General Terms and Conditions

Version 1.0

General Terms and Conditions for Penny Apples Limited

The Customer's attention is particularly drawn to the provisions of clause 14 (Limitation of Liability) and Clause 2.14, 3.2, 4.5, 4.8, 4.9 and 5.4 Agreed terms Interpretation The following definitions and rules of interpretation apply in these Conditions

1.1 Definitions:

Acknowledgement: is defined in Clause 2.2. Assumptions: means the assumptions, express or implied, made by the Supplier when entering into the contract as evidenced by the quotation documentation, any agreed additional terms and these Conditions. Business Day: a day, other than a Saturday, Sunday or public holiday in Ireland, when banks in Dublin are open for business. Business Hours: the period from 9.00 am to 5.00 pm on any Business Day. Charges: means any fees due under this Contract as set out in the Acknowledgement or such subsequent agreement between the parties in line with the Fee Schedule; Commencement Date: has the meaning given in clause 2.2. Contract: the contract between the Supplier and the Customer for the supply of Goods and/or Services in accordance with these Conditions. Controller, processor, date subject, personal data, personal data breach, processing and appropriate technical measures: as defined in the Data Protection Legislation. Customer: the person or firm who purchases the Goods and/or Services from the Supplier. Customer's Operating Environment: the Customer's computing environment (consisting of hardware, software and telecommunications networks) that is to be used by the Customer in connection with its use of the Services and which interfaces with the Supplier's System in order for the Customer to receive the Services, but excluding the Customer-site Equipment. Customer-site Equipment: any equipment located or to be located on a Customer Site but controlled or to be controlled exclusively by the Supplier as part of the Managed Services; Deliverables: as set out in the Acknowledgement;

Data Protection Legislation: the Irish Data Protection Legislation, Regulation (EU) 2016/679 (the General Data Protection Regulation) and any other applicable European Union legislation relating to personal data and all other legislation and regulatory requirements in force from time to time which apply to a party relating to the use of personal data (including, without limitation, the privacy of electronic communications); Confidential Information: has the meaning given in clause 15 (Confidentiality). Day: a period of 24 consecutive hours ending at 12.00 midnight. End User Licence: means the end user licence for any software which will be either the standard End User Licence required by the owner of the Software and delivered to the Customer by the Supplier or where none under the terms of clause 7; Force Majeure Event: has the meaning given in clause 17 (Force majeure). Fee Schedule means the Supplier's price list in force from time to time; General Terms: the main body of these General Terms and Conditions as amended from time to time in accordance with clause 23 but excluding the Schedules thereto. Goods: the goods (or any part of them) set out in the Acknowledgement and or Service Description, including any Supplier Hardware and Software specified in any relevant Services Description. Installation Services: means Services provided to install the Goods into the Customer premises where not subject to the Managed Services Schedule. Intellectual Property Rights : patents, utility models, rights to inventions, copyright and neighbouring and related rights, moral rights, trademarks and service marks, business names and domain names, rights in get-up and trade dress, goodwill and the right to sue for passing off or unfair competition, rights in designs, rights in computer software, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how and trade secrets) and all other intellectual p roperty rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world. Managed Services: the service described in the Managed Services Description to be performed by the Supplier in accordance with this schedule. Month: a calendar month. Order: the Customer's order for the supply of Goods and/or Services, as set out in the Customer's purchase order or other similar documentation performing the same purpose as a purchase order from the Customer; Permitted Purposes: the meaning given in clause 15.1.

Representatives: has the meaning given in clause 15 (Confidentiality). Services: the services, including the Deliverables, supplied by the Supplier to the Customer as set out in the Service Description. Services Description: the technical description or service description for the Goods and Services provided in the Acknowledgement, in the relevant Services Schedule or otherwise given in writing by the Supplier to the Customer in. Services Schedule has its meaning as described in Clause 2.7 Supplier: means Penny Apples Limited, a company incorporated and registered in Ireland with company registration number 619722 whose registered office is at 22 Northumberland Road, Ballsbridge, Dublin 4, D04 ED73. Supplier Materials: is as defined in Clause 10.1.h; Subscription Services : the subscription services provided by the Supplier to the Customer as part of the Services and as more fully described in the Sub-Schedule. Irish Data Protection Legislation: all applicable data protection and privacy legislation in force from time to time in Ireland, including the Data Protection Acts 1988 to 2018 and the European Communities (Electronic Communications Networks and Services) (Privacy and Electronic Communications) Regulations 2011 (S.I. No. 336 of

2011). VAT: value added tax or any equivalent tax chargeable in Ireland or elsewhere. Week: any period of seven consecutive Days.

1.2 Clause, schedule and paragraph headings shall not affect the interpretation of these Conditions.

1.3 A person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).

1.4 The Schedules to these General Terms and Conditions, together with any documents referred to in them, form an integral part of these General Terms and Conditions and any reference to the General Terms and Conditions means the General Terms together with the Schedules and all documents referred to in them, and such amendments in writing as may subsequently be agreed between the parties.

1.5 A reference to a company shall include any company, corporation or other body corporate, wherever and however incorporated or established.

1.6 Unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular.

1.7 Unless the context otherwise requires, a reference to one gender shall include a reference to the other genders.

1.8 These General Terms and Conditions shall be binding on, and ensure to the benefit of, the parties to these General Terms and Conditions and their respective successors and permitted assigns, and references to any party shall include that party's personal representatives, successors and permitted assigns.

1.9 A reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time

1.10 A reference to a statute or statutory provision shall include all subordinate legislation made from time to time

1.11 Unless the context otherwise requires, any reference to European Union law is a reference to it as it applies in Ireland from time to time, as amended, extended, re-enacted or otherwise given effect in Ireland.

1.12 A reference to writing or written includes fax and email;

1.13 Any obligation on a party not to do something includes an obligation not to allow that thing to be done.

1.14 Any reference to an Irish legal term for any action, remedy, method of judicial proceeding, legal document, legal status, court, official or any legal concept or thing shall, in respect of any jurisdiction other than Ireland, be deemed to include a reference to that which most nearly approximates to the Irish legal term in that jurisdiction.

1.15 A reference to these General Terms and Conditions or to any other agreement or document is a reference to these General Terms and Conditions or such other agreement or document, in each case as varied from time to time.

1.16 References to clauses and Schedules are to the clauses, and Schedules of these General Terms and Conditions and references to paragraphs are to paragraphs of the relevant Schedules.

1.17 Any words following the terms including, include, in particular, for example or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.

2. Basis of Contract and Duration

2.1 The Order or acceptance of a quotation constitutes an offer by the Customer to purchase Goods or Services or Goods and Services in accordance with these General Terms and Conditions.

2.2 The Supplier reserves the right to accept or refuse Orders. The Order shall only be deemed to be accepted when the Supplier issues a written acknowledgement of the Order (‘Acknowledgment’), or where none is given on first delivery of Goods or first performance of Services, at which point and on which date the Contract shall come into existence in respect of the relevant Services (‘Commencement Date’).

2.3 Each Contract made under these General Terms and Condition shall be independent of any other Contract made between the parties under these General Terms and the termination of one Contract shall not necessarily effect any of the other Contracts in place at the time of termination.

2.4 Unless specifically stated in the Schedule the termination of one Schedule will not always terminate any other Schedule under the Contract unless it is terminated under these General Terms and thereby affects both contracts.

2.5 The quantity, quality and description of the Goods or Services shall be as stated in the Acknowledgement unless varied in accordance with these General Terms and Conditions.

2.6 No order which has been acknowledged by the Supplier may be cancelled by the Customer, except with the agreement in writing of the Supplier and provided that the Customer indemnifies the Supplier in full against all loss (including loss of profit),

costs (including the cost of all labour and materials used), damages, charges and expenses incurred by the Supplier as a result of cancellation.

2.7 The following additional Services Schedule apply where Services including Managed Services, Installation Services or Subscription Services are purchased:

2.7.1 Managed Services Schedule: to include upgrade of existing system as well as purchase and installation of a new system with managed services provided;

2.7.2 Installation Services Schedule: to be used in cases where installation is required without an ongoing managed service requirement;

2.7.3 Subscription Services Schedule: to be used whenever subscription Services are part of the Service.

2.8 Each Contract shall commence on the Commencement Date and terminate in accordance with Clause 16 (termination) or in accordance with the provisions of a relevant Schedule.

2.9 Any samples, drawings, descriptive matter or advertising issued by the Supplier and any descriptions of the Goods or illustrations or descriptions of the Services contained in the Supplier's catalogues or brochures are issued or published for the sole purpose of giving an approximate idea of the Services and/or Goods described in them. They shall not form part of the Contract nor have any contractual force.

2.10 Any typographical, clerical or other error or omission in any sales literature, quotation, price list, acceptance of offer, invoice or other document or information issued by the Supplier shall be subject to correction without any liability on the part of the Supplier.

2.11 These General Terms and Conditions apply to the Contract to the exclusion of any other terms that the Customer seeks to impose or incorporate, or which are implied by law, trade custom, practice or course of dealing.

2.12 Any quotation given by the Supplier shall not constitute an offer and is only valid for a period of 30 Business Days from its date of issue and the Supplier may withdraw or amend such quotation on notice at any time.

2.13 All of these General Terms and Conditions shall apply to the supply of both Goods and Services except where application to one or the other is specified.

2.14 The Supplier's employees, contractors and agents are not authorised to make any representations or contractually binding statements concerning the Goods or Services. In entering into this Contract, the Customer confirms that they do not enter into the Contract on the basis of any representations which are not confirmed in writing.

2.15 Any advice or recommendation given by the Supplier or its employees, contractors or agents to the Customer or their employees, contractors or agents as to how to install, store, apply or operate the Goods or Services which have not been evidenced in writing is followed entirely at the Customer’s risk and the Supplier shall not be liable for any such advice or recommendation unless or until it is confirmed in writing.

2.16 The Customer acknowledges that should the Assumptions not be correct this may adversely affect the ability of the Supplier to perform the Services and provide the Goods, including but not limited to timescales for delivery of the Goods and performance of the Services and the Customer confirms that the Supplier shall have no liability in respect of any delay or damage caused materially by an error in or change to the Assumptions.

2.17 The Supplier reserves the right (but does not assume the obligation) to amend the Service Description if required by any applicable statutory or regulatory requirement, and the Supplier shall notify the Customer in any such event. The Supplier reserves the right to charge the Customer a reasonable sum to cover any expenses of making this change if such a change was not reasonably foreseeable at the Commencement Date.

2.18 With a view to the constant improvement the Supplier reserves the right to make minor amendments to the Service Description without the consent of the Customer providing that this does not, in the Supplier’s sole but reasonable opinion, materially change t he nature of the Goods or Services supplied.

2.19 The Supplier does not guarantee that the Goods and Services will be continuously available and bug free. The Customer confirms that due to the nature of the Goods and Services faults and bugs in the Goods or Services may occur from time to time. Support Services are available at an additional cost to the Customer as described in the Managed Services Schedule.

3 Goods

3.1 The Goods are described in the Acknowledgement, Service Description or if neither then in the Order.

3.2 To the extent that the Goods are to be manufactured in accordance with a Goods Service Description or the Services with a Service Description which is supplied by the Customer, the Customer shall indemnify the Supplier against all liabilities, costs, expenses, damages and losses (including any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other reasonable professional costs and expenses) suffered or incurred by the Supplier arising out of or in connection with any claim made against the Supplier for actual or alleged infringement of a third party's intellectual property rights arising out of or in connection with the Supplier's use of the Service Description. This clause 3.2 shall survive termination of the Contract.

3.3 Where the Supplier is not the manufacturer of the Goods, the Supplier shall use reasonable endeavours to transfer to the Customer the benefit of any warranty or guarantee given by the manufacturer to the Supplier.

3.4 The Packaging of the Goods shall be at the sole discretion of the Supplier provided that it is in the Supplier’s sole but reasonable opinion, fit for purpose.

4 Delivery of Goods

4.1 Delivery shall be made during Business Hours. The Supplier may levy additional charges for any deliveries made outside such hours at the Customer's request.

4.2 The Customer shall be responsible (at the Customer's cost) for preparing the delivery location for the delivery of the Goods and for the provision of all necessary access and facilities reasonably required to deliver and install the Goods. If the Supplier is prevented from carrying out delivery or installation on the specified date because no such preparation has been carried out, the Supplier may levy additional charges to recover its loss arising from this event.

4.3 The Supplier shall ensure that:

4.3.1 each delivery of the Goods is accompanied by a delivery note which shows the date of the Acknowledgement, the contract number, the type and quantity of the Goods (including the code number of the Goods, where applicable), special storage instructions (if any) and, if the Acknowledgement is being delivered by instalments, the outstanding balance of Goods remaining to be delivered; and

4.3.2 it states clearly on the delivery note any requirement for the Customer to return any packaging material to the Supplier. The Customer shall make any such packaging materials available for collection at such times as the Supplier shall reasonably request. Returns of packaging materials shall be at the Supplier's expense.

4.3.3 Testing takes place on delivery to ensure compliance with the Contract at delivery.

4.4 The Supplier shall deliver the Goods to the location set out in the Acknowledgement or such other location as the parties may agree (Delivery Location) at the time agreed with the Customer, or where no such time is agreed, at any time after the Supplier notifies the Customer that the Goods are ready.

4.5 Delivery of the Goods shall be completed on the completion of unloading of the Goods at the Delivery Location unless Installation Services are required when the delivery will be on acceptance of the installation of the Goods in accordance with the Installa tion Schedule.

4.6 Any dates quoted for delivery of the Goods are approximate only, and the time of delivery is not of the essence. The Supplier shall not be liable for any delay in delivery of the Goods that is caused by a Force Majeure Event or the Customer's failure to provide the Supplier with adequate delivery instructions or any other instructions that are relevant to the supply of the Goods.

4.7 The Goods may be delivered by the Supplier in advance of the quoted delivery date on giving reasonable notice to the Customer.

4.8 The Supplier shall not be liable for any non -delivery of Goods (even if caused by the Supplier's negligence) unless the Customer notifies the Supplier in writing of the failure to deliver within seven days after the Scheduled delivery date.

4.9 Subject to clause 4.8, if the Supplier fails to deliver the Goods, its liability shall be limited to the costs and expenses incurred by the Customer in obtaining replacement goods of similar description and quality in the cheapest market available, less th e price of the Goods. The Supplier shall have no liability for any failure to deliver the Goods to the extent that such failure is caused by a Force Majeure Event or the Customer's failure to provide the Supplier with adequate delivery instructions for the Goods or any relevant instruction related to the supply of the Goods.

4.10 If the Customer fails to accept delivery of the Goods within seven Business Days of the Supplier notifying the Customer that the Goods are ready, then except where such failure or delay is caused by a Force Majeure Event or by the Supplier's failure to comply with its obligations under the Contract in respect of the Goods:

4.10.1 delivery of the Goods shall be deemed to have been completed at 9.00 am on the third Business Day following the day on which the Supplier notified the Customer that the Goods were ready; and

4.10.2 the Supplier shall store the Goods until delivery takes place and charge the Customer for all related costs and expenses (including insurance).

4.11 If twenty (20) Business Days after the day on which the Supplier notified the Customer that the Goods were ready for delivery the Customer has not accepted delivery of them, the Supplier may resell or otherwise dispose of part or all of the Goods and, afte r deducting reasonable storage and selling costs, account to the Customer for any excess over the price of the Goods or charge the Customer for any shortfall below the price of the Goods.

4.12 The Supplier may deliver the Goods by instalments, which shall be invoiced and paid for separately. Each instalment shall constitute a separate contract. Any delay in delivery or defect in an instalment shall not entitle the Customer to cancel any other instalment.

5 Quality of Goods

5.1 The Supplier warrants that on delivery, and for a period of 12 months from the date of delivery (warranty period), the Goods shall:

5.1.1 conform in all material respects with their description and any applicable Service Description;

5.1.2 be free from material defects in design, material and workmanship;

5.1.3 be of merchantable quality (within the meaning of the Sale of Goods Act 1893, as amended by the Sale of Goods and Supply of Services Act 1980); and

5.1.4 as far as it is reasonably able, the Supplier will pass on to the Customer the benefits of any Manufacturers' Warranties.

5.2 The Supplier shall not be liable for a breach of the warranty contained in condition 5.1 unless:

5.2.1 the Customer gives written notice of the defect to the Supplier within seven days of the time when the Customer discovers or ought to have discovered the defect; and

5.2.2 after receiving the notice, the Supplier is given a reasonable opportunity of examining such Goods and the Customer (if asked to do so by the Supplier) returns such Goods to the Supplier's place of business at the Supplier's cost for the examination to take place there; and

5.2.3 The Supplier is given the option within a reasonable time to repair or replace the defective Goods.

5.3 The Supplier shall not be liable for the Goods' failure to comply with the warranty in clause 5.1 if:

5.3.1 the Customer makes any further use of such Goods after giving a notice in accordance with clause 5.2;

5.3.2 the defect arises because the Customer failed to follow the Supplier's oral or written instructions as to the storage, installation, commissioning, use or maintenance of the Goods or (if there are none) good trade practice;

5.3.3 the defect arises as a result of the Supplier following any drawing, design or Service Description supplied by the Customer;

5.3.4 the Customer alters or repairs such Goods without the written consent of the Supplier;

5.3.5 the defect arises as a result of fair wear and tear, wilful damage, negligence, or abnormal working conditions; or

5.3.6 the Goods differ from their description or the Service Description as a result of changes made to ensure they comply with applicable statutory or regulatory standards.

5.3.7 any damage or defect to the Goods is caused by improper use of the Goods or use outside its normal application.

5.4 Except as provided in this clause 5, the Supplier shall have no liability to the Customer in respect of the Goods' failure to comply with the warranty set out in clause 5.1.

5.5 The terms of these General Terms and Conditions shall apply to any repaired or replacement Goods supplied by the Supplier. Any repaired or replacement Goods shall be under warranty for the unexpired portion of the twelve-month period.

5.6 If the Customer's claim is subsequently found by the Supplier to be outside the scope or duration of the warranty in condition 5.1, the costs of transportation of the Goods, investigation and repair shall be borne by the Customer.

6 Title and risk

6.1 The Goods shall be at the risk of the Supplier until delivery to the Customer at the place of delivery specified in the Acknowledgement. The Supplier shall off -load the Goods at the Customer's risk.

6.2 Title to the Goods shall not pass to the Customer until the Supplier receives payment in full (in cash or cleared funds) for the Goods or services that the Supplier has supplied to the Customer in respect of which payment has become due, in which case title to the Goods shall pass at the time of payment of all such sums; and

6.3 Until title to the Goods has passed to the Customer, the Customer shall:

6.3.1 To the extent possible, store the Goods separately from all other goods held by the Customer so that they remain readily identifiable as the Supplier's property;

6.3.2 not remove, deface or obscure any identifying mark or packaging on or relating to the Goods;

6.3.3 maintain the Goods in satisfactory condition and keep them insured against all risks for their full price on the Supplier's behalf from the date of delivery;

6.3.4 notify the Supplier immediately if it becomes subject to any of the events listed in clause 16.1.4 to clause 16.1.13; and

6.3.5 give the Supplier such information relating to the Goods as the Supplier may require from time to time.

6.4 If before title to the Goods passes to the Customer the Customer becomes subject to any of the events listed in clause 16.1.4 to clause 16.1.13 then, without limiting any other right or remedy the Supplier may have the Supplier may at any time:

6.4.1.1 require the Customer to deliver up all Goods in its possession that have not been resold, or irrevocably incorporated into another product; and

6.4.1.2 if the Customer fails to do so promptly, enter any premises of the Customer or of any third party where the Goods are stored in order to recover them.

6.5 On termination of the Contract for any reason, the Supplier's rights in this clause 6 shall remain in effect.

7 Software licence

7.1 If the Supplier refers to an End User Licence in the Acknowledgment the price of the Goods or Services includes the end user licence fee for the Customer's right to use the Software subject to the terms of the End User Licence.

7.2 The Customer will comply at all times with the terms of the End User Licence provided under clause 7.3 or where none in accordance with the terms of 7.4 below.

7.3 If the Customer is provided with any operating system software licence in respect of the Software, the Customer shall sign and return it to the Supplier within seven days of installation of the software, unless the licence has been supplied on a "shrink - wrap" or "click-wrap" basis.

7.4 If no software licence has been provided to the Customer, the Customer hereby accepts a non-exclusive, non-transferable end user licence to use the Software on the following conditions:

7.4.1 the Customer shall not copy (except to the extent permissible under applicable law or for normal operation of the Goods), reproduce, translate, adapt, vary or modify the software, nor communicate it to any third party, without Supplier's prior written consent;

7.4.2 Unless otherwise agreed the Customer shall not use the Software on any goods other than the Goods, and shall not remove, adapt or otherwise tamper with any copyright notice, legend or logo which appears in or on the Software on the medium on which it resides;

7.4.3 such licence shall be terminable by the Supplier on 28 days' written notice, provided that the Supplier terminates only if the continued use or possession of the Software by the Customer infringes the developer's or a third party's rights, or the Supplier is compelled to do so by law.

7.4.4 If the Customer has failed to comply with any term of this clause 7 the Supplier shall be entitled to end this end user licence on notice; and

7.4.5 on or before the expiry of this licence, the Customer shall return to the Supplier all copies of the Software in its possession.

8 Export terms

8.1 Where the Goods are supplied for export from Ireland, the provisions of this condition 8 shall (subject to any contrary terms agreed in writing between the Customer and the Supplier) override any other provision of these General Terms and Conditions.

8.2 The Customer shall be responsible for complying with any legislation governing:

8.2.1 the importation of the Goods into the country of destination; and

8.2.2 the export and re-export of the Goods, and shall be responsible for the payment of any duties on it.

8.3 Unless otherwise agreed in writing between the Customer and the Supplier, the Goods shall be delivered free on board the air or seaport of shipment and the Supplier shall be under no obligation to give notice under section 32(3) of the Sale of Goods Act 1893.

8.4 The Supplier shall be responsible for arranging for the testing and inspection of the Goods at the Supplier's premises before shipment.

8.5 The Customer shall pay the price for the Goods in euro.

9 Supply of Services

9.1 The Supplier shall supply the Services to the Customer in accordance with the Service Description in all material respects.

9.2 The Supplier shall use all reasonable endeavours to meet any performance dates for the Services specified in the Acknowledgement, but any such dates shall be estimates only and time shall not be of the essence for the performance of the Services.

9.3 The Supplier reserves the right to amend the Service Description if necessary to comply with any applicable law or regulatory requirement, or if the amendment will not materially affect the nature or quality of the Services, and the Supplier shall notify the Customer in any such event.

9.4 The Supplier warrants to the Customer that the Services will be provided using reasonable care and skill.

10 Customer's obligations

10.1 The Customer shall:

10.1.1 ensure that the terms of the Order and any information it provides in (or for) the Service Description are complete and accurate;

10.1.2 co-operate with the Supplier in all matters relating to the Services or delivery of the Goods;

10.1.3 provide the Supplier, its employees, agents, consultants and subcontractors, with access to the Customer's premises, office accommodation and other facilities as reasonably required by the Supplier to provide the Services or deliver the Goods;

10.1.4 provide the Supplier with such information and materials as the Supplier may reasonably require in order to supply the Goods or Services, and ensure that such information is complete and accurate in all material respects;

10.1.5 prepare the Customer's premises for the supply of the Services;

10.1.6 obtain and maintain all necessary licences, permissions and consents which may be required for the provision of the Services at the Customer premises before the date on which the Services are to start;

10.1.7 comply with all applicable laws, including health and safety laws and provide the Supplier with any premises health and safety policies within good time prior to the Services being undertaken;

10.1.8 keep all materials, Goods, documents and other property of the Supplier (Supplier Materials) at the Customer's premises in safe custody at its own risk, maintain the Supplier Materials in good condition until returned to the Supplier, and not dispose of or use the Supplier Materials other than in accordance with the Supplier's written instructions or authorisation; and

10.1.9 comply with any additional obligations as set out in the Service Description of schedule relating to the specific Goods or Services purchased;

10.2 If the Supplier's performance of any of its obligations under the Contract is prevented or delayed by any act or omission by the Customer or failure by the Customer to perform any relevant obligation (Customer Default):

10.2.1 without limiting or affecting any other right or remedy available to it, the Supplier shall have the right to suspend performance of the Services until the Customer remedies the Customer Default, and to rely on the Customer Default to relieve it

from the p erformance of any of its obligations in each case to the extent the Customer Default prevents or delays the Supplier's performance of any of its obligations;

10.2.2 any implementation plan for the delivery of Services shall be amended to reflect the delay including any milestone dates agreed and the Supplier shall not be liable for failure to supply the Services in accordance with the original implementation plan.

10.2.3 the Supplier shall not be liable for any costs or losses sustained or incurred by the Customer arising directly or indirectly from the Supplier's failure or delay to perform any of its obligations as set out in this clause 10.1.9; and

10.2.4 the Customer shall reimburse the Supplier on written demand for any costs or losses sustained or incurred by the Supplier arising directly or indirectly from the Customer Default.

11 Charges and payment

11.1 The price for Goods and Services (Recurring and Non Recurring):

11.1.1 shall be the price set out in the Acknowledgement or, if no price is quoted, the price set out in the Supplier's Fee Schedule as at the date of the Acknowledgement; and

11.1.2 shall be exclusive of all costs and charges of packaging, insurance, transport of the Goods, which shall be invoiced to the Customer.

11.2 All prices are subject to survey and may increase or decrease in line with the final survey results.

11.3 Unless otherwise agreed in the Acknowledgement the price for Services shall be calculated on a time and materials basis:

11.3.1 the charges shall be calculated in accordance with the Supplier's daily fee rates, as set out in its current Fee Schedule at the date of the Contract displayed on the Acknowledgement. The Supplier's published export price list shall apply to exports of the Goods;

11.3.2 the Supplier's daily fee rates for each individual person are calculated on the basis of a Business Day;

11.3.3 the Supplier shall be entitled to charge an overtime rate of 150% of the daily fee rate on a pro rata basis for each part Day or for any time worked by individuals whom it engages on the Services outside Business Hours; and

11.3.4 the Supplier shall be entitled to charge the Customer for any expenses reasonably incurred by the individuals whom the Supplier engages in connection with the Services including travelling expenses, hotel costs, subsistence and any associated expenses, and for the cost of services provided by third parties and required by the Supplier for the performance of the Services, and for the cost of any materials.

11.3.5 The figure for the Services expressed on the Acknowledgement form is an estimate only and is based on the Assumptions. If the Assumptions are for any reason incorrect the Supplier shall be entitled to vary the terms of the Contract including increasing the price to allow for the incorrect Assumptions.

11.4 The Supplier reserves the right to:

11.4.1 increase the charges for Recurring Services on an annual basis with effect from each anniversary of the Commencement Date in line with the percentage increase in the Consumer Price Index published by the Central Statistics Office (Ireland) or equivalent in the preceding 12- Month period plus 3% and the first such increase shall take effect on the first anniversary of the Commencement Date and shall be the latest available figure for the percentage increase in the Consumer Price Index or equivalent Index;

11.4.2 increase the price of Non-recurring Goods and Services, by giving notice to the Customer at any time before delivery, to reflect any increase in the cost of the Goods to the Supplier that is due to:

11.4.2.1 any factor beyond the control of the Supplier (including foreign exchange fluctuations, increases in taxes and duties, increases in transport costs, legislation changes);.

11.4.2.2 any request by the Customer to change the delivery date(s), quantities or types of Goods ordered, or

11.4.2.3 any delay caused by any instructions of the Customer in respect of the Goods or failure of the Customer to give the Supplier adequate or accurate information or instructions in respect of the Goods.

11.4.2.4 changes required due to unsatisfactory survey results.

11.4.3 Increase the price of Recurring Goods, including software subscriptions, if the Supplier’s costs of providing the Goods increase s. This could be as a result of any changes in legislation or regulations applying to the performance of the Goods, increased taxation, increases in the charges of any relevant Provider and foreign exchange fluctuations . T he Supplier may

increase the Charges to reasonably reflect the increase in the cost of providing the Goods by giving not less than thirty (30) days' prior written notice to the Customer, such notice to identify the amount of the increase in the Charges.

11.5 Unless otherwise agreed the Supplier shall invoice the Customer for the first 50% of the price on Acknowledgement of the Order and the remaining 50% of the price on or at any time after completion of delivery/collection (for Goods only) and/or acceptance following testing for the Services or as stated in the relevant Schedule

11.6 The Customer shall pay each invoice submitted by the Supplier:

11.6.1 within 30 Days of the date of the invoice or in accordance with clause 8 where the Goods are to be exported; and whether or not delivery has taken place or title in the Goods has passed to the Customer

11.6.2 in full and in cleared funds to a bank account nominated in writing by the Supplier, and time for payment shall be of the essence of the Contract.

11.7 All amounts payable by the Customer under the Contract are exclusive of amounts in respect of value added tax chargeable from time to time (VAT). Where any taxable supply for VAT purposes is made under the Contract by the Supplier to the Customer, the Customer shall, on receipt of a valid VAT invoice from the Supplier, pay to the Supplier such additional amounts in respect of VAT as are chargeable on the supply of the Services or Goods at the same time as payment is due for the supply of the Services or Goods.

11.8 If the Customer fails to make payment in full on the due date, the whole of the balance of the price of the Goods then outstanding shall become immediately due and payable and, without prejudice to any other right or remedy available to the Supplier, the Supplier shall be entitled to:

11.8.1 terminate the Contract or suspend any further deliveries of Goods (whether ordered under the same contract or not) to the Customer;

11.8.2 appropriate any payment made by the Customer to such of the Goods (or the Goods supplied under any other contract between the Customer and the Supplier) as it thinks fit (despite any purported appropriation by the Customer);

11.8.3 charge interest on the amount outstanding from the due date to the date of receipt by the Supplier (whether or not after judgment), at the annual rate of 4% above the main refinancing rate of the European Central Bank from time to time, accruing on a daily basis and being compounded quarterly until payment is made, whether before or after any judgment. The Supplier reserves the right to claim interest under the European Communities (Late Payment in Commercial Transactions) Regulations 2012 (S.I. No. 580 of 2012);

11.8.4 suspend all further manufacture, delivery, installation or warranty service until payment has been made in full;

11.8.5 make a storage charge for any undelivered Goods at its current rates from time to time;

11.8.6 stop any Goods in transit; and

11.8.7 a general lien on all Goods and property belonging to the Customer, exercisable in respect of all sums lawfully due from the Customer to the Supplier. The Supplier shall be entitled, on the expiry of 14 days' notice in writing, to dispose of such

Goods or property in such manner and at such price as it thinks fit and to apply the proceeds towards the amount outstanding.

11.9 All sums payable to the Supplier under the Contract shall become due immediately on its termination, despite any other provision of the Contract. This condition 11.8 is without prejudice to any right to claim for interest under the law, or any right under the Contract.

11.10 The Supplier may, without prejudice to any other rights it may have, set off any liability of the Customer to the Supplier against any liability of the Supplier to the Customer. All amounts due under the Contract shall be paid in full by the Customer witho ut any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law).

12 Intellectual property rights

12.1 All Intellectual Property Rights in or arising out of or in connection with the Services (other than Intellectual Property Rights in any materials provided by the Customer) shall be owned by the Supplier.

12.2 Except as explicitly stated in these General Terms and Conditions the Customer shall not sub-license, assign or otherwise transfer the rights granted by clause 12.3

12.3 The Customer grants the Supplier a fully paid -up, non -exclusive, royalty -free non - transferable licence to copy and modify any materials provided by the Customer to the Supplier for the term of the Contract for the purpose of providing the Services to the Customer.

12.4 If the Supplier manufactures the Goods, or applies any process to it, in accordance with a Service Description submitted or prepared by the Customer or any other information provided by the Customer, the Customer shall indemnify and keep indemnified the Su pplier against all losses, damages, costs, claims, demands, liabilities and expenses (including without limitation consequential losses, loss of profit and loss of reputation, and all interest, penalties and legal and other professional costs and expenses) awarded against or incurred by the Supplier in connection with, or paid or agreed to be paid by the Supplier in settlement of, any claim for infringement of any third party Intellectual Property Rights which results from the Supplier's use of the Customer's Service Description or such other information. Any amounts paid or agreed to paid by the Supplier needs to obtain prior written consent from Customer, otherwise Customer will not indemnify them. The indemnity shall apply whether or not the Customer has been negligent or at fault.

12.5 The Customer acknowledges that all Intellectual Property Rights used by or subsisting in the Goods are and shall remain the sole property of the Supplier or (as the case may be) third party rights, owner.

12.6 The Supplier shall retain the property and copyright in all documents supplied to the Customer in connection with the Contract and it shall be a condition of such supply that the contents of such documents shall not be communicated either directly or indirectly to any other person, firm or company without the prior written consent of the Supplier.

12.7 The Supplier's Intellectual Property Rights in and relating to the Goods shall remain the exclusive property of the Supplier, and the Customer shall not at any time make any unauthorised use of such Intellectual Property Rights, nor authorise or permit any of its agents or contractors or any other person to do so.

12.8 In relation to the Software:

12.8.1 the Customer acknowledges that it is buying only the media on which the software is recorded and the accompanying user manuals;

12.8.2 nothing contained in these General Terms and Conditions shall be construed as an assignment of any Intellectual Property Rights in the Software or user manuals; and

12.8.3 the Customer shall be subject to the rights and restrictions imposed by the owner of the Intellectual Property Rights in the Software and user manuals, and shall comply with all licence agreements, terms of use and registration requirements relating to them.

13 Data protection

13.1 Both parties will comply with all applicable requirements of the Data Protection Legislation. This clause 13 is in addition to, and does not relieve, remove or replace, a party's obligations or rights under the Data Protection Legislation. In this clause 1 3, Applicable Laws means (for so long as and to the extent that they apply to the Supplier) the law of the European Union, the law of any member state of the European Union and/or Irish Law; and Irish Law means the Irish Data Protection Legislation and any other law that applies in Ireland.

13.2 The parties acknowledge that for the purposes of the Data Protection Legislation, the Customer is the controller and the Supplier is the processor.

13.3 Without prejudice to the generality of clause 13.1, the Customer will ensure that it has all necessary appropriate consents and notices in place to enable lawful transfer of the personal data to the Supplier for the duration and purposes of the Contract.

13.4 Without prejudice to the generality of clause 13.1, the Supplier shall, in relation to any personal data processed in connection with the performance by the Supplier of its obligations under the Contract:

13.4.1 process that personal data only on the documented written instructions of the Customer unless the Supplier is required by Applicable Laws to otherwise process that personal data. Where the Supplier is relying on Applicable Laws as the basis for processing personal data, the Supplier shall promptly notify the Customer of this before performing the processing required by the Applicable Laws unless those Applicable Laws prohibit the Supplier from so notifying the Customer;

13.4.2 ensure that it has in place appropriate technical and organisational measures, reviewed and approved by the Customer, to protect against unauthorised or unlawful processing of personal data and against accidental loss or destruction of, or damage to, perso nal data, appropriate to the harm that might result from the unauthorised or unlawful processing or accidental loss, destruction or damage and the nature of the data to be protected, having regard to the state of technological development and the cost of i mplementing any measures (those measures may include, where appropriate, pseudonymising and encrypting personal data, ensuring confidentiality, integrity, availability and resilience of its systems and services, ensuring that availability of and access to personal data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the technical and organisational measures adopted by it);

13.4.3 ensure that all personnel who have access to and/or process personal data are obliged to keep the personal data confidential; and

13.4.4 not transfer any personal data outside of the European Economic Area unless the prior written consent of the Customer has been obtained and the following conditions are fulfilled:

13.4.4.1 the Customer or the Supplier has provided appropriate safeguards in relation to the transfer;

13.4.4.2 the data subject (as defined in the Data Protection Legislation) has enforceable rights and effective legal remedies;

13.4.4.3 the Supplier complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any personal data that is transferred; and

13.4.4.4 the Supplier complies with reasonable instructions notified to it in advance by the Customer with respect to the processing of the personal data;

13.4.5 assist the Customer, at the Customer's cost, in responding to any request from a data subject and in ensuring compliance with its obligations under the Data Protection Legislation with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators;

13.4.6 notify the Customer without undue delay on becoming aware of a personal data breach;

13.4.7 at the written direction of the Customer, delete or return personal data and copies thereof to the Customer on termination of the Contract unless required by Applicable Law to store the personal data; and

13.4.8 maintain complete and accurate records and information to demonstrate its compliance with this clause 13 and immediately inform the Customer if, in the opinion of the Supplier, an instruction infringes the Data Protection Legislation.

13.5 The Customer consents to the Supplier appointing a cloud based (Professional Services Automation) application, a cloud -based customer documentation application, a cloud based remote monitoring and management application and other third party cloud based subscription services and third party support partners, including hardware maintenance and remote support partners as a third -party processor of personal data under the Contract. The Supplier confirms that it has entered or (as the case may be) will enter with the third -party processor into a contract incorporating terms which are substantially similar to those set out in this clause 13 and in either case which the Supplier confirms reflect and will continue to reflect the requirements of the Data Protection Legislation. As between the Customer and the Supplier, the Supplier shall remain fully liable for all acts or omissions of any third party processor appointed by it pursuant to this clause 13.

13.6 Either party may, at any time on not less than 30 Days' notice, revise this clause 13 by replacing it with any applicable controller to processor standard clauses or similar terms forming part of an applicable certification scheme (which shall apply when r eplaced by attachment to the Contract).

13.7 The Supplier shall promptly notify the Customer in writing of any actual or suspected loss or damage to the Customer Data. In the event of any loss or damage to Customer Data, the Customer’s sole and exclusive remedy shall be for the Supplier to use reasonable commercial endeavours to restore the lost or damaged Customer Data from the latest backup of such Customer Data. The Supplier shall not be responsible for any loss, destruction, alteration or unauthorised access to or disclosure of Customer Data caused by any third party (except those third parties sub -contracted by the Supplier to perform services related to Customer Data maintenance and back -up). This 13.7 is without prejudice to the generality of Clause 13.1.

13.8 Information on the Scope, purpose, duration, types and categories of data subject shall be further explained in the Penny Apples privacy notice available at www.pennyapples.com.

14 Limitation of liability: THE CUSTOMER'S ATTENTION IS PARTICULARLY DRAWN TO THIS CLAUSE.

14.1 The restrictions on liability in this clause 14 apply to every liability arising under or in connection with the Contract including liability in contract, tort (including negligence), misrepresentation, restitution or otherwise.

14.2 Neither party may benefit from the limitations and exclusions set out in this clause in respect of any liability arising from its deliberate default.

14.3 Nothing in the Contract limits any liability which cannot legally be limited, including liability for:

14.3.1 death or personal injury caused by negligence;

14.3.2 fraud or fraudulent misrepresentation;

14.3.3 breach of the terms implied by section 12 of the Sale of Goods Act 1893 (title and quiet possession); and

14.3.4 defective products under the Liability for Defective Products Act 1991.

14.4 Subject to clause 14.3 above, the Supplier's total aggregate liability in contract, (including in respect of any indemnity given in these General Terms and Conditions) tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise, arising in connection with the performance or contemplated performance of these General Terms and Conditions shall be limited in aggregate to the total Charges paid by the Customer to the Supplier in the preceding twelve (12) months.

14.5 This clause 14.5 sets out specific heads of excluded loss and exceptions from them:

The Supplier will not be liable for:

14.5.1.1 loss of profits;

14.5.1.2 loss of sales or business;

14.5.1.3 loss of agreements or contracts;

14.5.1.4 loss of anticipated savings;

14.5.1.5 loss of use or corruption of software, data or information;

14.5.1.6 loss of or damage to goodwill; and

14.5.1.7 indirect or consequential loss.

14.6 The Supplier has given commitments as to compliance of the Goods and Services with relevant Service Descriptions in clause 3 and clause 5. In view of these commitments, the terms implied by sections 13 to 15 of the Sale of Goods Act 1893 and section 39 of the Sale of Goods and Supply of Services Act 1980 are, to the fullest extent permitted by law, excluded from the Contract.

14.7 Unless the Customer notifies the Supplier that it intends to make a claim in respect of an event within the notice period, the Supplier shall have no liability for that event. The notice period for an event shall start on the Day on which the Customer beca me, or ought reasonably to have become, aware of the event having occurred and shall expire two Months from that date. The notice must be in writing and must identify the event and the grounds for the claim in reasonable detail.

14.8 This clause 14 shall survive termination of the Contract.

Confidentiality

15.1 Each party undertakes not to use the other party's Confidential Information otherwise than in the exercise and performance of its rights and obligations under these General Terms and Conditions (Permitted Purposes).

15.2 In relation to the Customer's Confidential Information:

15.2.1 the Supplier shall treat as confidential all Confidential Information of the Customer supplied under these General Terms and Conditions. The Supplier shall not divulge any such Confidential Information to any person except to its own employees, and then only to those employees who need to know it for the Permitted Purposes. The Supplier shall ensure that its employees are aware of, and comply with, this clause 15; and

15.2.2 the Supplier may provide any subcontractor authorised under clause 18.1 with such of the Customer's Confidential Information as it needs to know for the Permitted Purposes, provided that such subcontractor has first entered into a written obligation of co nfidentiality owed to the Supplier in terms similar to clause 15.3.

15.3 In relation to the Supplier's Confidential Information:

15.3.1 the Customer shall treat as confidential all Confidential Information of the Supplier contained or embodied in the system or documentation supplied, or otherwise supplied to the Customer during the performance of these General Terms and Conditions;

15.3.2 the Customer shall not, without the prior written consent of the Supplier, divulge any part of the Supplier's Confidential Information to any person other than:

15.3.2.1 the Customer's Representative; and

15.3.2.2 other employees of the Customer who need to know it for the Permitted Purposes; and

15.3.3 the Customer undertakes to ensure that the persons mentioned in clause

15.3.2 are made aware, before the disclosure of any part of the Supplier's Confidential Information, that the same is confidential and that they owe a duty of confidence to the Customer in terms similar to clause 15.3.1.

15.4 The restrictions imposed by this clause 15 shall not apply to the disclosure of any Confidential Information which:

15.4.1 is now in, or hereafter comes into, the public domain otherwise than as a result of a breach of this clause 15;

15.4.2 before any negotiations or discussions leading to these General Terms and Conditions was already known by the receiving party (or, in the case of the

Customer, any of its Affiliates) and was obtained or acquired in circumstances under which the receiving party was (or, in the case of the Customer, the Customer and its Affiliates were) not bound by any form of confidentiality obligation; or

15.4.3 is required by law or regulation to be disclosed to any person who is authorised by law or regulation to receive the same (after consultation, if practicable, with the disclosing party to limit disclosure to such authorised person to the extent necessary).

15.5 Each party shall notify the other party if any of its staff connected with the provision or receipt of the Services becomes aware of any unauthorised disclosure of any Confidential Information and shall offer reasonable assistance to the other party, at that other party's reasonable cost, in connection with any enforcement proceedings which that other party may elect to bring against any person.

15.6 Nothing in these General Terms and Conditions shall prevent either party from using any Tools, knowledge of which is contained in the unaided memory of such party's personnel [or those of its Affiliates] developed or disclosed under these General Terms and Conditions, provided that in doing so such party does not breach its obligations of confidentiality under this clause 15 or breach any Intellectual Property Rights of the other party or any of its Affiliates. An individual's memory is only "unaided" with respect to any information if the individual has not retained a copy of the information and has not intentionally memorised that information other than is required to perform the Services.

15.7 This clause 15 shall remain in full force and effect in the event of any termination of the Licence or these General Terms and Conditions. Termination

16.1 Without affecting any other right or remedy available to it, either party may terminate these General Terms and Conditions with immediate effect by giving written notice to the other party if:

16.1.1 the other party fails to pay any amount due under these General Terms and Conditions on the due date for payment and remains in default not less than 14 Days after being notified in writing to make such payment;

16.1.2 the other party commits a material breach of any term of these General Terms and Conditions and (if such breach is remediable) fails to remedy that breach within a period of 30 Days after being notified in writing to do so;

16.1.3 the other party suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or (being a company or limited liability partnership) is deemed unable to pay its debts within the meaning of section 570 of the Companies Act 2014 or (being an individual) is unable to pay its debts or has no reasonable prospect of so doing, or commits an act of bankruptcy within the meaning of the Bankruptcy Act 1988, or (being a partnership) has any partner to whom any of the foregoing apply;

16.1.4 the other party commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with any of its creditors other than (being a company) for the sole purpose of a scheme for a solvent amalgamation of that other party with one or more other companies or the solvent reconstruction of that other party;

16.1.5 a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of the other party (being a company, limited liability partnership or partnership) other than for the sole purpose of a scheme for a solvent amalgamation of that other party with one or more other companies or the solvent reconstruction of that other party;

16.1.6 an application is made to court, or an order is made, for the appointment of an administrator, or a notice of intention to appoint an administrator is given or an administrator is appointed, over the other party (being a company, partnership or limited liability partnership);

16.1.7 the holder of a qualifying floating charge over the assets of that other party (being a company or limited liability partnership) has become entitled to appoint or has appointed an administrative receiver;

16.1.8 a person becomes entitled to appoint a receiver over all or any of the assets of the other party or a receiver is appointed over all or any of the assets of the other party;

16.1.9 the other party (being an individual) is the subject of a bankruptcy petition, application or order;

16.1.10 a creditor or encumbrancer of the other party attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of the other party's assets and such attachment or process is not discharged within 14 Days;

16.1.11 any event occurs, or proceeding is taken, with respect to the other party in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clause 16.1.3 to clause 16.1.10 (inclusive);

16.1.12 the other party suspends or ceases, or threatens to suspend or cease, carrying on all or a substantial part of its business;

16.1.13 In respect of any particular Service in accordance with the termination procedure stated in the relevant service Schedule;

16.2 In the event that the Customer repeatedly breaches any of the terms of these General Terms and Conditions in such a manner as to reasonably justify the opinion that its conduct is inconsistent with it having the intention or ability to give effect to the terms of these General Terms and Conditions the Supplier, may at its option, terminate the Contract and claim damages from the Customer.

16.3 For the purposes of clause 16.1.2, material breach means a breach (including an anticipatory breach) that is serious in the widest sense of having a serious effect on the benefit which the terminating party would otherwise derive from:

16.3.1 a substantial portion of these General Terms and Conditions; or

16.3.2 any of the obligations set out in clauses 10; over the term of these General Terms and Conditions. In deciding whether any breach is material no regard shall be had to whether it occurs by some accident, mishap, mistake or misunderstanding.

16.4 Termination of these General Terms for any reason shall not affect the accrued rights, remedies, obligations or liabilities of the parties existing at expiry or termination. Force majeure

17.1 Force Majeure Event means any circumstance not within a party's reasonable control including, without limitation:

17.1.1 acts of God, flood, drought, earthquake or other natural disaster;

17.1.2 epidemic or pandemic (including but not limited to following laws and government guidance during this period);

17.1.3 terrorist attack, civil war, civil commotion or riots, war, threat of or preparation for war, armed conflict, imposition of sanctions, embargo, or breaking off of diplomatic relations;

17.1.4 nuclear, chemical or biological contamination or sonic boom;

17.1.5 any law or any action taken by a government or public authority, including without limitation imposing an export or import restriction, quota or prohibition, order to cease working or failing to grant a necessary licence or consent;

17.1.6 collapse of buildings, fire, explosion or accident; and

17.1.7 non-performance by suppliers or subcontractors (other than by companies in the same group as the party seeking to rely on this clause); and

17.1.8 interruption or failure of utility service.

17.2 Provided it has complied with clause 17.4, if a party is prevented, hindered or delayed in or from performing any of its obligations under these General Terms and Conditions by a Force Majeure Event (Affected Party), the Affected Party shall not be in breach of these General Terms and Conditions or otherwise liable for any such failure or delay in the performance of such obligations. The time for performance of such obligations shall be extended accordingly.

17.3 The corresponding obligations of the other party will be suspended, and its time for performance of such obligations extended, to the same extent as those of the Affected Party.

17.4 The Affected Party shall:

17.4.1 as soon as reasonably practicable after the start of the Force Majeure Event but no later than 5 Days from its start, notify the other party in writing of the Force Majeure Event, the date on which it started, its likely or potential duration, and the effect of the Force Majeure Event on its ability to perform any of its obligations under the agreement; and

17.4.2 use all reasonable endeavours to mitigate the effect of the Force Majeure Event on the performance of its obligations.

17.5 If the Force Majeure Event prevents, hinders or delays the Affected Party's performance of its obligations for a continuous period of more than 8 Weeks, the party not affected by the Force Majeure Event may terminate these General Terms and Conditions by giving 4 Weeks written notice to the Affected Party. Assignment and other dealings

18.1 The Supplier may at any time assign, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any or all of its rights and obligations under these General Terms and Conditions, provided that it gives prior written noti ce of such dealing to the Customer

18.2 The Customer shall not assign, transfer, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any of its rights and obligations under these General Terms and Conditions. Multi-tiered dispute resolution procedure

19.1 If a dispute arises out of or in connection with these General Terms and Conditions or the performance, validity or enforceability of it (Dispute), then, except as expressly provided in these General Terms and Conditions, the parties shall follow the procedure set out in this clause:

19.1.1 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 account manager for the Supplier and for the Customer attempt in good faith to resolve the dispute.

19.1.2 if the account managers of are for any reason unable to resolve the Dispute within 30 Days of service of the Dispute Notice, the Dispute shall be referred to the managing directors of each party who shall attempt in good faith to resolve it; and

19.1.3 If the attempts in the clauses 36.1 a) and b) above for any reason unable to resolve the Dispute within 30 Days of it being referred to them, the parties agree to enter into mediation in good faith to settle the dispute in accordance with the CEDR Model Mediation Procedure. To initiate the mediation, a party must serve notice in writing (ADR notice) to the other party to the Dispute, referring the dispute to mediation. Unless otherwise agreed between the parties, the mediation will start not later than 10 Days after the date of the ADR notice.

19.2 No party may commence any court or arbitration proceedings under clause 31

- (Jurisdiction) in relation to the whole or part of the Dispute until 30 days after service of the ADR notice, provided that the right to issue proceedings is not prejudiced by a delay.

19.3 If the Dispute is not resolved within 30 Days after service of the ADR notice, or either party fails to participate or ceases to participate in the mediation before the expiry of that

30 Day period, or the mediation terminates before the expiry of that 30 Day period, the

Dispute shall be finally resolved by the courts of Ireland Survival

20.1 Any provision of these General Terms and Conditions that expressly or by implication is intended to come into or continue in force on or after termination or expiry of these General Terms and Conditions shall remain in full force and effect.

20.2 Termination or expiry of these General Terms and Conditions shall not affect any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination or expiry, including the right to claim damages in respect of any b reach of the agreement which existed at or before the date of termination or expiry. Entire agreement

21.1 These General Terms and Conditions constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.

21.2 Each party acknowledges that in entering into these General Terms and Conditions it does not rely on, and shall have no remedies in respect of, any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in these General Terms and Conditions. Conflict If there is an inconsistency between any of the provisions of this Contract the terms of a document above shall have precedence over terms of a document below:

- a) Acknowledgement
- b) Schedules
- c) Main Body of these General Terms and Conditions
- d) Appendices Variation No variation of these General Terms and Conditions shall be effective unless it is in writing and signed by the parties (or their authorised representatives). Waiver No failure or delay by a party to exercise any right or remedy provided under these General Terms and Conditions or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy. Severance

25.1 If any provision or part-provision of these General Terms and Conditions is or becomes invalid, illegal or unenforceable, it shall be deemed deleted, but that shall not affect the validity and enforceability of the rest of these General Terms and Conditions.

25.2 If any provision or part -provision of these General Terms and Conditions is deemed deleted under clause 25.1 the parties shall negotiate in good faith to agree a replacement provision that, to the greatest extent possible, achieves the intended commercial result of the original provision. No partnership or agency

26.1 Nothing in these General Terms and Conditions is intended to, or shall be deemed to, establish any partnership or joint venture between any of the parties, constitute any party the agent of another party, or authorise any party to make or enter into any commitments for or on behalf of any other party.

26.2 Each party confirms it is acting on its own behalf and not for the benefit of any other person. Notices

27.1 Any notice or other communication given to a party under or in connection with these General Terms and Conditions shall be in writing and shall be:

27.1.1 delivered by hand or by pre -paid first -class post or other next working Day delivery service at its registered office (if a company) or its principal place of business (in any other case); or

27.1.2 sent by email to the following address: info@pennyapples.com

27.2 Any notice or communication shall be deemed to have been received:

27.2.1 if delivered by hand, at the time the notice is left at the proper address;

27.2.2 if sent by pre-paid first-class post or other next working Day delivery service, at

9.00 am on the second Business Day after posting; or

27.2.3 if sent by email, at the time of transmission, or, if this time falls outside business hours in the place of receipt, when business hours resume. In this clause 36.2(c), business hours means 9.00am to 5.00pm Monday to Friday on a Day that is not a public holiday in the place of receipt.

27.3 This clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution. Third party rights

28.1 Unless it expressly states otherwise, a person who is not a party to the Contract shall have no right to enforce any term of these General Terms and Conditions.

28.2 The rights of the parties to rescind or vary these General Terms and Conditions are not subject to the consent of any other person. Rights and remedies Except as expressly provided in this General Terms and Conditions, the rights and remedies provided under these General Terms and Conditions are in addition to, and not exclusive of, any rights or remedies provided by law. Governing law These General Terms and Conditions and any dispute or claim (including non -contractual disputes or claims) arising out of or in connection with it or its subject matter or formation shall be governed by and construed in accordance with the law of Ireland. Jurisdiction Each party irrevocably agrees that the courts of Ireland shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims)