 The Supplier shall:
- 6.1.1 ensure that the Services are performed with all due skill and care by people qualified and authorised to work in the United Kingdom, in accordance with best industry practice and are fit for the purpose held out by the Supplier or made known to it either expressly or by implication by Co-op;
- 6.1.2 obtain and maintain in force at all times all licences, consents, permissions, authorisation and permits needed to perform the Services;

- 6.1.3 perform the Services in accordance with all standards, descriptions and requirements set out or referred to in the Agreement Schedule;
- 6.1.4 allocate sufficient numbers of appropriately skilled and experienced personnel, and all necessary equipment, resources and facilities to perform the Services;
- 6.1.5 perform the Services in accordance with all Relevant Laws;
- 6.1.6 fully co-operate with Co-op in all matters relating to the performance of the Services;
- 6.1.7 comply (and shall ensure that all Personnel comply) with all Co-op's Policies as notified to the Supplier from time to time, including (but without limitation) that all Supplier and Personnel premises comply with the Co-op's Monitoring Programmes and Ethical Trade requirements, as set out in the Co-op GSNFR Supplier Guide to Ethical trade, and shall notify Co-op as soon as it becomes aware of any breach of the same; and
- 6.1.8 if requested, be registered and maintain throughout the Term such registration on Sedex (**Supplier Ethical Data Exchange**), giving Co-op access to its latest Sedex Self Assessment Questionnaire and ethical audits, if requested by Co-op.

7. PERSONNEL

Co-op reserves the right to refuse to admit to, or remove from, any of Co-op's Premises any Personnel whose admission or presence would, in Co-op's opinion (i) be undesirable or represent a threat to confidentiality or security; or (ii) be in breach of any rules and regulations governing Co-op's own staff. Co-op shall notify the Supplier of any such refusal. The exclusion of any such Personnel from such Co-op Premises shall not relieve the Supplier from the performance of its obligations under this Agreement.

8. DELIVERY, RISK & TITLE

- 8.1 The Supplier shall deliver the Goods at its own cost on the date and to the place specified in the Agreement Schedule or on such other date or to such other location specified by Co-op.
- 8.2 If so requested by Co-op, Goods and/or Services shall be delivered by instalments.
- 8.3 Time of delivery of the Goods and/or performance of the Services shall be of the essence of this Agreement.
- 8.4 Each delivery of Goods shall be accompanied by a delivery note stating the number and date of the order to which it relates and details of the Goods included in the delivery, including the number of packages delivered and in the case of part delivery (where previously approved by Co-op), the number of outstanding packages to be delivered and agreed dates for delivery.
- 8.5 Goods delivered in excess of the quantities set out in the Agreement Schedule shall remain at the risk of the Supplier and shall be returnable at the Supplier's expense. Co-op shall not be bound to pay for any such excess Goods unless it agrees in writing to accept such Goods.
- 8.6 Goods shall remain at the risk of the Supplier until actual delivery to Co-op including unloading and stacking.

- 8.7 Title to the Goods shall pass to Co-op on the earlier of actual delivery or payment for the Goods (in whole or in part). Title to the Goods shall pass to Co-op with full title guarantee and free from all encumbrances and other rights of whatever nature exercisable by any third party.
- 8.8 If Co-op makes any advance, part or progress payment in respect of Goods prior to delivery, the Supplier shall (i) keep the Goods in its possession, stored separately from all other goods in its possession, (ii) label the same as being the property of Co-op, and (iii) allow Co-op access to the Supplier's premises in order to take possession of the Goods on request.
- 8.9 The Goods shall be properly packed and secured in such a manner as to reach their destination in a good condition having regard to the nature of the Goods and the other circumstances of the case. Packaging material shall not be charged for and Co-op shall have no obligation to return the same to the Supplier.
- 8.10 The Supplier shall ensure that the Goods meet any applicable Acceptance Criteria. Co-op shall have a reasonable amount of time and in any event no less than ten (10) Business Days to inspect and/or test the Goods following delivery. Co-op shall be entitled to reject the Goods (i) if they do not meet the Acceptance Criteria, or (ii) following acceptance, within a period of ten (10) Business Days of discovery of any latent defect in the Goods. If there are no Acceptance Criteria, Co-op shall not be deemed to have accepted the Goods until it has had ten (10) Business Days to inspect and/or test them following delivery. In this case, Co-op shall also have the right to reject the Goods as though they had not been accepted for ten (10) Business Days after any latent defect in the Goods has become apparent.

9. CO-OP MATERIAL AND INTELLECTUAL PROPERTY RIGHTS

- 9.1 This Agreement shall not operate to assign any title, interest or IPR in Co-op Background Material.
- 9.2 Without prejudice to any other provision in this Agreement, the Supplier shall (a) use Co-op Material solely for the purpose of complying with its obligations under this Agreement and in accordance with Co-op's written instructions, (b) keep Co-op Material in its possession and maintain the same in good condition and (c) not dispose of any Co-op Material without the prior written instruction of Co-op. The Supplier shall not (and shall procure that its Personnel shall not) do anything or cause anything to be done which would prejudice the IPR of any member of the Co-op Group in any Co-op Material or do anything which is not authorised in accordance with this Agreement which would cause any member of the Co-op Group to be in breach of the IPR in any such Co-op Material.
- 9.3 All IPR belonging to a party prior to the execution of this Agreement shall remain vested in that party.
- 9.4 All title, interest and IPR in any New Material upon creation of the same shall belong to and vest in Co-op unless agreed otherwise in writing.
- 9.5 The Supplier hereby assigns absolutely (and shall procure that all Personnel assign absolutely) to Co-op (or at Co-op's option) any member of the Co-op Group, by way of present assignment of existing and all future property, rights, title and interest, all IPR in New Material, all of which shall vest in Co-op (or relevant member of the Co-op Group) immediately upon creation of the same with full title guarantee and free from all encumbrances and other rights of whatever nature exercisable by any third party, together with the right to take action for any past, present and future damages and other remedies in respect of any infringement or alleged infringement of such IPR.

- 9.6 The Supplier shall (and shall procure that Personnel shall) comply with clause 28.4 in order to perfect, confirm, formalise or achieve the assignment of all IPR in New Material. The Supplier shall provide such executed documents to Co-op upon request.
- 9.7 The Supplier grants to each member of the Co-op Group a worldwide, royalty-free, non-exclusive, perpetual, irrevocable licence (with the right to grant sub-licences) to use and copy (including for back-up purposes in accordance with best industry practice) (i) any and all IPR (excluding New Material assigned to Co-op) in the Goods, and (ii) any other IPR to the extent necessary to (a) receive or use the Services; (b) to enable the full benefit of ownership of the Goods, and/or (c) perform its obligations or exercise its right under this Agreement.
- 9.8 If any of the Goods and/or Services (or item used in the delivery thereof) is the subject of an infringement Claim, the Supplier shall at the request of Co-op:
- 9.8.1 procure for Co-op the right to continue to use or receive the relevant Goods and/or Services in accordance with this Agreement; or
- 9.8.2 modify or substitute the relevant Goods and/or Services so that they are non-infringing, provided that any such modification or substitution shall not degrade the performance or quality of the affected item.

10. WARRANTIES

- 10.1 The Supplier warrants and represents to Co-op and each member of the Co-op Group that:
- 10.1.1 it has and shall at all times have the right to sell the Goods and/or properly perform the Services;
- 10.1.2 it has and shall at all relevant times have full right, title and authority to grant the licences to member of the Co-op Group as granted by the Supplier under this Agreement;
- 10.1.3 the performance of its obligations under this Agreement and Co-op's receipt and use of the Services, any Intellectual Property Rights provided or made available, any Confidential Information disclosed to it by the Supplier, any of the Goods and the exercise of any rights granted under any licences granted by the Supplier to Co-op will not infringe or cause any member(s) of the Co-op Group to infringe any Intellectual Property Rights or any other rights of any third party.

11. DATA PROTECTION

- 11.1 The Supplier shall at all times comply with Data Protection Legislation (including the data protection principles therein) regardless of the owner of such data or media upon which it is stored.
- 11.2 In respect of any processing of Personal Data that the Supplier undertakes for and on behalf of Co-op in accordance with this Agreement, the Supplier shall:
- 11.2.1 process such Personal Data only:
- 11.2.1.1 for the purpose of performing its obligations under this Agreement; and
- 11.2.1.2 for such other purposes as may be expressly instructed by or agreed with Co-op as otherwise notified in writing from time to time; and

- 11.2.1.3 in accordance with Data Protection Legislation.
- 11.2.2 taking into account the nature of the processing, implement appropriate technical and organisational measures to protect the Personal Data against unauthorised or unlawful processing and against accidental loss, destruction, damage, alteration or disclosure;
- 11.2.3 not otherwise modify, amend, remove or alter the contents of the Personal Data or disclose or permit the disclosure of any of the Personal Data to any third party without the prior written authorisation of Co-op;
- 11.2.4 maintain up to date records of its processing activities performed on behalf of Co-op, information on cross border data transfers and a general description of security measures implemented in respect of processed data;
- 11.2.5 keep the Personal Data separate from any data it processes on behalf of any other third party (including but not limited to business continuity measures and processes for regularly testing, assessing and evaluating the effectiveness of such security measures);
- 11.2.6 assist the Controller in its compliance with its obligations under Data Protection Legislation in respect of notifying Personal Data Breaches to the Supervisory Authority and affected Data Subjects, insofar as it is able taking into account the nature of the processing and the information available to the Processor;
- 11.2.7 ensure that only those Personnel who need to have access to the Personal Data are granted access to such Personal Data (and only for the purposes of the performance of this Agreement) and that all of the Personnel required to access the Personal Data are reliable and have been informed of the confidential nature of the Personal Data and comply with the obligations set out in this clause 11;
- 11.2.8 not appoint a sub-processor without the prior written consent of Co-op, not to be unreasonably withheld, and ensure an agreement is entered into with the relevant sub-processor which includes the same terms set out in this clause 11 in relation to the Supplier's processing obligations;
- 11.2.9 not transfer Personal Data to a country or territory outside the United Kingdom and European Economic Area except with the prior written consent of Co-op;
- 11.2.10 notify Co-op within 48 hours if it receives any: (i) request from a Data Subject to access that Data Subject's Personal Data; (ii) complaint or request relating to the Data Protection Legislation; and / or (iii) correspondence from a Supervisory Authority;
- 11.2.11 notify Co-op in the event it becomes aware (and no later than 24 hours after becoming aware) of any Personal Data Breach, breach of the Data Protection Legislation, or this clause 11;
- 11.2.12 unless otherwise required by Data Protection Legislation, the Supplier shall return or delete, at Co-op's sole discretion, all Personal Data upon the termination of the processing activities carried out under this Agreement, and promptly provide Co-op with confirmation in writing that it has done so; and
- 11.2.13 permit without charge, on an annual basis, and / or where Co-op becomes aware of a data breach or alleged breach of the Data Protection Legislation by the Supplier, reasonable access by Co-op to all records, files, tapes, computer systems, or any other information howsoever held by the Supplier in respect of the

Supplier's activities pursuant to the contract for the purposes of reviewing compliance with this clause 11 and / or the Data Protection Legislation.

- 11.3 The Supplier shall indemnify and keep Co-op indemnified in full from and against all claims, proceedings, actions, damages, costs, fines, expenses and any other liabilities which may arise out of, or in consequence of, any Personal Data Breach and / or any breach or purported breach of this schedule and / or the Data Protection Legislation (including in relation to and / or arising out of the performance or non-performance by its sub-processor(s) and Personnel).

The provisions of this clause 11 shall survive termination or expiry of this Agreement.

12. AUDIT AND INSPECTION

- 12.1 The Supplier shall allow the Co-op Group's employees, officers, agents, consultants, sub-contractors and regulators to access (whether remotely or otherwise) its premises and/or records and information during normal business hours or, in the case of clause 12.4, at any time for the purposes of determining compliance with this Agreement and the Co-op Policies from time to time. The Supplier shall co-operate fully with the Co-op Group's employees, officers, agents, consultants, sub-contractors and regulators (and shall procure access for the Co-op Group to its Personnel as necessary) in relation to any reasonable request for information concerning such compliance which includes permitting copying of records and documents and taking such copies away.
- 12.2 Co-op relies on the skill and judgement of the Supplier in the provision of the Goods and/or Services. However, the Co-op Group may (but shall not be obliged to), inspect and/or test any of the Goods and/or Services supplied or to be supplied to ensure conformity with this Agreement from time to time.
- 12.3 No testing or inspection carried out by the Co-op Group shall diminish the obligations of the Supplier under this Agreement nor shall such action or results thereof constitute acceptance of the Goods and/or Services.
- 12.4 The Supplier agrees to co-operate fully with the Co-op Group in any way required by the Co-op Group and at any time to ensure the prevention of fraud or the commission of any criminal offence.

13. COMPUTER ACCESS

- 13.1 Where the Supplier gains access to Co-op computer systems the Supplier shall:
- 13.1.1 limit the access and use of the system to those parts and for such purposes as are strictly necessary for the proper performance of this Agreement;
 - 13.1.2 not, and shall procure that its Personnel shall not, gain or attempt to gain access to any database or file without Co-op's prior express written consent; and
 - 13.1.3 comply and procure compliance of its Personnel with all security audit and other such procedures and requirements of Co-op from time to time in relation to such access.

14. CO-OP POLICIES

- 14.1 The Supplier shall comply and procure compliance by its Personnel with any and all of the Co-op Policies.

CO-OPERATIVE GROUP TERMS AND CONDITIONS

14.2 Without prejudice to clause 14.1 the Supplier warrants and undertakes to work in good faith with Co-op and members of the Co-op Group to explore, develop and promote sustainable product and service offerings.

15. CHARGES AND PAYMENT

15.1 The Charges shall be as set out in the Agreement Schedule and, unless otherwise specified in the Agreement Schedule, shall be exclusive of VAT, but inclusive of all other charges including expenses, delivery, applicable discounts, packaging, freight, carriage insurance, loading and off loading.

15.2 Where pursuant to the Agreement Schedule additional charges and/or expenses are payable, they shall become payable only in such amounts as have been previously approved in writing by Co-op, and in the case of expenses, have been incurred in accordance with Co-op's Supplier Expenses Policy.

15.3 The Supplier shall, if requested by Co-op, invoice Co-op electronically via Co-op's notified payment system from time to time in place. All invoices shall in any event be raised by the Supplier in accordance with the instructions in the Agreement Schedule, or, if no instructions are specified therein, upon acceptance of the Goods and/or completion of the Services. Invoices must show the number and date of the order. Where the Supplier is registered for VAT the invoice shall be a valid VAT invoice and VAT shall be shown as a separate item.

15.4 Charges shall become due from Co-op on the 5th of the month immediately following the later of either:

15.4.1 sixty (60) days from the end of the month in which a valid and undisputed invoice is raised and dated by the Supplier; or

15.4.2 sixty (60) days from the end of the month in which a valid and undisputed invoice is received by Co-op.

Payment of invoices in accordance with 15.4.1 and 15.4.2 shall be made by Co-op via BACS, with cleared funds deemed within two (2) Business Days. Where the 5th falls upon a non-Business Day, payment shall be made on the next available Business Day.

15.5 Payment for Goods and/or Services is without prejudice to any claims or rights which Co-op may have against the Supplier and shall not amount to acceptance of the Goods and/or Services.

15.6 Co-op reserves the right to set off any amount owing to it from the Supplier howsoever arising against any sums payable by Co-op to the Supplier, and to withhold any payments to the extent that Goods or Services have not been supplied to Co-op's reasonable satisfaction.

15.7 The parties agree that the provisions of Late Payment of Commercial Debts (Interest) Act 1998 shall not be applicable to this Agreement and the parties further expressly agree that interest calculated from day to day at the rate per annum of two (2) per cent above the base rate of The Bank of England in force from the date on which such payment was due until and including the date of actual payment (the "Agreed Interest") shall be a substantial remedy in respect of any late payment of sums due under this Agreement.

15.8 Each party shall be entitled to receive Agreed Interest on any payment not made when properly due and payable pursuant to the terms of this Agreement. Interest shall not accrue or be payable on any monies or payment set-off pursuant to clause 15.6.

15.9 If Co-op disputes any sums set out in an invoice then it will notify the Supplier in writing before the due date for payment and the Supplier shall submit an invoice to Co-op for the undisputed balance of the invoice. Co-op and the

Supplier shall meet as soon as reasonably possible after receipt of a written notice from Co-op under this clause to attempt to resolve the dispute.

16. VARIATION AND CANCELLATION

- 16.1 The specification and quantity of Goods or Services may be amended or cancelled without liability on the part of Co-op (save as provided under clause 16.2) at any time prior to the dispatch of Goods and/or performance of the Services by giving written notice to the Supplier.
- 16.2 If Co-op cancels or amends the specification or quantities in accordance with clause 16.1 above, Co-op shall pay the cost of labour and materials expended on work in progress up until the date of the cancellation notice (to the extent that such work has been carried out in accordance with any previously-agreed time scales and to the extent that the Supplier can evidence this expenditure).
- 16.3 The results of any such work in progress (including any deliverables or other material, whether complete or not) shall be delivered to Co-op by the Supplier within seven (7) days of such cancellation or amendment.

17. TERMINATION

- 17.1 Termination of this Agreement shall be without prejudice to any rights or remedies which may have accrued as at termination.
- 17.2 Termination or expiry of this Agreement for any reason shall not affect the coming into force or the continuation in force of any provisions which is expressed or implied to come into force on or after such expiry or termination, or which is required to give effect to such expiry or termination. Without prejudice to the foregoing, clauses 2.1, 5.1, 6.1, 9, 10, 11, 12, 17, 19, 20, 21, 27 and 29 shall survive expiry or termination.
- 17.3 Either party may terminate this Agreement with immediate effect by giving prior written notice to the non-terminating party if a Force Majeure Event prevents the non-terminating party from performing its obligations under this Agreement for a period of longer than thirty (30) days.
- 17.4 Co-op may terminate this Agreement in whole or in part with immediate effect by giving written notice to the Supplier if:
- 17.4.1 the Supplier commits a material breach and, where the breach is capable of remedy, the Supplier fails to remedy the breach within the period specified in the written notice from Co-op requiring it to do so; or
 - 17.4.2 the Supplier commits a series of persistent or minor breaches which, when taken together, are regarded by Co-op as equivalent to a material breach; or
 - 17.4.3 continued association with the Supplier is likely to or may, in the opinion of Co-op, damage the business and/or the reputation of Co-op and/or any member of the Co-op Group; or
 - 17.4.4 the Supplier is affected by an Insolvency Event or in Co-op's reasonable opinion is likely to be affected by an Insolvency Event;
 - 17.4.5 the Supplier undergoes a change in control (as defined by section 1124 of the Corporation Taxes Act 2010); or
 - 17.4.6 the Supplier commits any breach of clause 14.2 (the Co-op Policies).
- 17.5 Co-op shall be entitled to terminate this Agreement in whole or in part at any time and without reason, by giving written notice to the Supplier of not less

than thirty (30) days or such shorter period as is reasonable where the duration of the Services is less than thirty (30) days.

- 17.6 On expiry or termination of this Agreement for any reason, the Supplier shall immediately (a) deliver to Co-op all materials, information, data and equipment belonging to or provided by Co-op to the Supplier for the purpose of this Agreement, together with all Confidential Information belonging to Co-op and all members of the Co-op Group, and if the Supplier fails to do so, Co-op shall be entitled to enter the Supplier's premises and take possession of any items that should have been returned to it; (b) vacate the Co-op Premises (if any) where it is performing Services in connection with this Agreement; and (c) provide all such reasonable assistance to Co-op and any third party nominated by Co-op to enable the smooth and orderly transfer of the Services to Co-op or its nominated third party, including the transfer of any knowledge relevant for the continued provision of the Services.
- 17.7 On termination or expiry of this Agreement in whole or part by either party for whatever reason, the Supplier shall comply with the provisions of clause 17.6 in relation to the part of this Agreement that is subject to such termination or expiry save to the extent that continued use of any particular Intellectual Property Rights or Confidential Information is required in respect of this Agreement.

18. CO-OP'S RIGHTS AND REMEDIES

- 18.1 In addition and without prejudice to any other rights or remedies available to Co-op, if any Goods and/or Services are not supplied in accordance with this Agreement or if the Supplier fails to comply with any term of this Agreement, including any applicable Milestones and Service Levels, whether or not the Goods and/or Services have been accepted by Co-op, Co-op may:
- 18.1.1 reject the Goods and/or Services in whole or part, in which case a full refund for the Goods and/or Services so rejected shall be made to Co-op by the Supplier and such rejected Goods and/or Services shall be removed from the Co-op Premises within two (2) days of receipt of a written request to remove the same. Notwithstanding clause 8, rejected Goods remain at the Supplier's risk. In the event of such rejected Goods not being removed as required above, Co-op may arrange for such removal at the cost of the Supplier; or
 - 18.1.2 require the Supplier, at the Supplier's expense, to remedy any defect in the Goods and/or Services or to supply replacement Goods and/or Services in accordance with this Agreement; or
 - 18.1.3 refuse to accept any further provision of Goods and/or Services; or
 - 18.1.4 obtain Goods and/or Services from a third party, the Supplier being responsible for any cost above that at which the Supplier would have supplied the Goods and/or Services; and/or
 - 18.1.5 claim damages.

19. INDEMNITY

- 19.1 The Supplier shall indemnify, defend, keep indemnified and held harmless Co-op and all members of the Co-op Group (and their respective successors and assigns) (each an "**Indemnified Party**") from any and all Losses made against, incurred or suffered by any of them, and whether wholly or in part resulting directly or indirectly from, or connected in any way with any of the matters listed below whether or not such Losses were foreseeable at the date of entering this Agreement:
- 19.1.1 any alleged or actual infringement by an Indemnified Party of any IPR or any third party as a result of Co-op's (or the relevant Indemnified Party's) receipt of the Services or use of any Goods or

- IPR provided or otherwise made available to any Indemnified Party by the Supplier; and/or
- 19.1.2 any breach by the Supplier of its obligations under this Agreement in relation to Confidential Information or Data Protection Legislation;
 - 19.1.3 the fundamental breach and/or wilful abandonment by the Supplier of any or all its obligations under this Agreement;
 - 19.1.4 the wilful misconduct, wilful default or negligence of the Supplier and/or any of its Personnel;
 - 19.1.5 any fraudulent or dishonest act or omission by the Supplier and/or its Personnel;
 - 19.1.6 any Claim relating to death, personal injury and/or damage to tangible property arising from the act or omission of the Supplier and/or any of its Personnel;
 - 19.1.7 any fines levied on any member of the Co-op Group by a third party including any Authority arising from the acts or omissions of the Supplier and/or its Personnel;
 - 19.1.8 any loss or degradation of data (including costs and expenses associated with the recovery and/or reconstruction of such data) to the extent such loss or degradation is caused or contributed to by an act or omission of the Supplier and/or its Personnel.
- 19.2 The Supplier shall provide all reasonable assistance to Co-op and/or its insurers for the purposes of dealing with any action, claim or matter to which clause 19.1 applies.

20. LIABILITY

- 20.1 Nothing in this Agreement limits or excludes the liability of either party (i) in respect of any deceit, theft, fraud or fraudulent misrepresentation by it or its officers, employees, agents, contractors or subcontractors and in the case of Supplier, by its Personnel; (ii) for death or personal injury caused by the negligence of that party or its officers, employees, agents, contractors or subcontractors; (iii) under clauses 11 (Data Protection) or 19 (Indemnity and Insurance); (iv) for breach of any obligation by the Supplier as to title implied by section 12 of the Sale of Goods Act 1979 or section 2 of the Supply of Goods and Services Act 1982; or (vi) to the extent such limitation or exclusion is not permitted by law.
- 20.2 Subject to clause 20.1, neither party shall be liable to the other for (i) any consequential or indirect loss or damage (including loss of profit); or (ii) any loss of profits, in each case whether arising from breach of contract, tort (including negligence), breach of statutory duty or otherwise.
- 20.3 Subject to clause 20.1, the total aggregate liability of Co-op and each other member of the Co-op Group to the Supplier (in addition to payment of any amounts properly due) under or in connection with this Agreement whether in contract, tort (including negligence) or otherwise howsoever, in respect of all acts, omissions (including negligence), breach of statutory duty, breach of contract or breach of warranty of Co-op and/or any member of the Co-op Group, its/their officers, employees, agents, contractors or sub-contractors occurring in any Contract Year, shall in no event exceed the sum equivalent to 100% of the total of the Charges which Co-op is obliged to pay the Supplier hereunder and/or would have been payable if the Goods/Services had been provided/performed in full and there had been no claims or deductions under this Agreement, by Co-op in the immediately preceding Contract Year.
- 20.4 Subject to clause 20.1, the total aggregate liability of the Supplier to Co-op and each other member of the Co-op Group under or in connection with this

Agreement occurring in any Contract Year, whether in contract, tort (including negligence) or otherwise howsoever:

20.4.1 for loss of or damage to the tangible, material property of Co-op (and/or or any other member of the Co-op Group), shall not exceed £1,000,000; and

20.4.2 in respect of all other Losses (other than that governed by clause 20.4.1) shall not exceed the amount which is twice the total price paid and payable for the relevant Goods and/or Services under this Agreement in the immediately preceding Contract Year if the relevant Goods and/or Services had been provided/performed in full and there had been no claims or deductions.

21. INSURANCE

21.1 The Supplier shall, at all times, carry adequate insurance cover with a reputable insurer in respect of all risks for which it is prudent for the Supplier to insure against, having regard to the Supplier's possible liability to Co-op. The Supplier shall, on written request, supply a copy of the policy and premium receipt to Co-op and on request from Co-op, Co-op's interest shall at all times be noted on all insurance policies.

22. CONFIDENTIALITY & NO ENDORSEMENT

22.1 Each party (the "**Receiving Party**") shall treat and keep all Confidential Information of the other party and its Affiliates (a) first disclosed to it by the other party, or (b) learnt, acquired or developed by the Receiving Party in connection with this Agreement, secret and confidential, and will not, without the other party's consent, disclose Confidential Information to any other person other than in accordance with this Agreement.

22.2 Unless otherwise agreed in writing, the Supplier shall (a) keep confidential the fact that it is supplying Co-op and the terms of such supply, and (b) not use any of Co-op or Co-op's logo or business name in any promotional material.

22.3 The foregoing shall not apply to the extent that (a) the Receiving Party needs to have or disclose Confidential Information of the other party to any Affiliate, sub-contractor, agent or employee of the Receiving Party in order to fulfil its obligations, exercise its rights under this Agreement or to receive the benefit of the Services, provided always that the Receiving Party shall procure that such person to whom the Confidential Information is disclosed keeps the Confidential Information secret and confidential; or (b) any Confidential Information of the Supplier is embodied in or otherwise incorporated into any Goods or Services; or (c) any Confidential Information is in the public domain at the Effective Date, or at a later date comes into the public domain, where such Confidential Information has not come into the public domain through a breach of this Agreement; or (d) any Confidential Information is required to be disclosed pursuant to any Relevant Law or Authority, or to the Receiving Party's solicitors, auditors, insurers, accountants or other professional advisors, for the purposes of reporting to or seeking advice from the relevant party, provided that the Receiving Party ensures that such party to whom disclosure is made under paragraph (d) uses such Confidential Information solely for such purposes and otherwise complies with this clause 21 to the same extent as if it were a party to this Agreement.

22.4 This clause shall survive termination of this Agreement.

23. FORCE MAJEURE

- 23.1 Neither party shall have any liability or responsibility for failure to fulfil its obligations under this Agreement to the other so long as and to the extent only that such obligation is prevented, frustrated, hindered or delayed as a consequence of a Force Majeure Event.
- 23.2 A party claiming benefit under this clause 23 shall, as soon as reasonably practicable after the occurrence of a Force Majeure Event, notify the other party of the nature and extent of such Force Majeure Event and unless and until this Agreement is terminated by reason of Force Majeure Event in accordance with clause 17.3, use all reasonable endeavours to resume performance under the relevant Agreement as soon as feasible.

24. ASSIGNMENT AND NOVATION

- 24.1 Co-op (or any member of the Co-op Group as the case may be) may assign, charge, transfer, sub-contract or otherwise deal in any way with any of its rights or obligations under this Agreement in whole or in part at any time and on more than one occasion to (a) any member of the Co-op Group by giving the Supplier written notice; or (b) subject to clause 25 (Outsourcing), to any third party with the consent of the Supplier, such consent not to be unreasonably withheld or delayed, save that no such consent shall be required on any sale, in whole or part, of the business to which this Agreement relates.
- 24.2 The Supplier shall not assign, charge, transfer, sub-contract or otherwise deal with any of its rights or obligations under this Agreement without prior written consent from Co-op.

25. OUTSOURCING

- 25.1 For the purposes of this clause 25,
- 25.1.1 **“Outsource Provider”** means any person used by Co-op and/or any member of the Co-op Group to provide Outsource Services to Co-op and/or any member of the Co-op Group; and
 - 25.1.2 **“Outsource Service”** means a service provided by an Outsource Provider which relates directly or indirectly to, or relies directly or indirectly on, the business of Co-op or any member of the Co-op Group including, without limitation, the Services.
- 25.2 If at any time Co-op or any member of the Co-op Group uses an Outsource Provider to provide Outsource Services then, notwithstanding anything in this Agreement to the contrary, Co-op may do any one or more of the following:
- 25.2.1 upon written notice to Supplier, assign or novate to the Outsource Provider, in whole or in part, the benefit subject to the burden of this Agreement;
 - 25.2.2 permit the Outsource Provider in the performance of the Outsource Services to access, operate, and use any Goods supplied and to receive and use any Services provided, under this Agreement;
 - 25.2.3 otherwise permit the Outsource Provider, in its performance of the Outsource Services, to do anything that Co-op and/or any member of the Co-op Group are entitled to do under this Agreement.
- 25.3 Upon the termination or expiry of Outsource Services Co-op shall be entitled to require the Outsource Provider to whom the benefit of this Agreement has been assigned or novated pursuant to clause 25.2 above, upon written notice to the Supplier, to assign or novate to Co-op, any member of the Co-op

Group or an alternative Outsource Provider, in whole or in part, the benefit subject to the burden of this Agreement.

26. COMPLIANCE WITH RELEVANT REQUIREMENTS

26.1 The Supplier shall and shall procure that its Personnel and all persons who are performing services or providing goods in connection with this Agreement shall:

26.1.1 comply with all applicable laws, regulations, codes and sanctions relating to anti-bribery and anti-corruption including but not limited to the Bribery Act 2010 ("**Relevant Requirements**");

26.1.2 not engage in any activity, practice or conduct which would amount to an offence under sections 1, 2 or 6 of the Bribery Act 2010 if such activity, practice or conduct had been carried out in the UK;

26.1.3 without prejudice to clause 14.1, comply with all the Co-op Policies concerning ethics, anti-bribery and/or anti-corruption as well as with any relevant industry code on anti-bribery, in each case as Co-op or the relevant industry body may update them from time to time ("**Relevant Policies**").

26.1.4 have and shall maintain in place throughout the term of this Agreement its own policies and procedures, including adequate procedures under the Bribery Act 2010, to ensure compliance with the Relevant Requirements, the Relevant Policies and clause 26.1.2, and will enforce them where appropriate;

26.1.5 immediately notify Co-op if a foreign public official becomes an officer or employee of the Supplier or acquires a direct or indirect interest in the Supplier (and the Supplier warrants that it has no foreign public officials as officers, employees or direct or indirect owners at the date of this Agreement);

26.1.6 ensure that all persons associated with the Supplier or other persons who are providing the Goods and/or performing the Services comply with this clause 26; and

26.1.7 within 3 months of the date of this Agreement, and annually thereafter, certify to Co-op in writing signed by an officer of the Supplier, compliance with this clause 26 by the Supplier and all persons associated with it and all other persons for whom the Supplier is responsible under clause 26.1.6. The Supplier shall provide such supporting evidence of compliance as Co-op may reasonably request.

26.2 The Supplier shall and shall procure (where relevant) that all persons who are performing services or providing goods in connection with, or which will or may be used in performing or to support the performance of this Agreement in any part of the world including, for the avoidance of doubt, any sub-contractors (collectively, its '**Supply Chain**') shall at all relevant times:

26.2.1 comply with the provisions of the Modern Slavery Act 2015 (the "**Act**") and all applicable laws, regulations, codes and guidance made under it or relating to it, and ensure that all relevant Personnel have received appropriate training on the same;

26.2.2 not engage in any activity, practice or conduct that would constitute an offence under the Act if such activity, practice or conduct were carried out in the UK;

26.2.3 comply with any policy relating to Slavery and Human Trafficking as required by Co-op; and

- 26.2.4 take all reasonable steps to ensure that Slavery and Human Trafficking are not taking place in its business.
- 26.3 The Supplier shall not engage in any activity, practice or conduct which would constitute either:
 - 26.3.1 a UK tax evasion facilitation offence under section 45(1) of the Criminal Finances Act 2017; or
 - 26.3.2 a foreign tax evasion facilitation offence under section 46(1) of the Criminal Finances Act 2017;
- 26.4 The Supplier shall:
 - 26.4.1 have and shall maintain in place throughout the term of this Agreement its own policies and prevention as are both reasonable to prevent the facilitation of tax evasion by another person (including without limitation) any Personnel and to ensure compliance with clause 25.3;
 - 26.4.2 promptly report to Co-op any request or demand from a third party to facilitate the evasion of tax within the meaning of Part 3 of the Criminal Finances Act 2017, in connection with the performance of this Agreement; and
 - 26.4.3 ensure that any person associated with the Supplier who is performing services and providing goods in connection with this Agreement 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 in clauses 25.3 and 25.4 ("**Relevant Terms**"). The Supplier shall be responsible for the observance and performance by such persons of the Relevant Terms, and shall be directly liable to Co-op for any breach by such persons of any of the Relevant Terms.
- 26.5 Breach of this clause 26 shall be deemed a material breach incapable of remedy under clause 17.4.1.
- 26.6 The Supplier warrants that it is not entering into this Agreement with any knowledge that any money or other benefit has been, or will be, paid to any person working for or engaged by Co-op or that an agreement has been made to that effect, unless details of any such arrangement have been disclosed in writing to and acknowledged by Co-op before the date of this Agreement.
- 26.7 Notwithstanding any other provision of this Agreement, Co-op may exercise its rights of audit and inspection under clause 12 in respect of the Supplier's obligations in this clause 26.
- 26.8 For the purpose of this clause 26, the meaning of adequate procedures and foreign public official and whether a person is associated with another person shall be determined in accordance with section 7(2) of the Bribery Act 2010 (and any guidance issued under section 9 of that Act), sections 6(5) and 6(6) of that Act and section 8 of that Act respectively. For the purposes of this clause 26 a person associated with the Supplier includes any sub-contractor of the Supplier.
- 26.9 For the purposes of clause 25.4, the meaning of reasonable prevention procedure shall be determined in accordance with any guidance issued under section 47 of the Criminal Finances Act 2017 and a person associated with the Supplier includes any subcontractor of the Supplier.

27. THIRD PARTY RIGHTS

- 27.1 Without prejudice to clause 2, the Supplier acknowledges that Co-op enters into this Agreement on its own behalf and for the benefit of each member of the Co-op Group and any Franchisees. In this regard, the parties agree that:
- 27.1.1 all supplies, licences and other rights made or granted by the Supplier to Co-op may be held by Co-op for the benefit of any or all members of the Co-op Group, any Franchisees and each divested entity to which Goods or Services are provided in accordance with clause 27 and shall be deemed to be made to each member of the Co-op Group, any Franchisees and each divested entity to which Goods or Services are provided in accordance with clause 27 who utilises such supply or exercises such right; and
 - 27.1.2 the obligations that the Supplier has to Co-op under this Agreement shall also be construed as obligations that the Supplier has to members of the Co-op Group, any Franchisees and each divested entity to which Goods or Services are provided in accordance with clause 27 who utilise such supply or exercise such rights.
- 27.2 Other than as permitted by this clause 27 and except as set out in this clause 26, a person who is not a party to this Agreement is not entitled to enforce any of its terms, whether under the Contracts (Rights of Third Parties) Act 1999. If a person who is not a party to this Agreement is stated to have the right to enforce any of its terms, the parties may rescind or vary this Agreement without the consent of that person.

28. PROVIDING SERVICES TO ACQUIRED AND DIVESTED ENTITIES

- 28.1 Subject to clause 28.3 below, upon Co-op's request in relation to any reorganisation, divestment or acquisition by Co-op during the Term (**a "Reorganisation"**):
- 28.1.1 the Supplier shall provide such support as is reasonably required by Co-op in relation to the Reorganisation (including providing advice, information, assessments, transition planning, testing and migration support);
 - 28.1.2 the Supplier shall, if required by Co-op provide the Services as they apply to any reorganised, divested or acquired entity (including any Franchisee), on the terms set out in this Agreement (including pricing);
 - 28.1.3 the parties shall negotiate and agree in good faith such other terms as are necessary or reasonable to ensure that the Reorganisation does not have a negative effect on the provision of the Services and that the Reorganisation is implemented to the satisfaction of Co-op.
- 28.2 Co-op acknowledges that notwithstanding any Reorganisation pursuant to clause 28.1, where any divested entity or business (including any Franchisee) continues to use the Services pursuant to clause 28.1.2 above, Co-op shall remain responsible for any breach of this Agreement by such divested entity or business (including Franchisees) and shall continue to be liable for any Charges in accordance with clause 15 until the earlier of:
- 28.2.1 the date on which the Supplier enters into a direct agreement with the divested entity, relevant Franchisees or acquirer of a divested business;
 - 28.2.2 the divested entity, business or Franchisee ceasing to use the Services;

28.2.3 any subsequent reorganisation, divestment or acquisition of the divested entity, business or Franchisee; and

28.2.4 twelve (12) months from the date of the Reorganisation (or such shorter period as may be agreed between the parties in writing).

28.3 The parties agree that if the Supplier and the divested entity, Franchisee or subsequent acquirer of a divested business are unable to execute a direct agreement within twelve (12) months from the date of the Reorganisation (or such shorter period as may be agreed between the parties in writing), then the Supplier shall stop providing the Services to the divested entity, business or Franchisee.

29. GENERAL

29.1 **Notices:** Any notice given under this Agreement shall be in writing served by hand, prepaid first class recorded delivery or first class registered post, marked for the attention of the person and sent to the address set out in the Agreement Schedule, and, in the case of Co-op, copied to General Counsel, Legal Department, The Co-operative Group, 1 Angel Square, Manchester, M60 0AG. Notices served by hand shall be deemed to have been received immediately if during business hours, and at the start of the next business hour if not. Notices sent by recorded delivery or post shall be deemed to have been received the second Business Day after posting. For the avoidance of doubt, notice given under this Agreement shall not be validly served if sent by email.

29.2 **Waiver:** A waiver of any right or remedy under this Agreement is only effective if it is in writing and it shall apply only to the party to whom the waiver is addressed and the circumstances for which it is given.

29.3 **Cumulative Rights:** The rights and remedies of the parties in connection with this Agreement are cumulative and, except as expressly stated in this Agreement, are not exclusive of and may be exercised without prejudice to any other rights or remedies provided in this Agreement, by law, equity or otherwise. Except as expressly stated in this Agreement (or in law or in equity in the case of rights and remedies provided by law or equity) any right or remedy may be exercised wholly or partially from time to time.

29.4 **Further Assurance:** Each party shall do and execute, or arrange and procure for the doing and executing of, any act and/or document reasonably requested of it by any other party to implement and give full effect to the terms of this Agreement.

29.5 **No Partnership or Agency:** Each party is an independent contractor and neither is the agent of the other and nothing in this Agreement shall create or be deemed to create a partnership, joint venture or principal-agent relationship between the Supplier and Co-op and neither party shall have authority to act in the name of or bind the other in any way.

29.6 **Severability:** If any provision of this Agreement is held by a court of competent jurisdiction to be illegal, invalid or unenforceable then the remaining provisions shall remain in full force and effect. If it is held by a court or administrative body of competent jurisdiction that any provision in this Agreement is illegal, invalid or unenforceable, in whole or in part, the parties shall negotiate in good faith to amend such provision so that, as amended, it is legal, valid and enforceable, and, to the greatest extent possible, achieves the commercial intention of the original provision.

29.7 **Entire Agreement:** This Agreement represents the entire agreement and understanding of the parties, and supersedes and extinguishes all proposals, previous agreements, understandings and negotiations between the parties in respect of the subject matter hereof and shall apply to the exclusion of all other standard conditions of supply or purchase, whether written, oral,

CO-OPERATIVE GROUP TERMS AND CONDITIONS

express or implied which either party may purport to apply or which are endorsed upon any correspondence or documents issued by either party irrespective of their date of communication. In entering into this Agreement, the Supplier has not relied on any statement, representation, warranty, understanding, promise or assurance of any person, other than as expressly set out in this Agreement. The Supplier waives all rights and remedies which, but for this clause 29.7, it might otherwise have had in relation to any of the foregoing. Nothing in this clause shall limit or exclude any liability for fraud, fraudulent misrepresentation or fraudulent misstatement.

- 29.8 **Governing Law and Jurisdiction:** This Agreement and any non-contractual obligations arising out of or in connection with it and them or its subject matter shall be governed by and construed in accordance with the laws of England and Wales. The parties irrevocably submit to the non-exclusive jurisdiction of the courts of England and Wales to settle any claim or dispute that arises from or in connection with this Agreement or its subject matter.