

# General Terms of Heywood ISP and Related Services

## v1.2 07.05.2024

These General Terms set out the general terms and conditions in relation to the provision of access to Software and/or the provision of Services from Heywood Limited ("**Heywood**") as set out in a relevant Order with a customer of Heywood ("**Customer**"). The provision of any such access to Software and/or the provision of Services will be documented in such Order entered into between the Customer and Heywood which incorporates the provisions of these General Terms.

### 1. INTERPRETATION

1.1 The definitions and rules of interpretation in this clause apply to these General Terms and each Order.

1.1.1 "**Authorised Third Parties**" means any third party that is authorised to use the Services as set out in the Order.

1.1.2 "**Authorised Users**" means the number and categories of users that are authorised to access and use the Services and Service Description as set out in the applicable Order and/or Product Terms, including any Authorised Third Parties.

1.1.3 "**Business Day**" means a day other than a Saturday, Sunday or public holiday in England.

1.1.4 "**Change Control Process**" means the change control process set out in the Schedule to these General Terms.

1.1.5 "**Confidential Information**" means all information (whether written, visual, oral or of another nature) that is disclosed, directly or indirectly by either party to the other party, related to the business or operations of the disclosing party, any member of its Group, or a third party that has been marked or otherwise identified as confidential or that by the nature of the information or circumstances surrounding its disclosure ought reasonably to be understood as being confidential or proprietary. The Services, the Implementation and Consultancy Services (including in each case the results of any performance tests), the Service Description and details of the Fees will all be the Confidential Information of Heywood.

1.1.6 "**Control**" means in relation to a person, the power (whether direct or indirect) to direct or cause the direction of its affairs, whether by means of holding shares, possessing voting power, exercising contractual powers or otherwise, and "**Controlled**" will be construed accordingly.

1.1.7 "**Customer Data**" means the data inputted by the Customer or Authorised Users for the purpose of using the Services or Implementation and Consultancy Services or facilitating the use of the Services or Implementation and Consultancy Services.

1.1.8 "**Data Protection Laws**" means any laws in force in the United Kingdom from time to time that relate to data protection, the processing of personal data, privacy and/or electronic communications; and references to "Controller", "Data Subjects", "Personal Data" and "Processor" have the meanings set out in and will be interpreted in accordance with such laws.

1.1.9 "**Data Protection Supervisory Authority**" means any regulatory authority responsible for the enforcement, regulation or governance of any Data Protection Laws and any replacement or successor body or person for any such authority from time to time.

1.1.10 "**Effective Date**" means in relation to any Order has the meaning given to it in that Order.

1.1.11 "**Fees**" means the fees payable by the Customer to Heywood for the Services (including but not limited to fees for any Subscription Services, Implementation and Consultancy Services, installation or other related fees) as set out in the Order.

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

1.1.13 "**Heywood IPR**" has the meaning set out in clause 10.1.

1.1.14 "**Implementation and Consultancy Services**" means those implementation and consultancy services, such as configuration, consulting and training (if any) specified in the Order (previously named "Implementation Services" in earlier versions of these General Terms).

1.1.15 "**Initial Subscription Term**" means in relation to an Order, the initial term of the Order as set out in that Order.

1.1.16 "**Insolvency Event**" means, in respect of either party: (a) other than for the purposes of a bona fide reconstruction or amalgamation, such party passing a resolution for its winding up, or a court of competent jurisdiction making an order for it to be wound up or dissolved, or that party being otherwise dissolved; (b) the appointment of an administrator of, or the making of an administration order in relation to, that party, or the appointment of a receiver or administrative receiver of, or an encumbrancer taking possession of or selling, the whole or any part of that party's undertaking, assets, rights or revenue; (c) that party entering into an arrangement, compromise or composition in satisfaction of its debts with its creditors or any class of them, or taking steps to obtain a moratorium, or making an application to a court of competent jurisdiction for protection from its creditors; (d) that party being unable to pay its debts, or being capable of being deemed unable to pay its debts, within the meaning of section 123 of the Insolvency Act 1986; (e) that party entering into any arrangement, compromise or composition in satisfaction of its debts with its creditors; (f) any event occurs, or proceeding being taken, with respect to that party in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in sub-paragraphs (a) to (e) (inclusive); (g) that party ceasing or threatening to cease to carry on business; or (h) Heywood having a reasonable suspicion that such party is likely to experience any of the events mentioned in sub-paragraphs (a) to (g) (inclusive).

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- 1.1.17 **"Intellectual Property Rights"** means all intellectual and industrial property rights of any kind, type or nature recognised in any jurisdiction in the world, including copyrights (whether in drawings, plans, specifications, designs, computer software or otherwise), supplementary protection certificates, rights in know-how (including formulae, methods, plans, inventions, discoveries, improvements, processes, performance methodologies, techniques, specifications, technical information, tests, results, reports, component lists, manuals and instructions), moral rights and other rights associated with works of authorship; trade secrets, registered designs (including re-registered UK designs); utility models, unregistered design rights, patents, patent rights, and other rights in inventions, discoveries or processes; trade marks (whether registered or unregistered), trade names, trade dress, trademarks (registered and unregistered), comparable marks (EU), service marks, logos, symbols and other source identifiers, goodwill and rights to prevent passing off or unfair competition, database rights, topography rights; and including applications and registrations for, and extensions, continuations, renewals, substitutions and re-issuances of any of the foregoing.
- 1.1.18 **"Liability"** means liability arising out of or in connection with these General Terms and/or any Order, whether in contract, tort, misrepresentation, restitution, under statute or otherwise, including (without limitation) any liability under an indemnity contained in these General Terms and/or any Order and/or arising from a breach of, or a failure to perform or defect or delay in performance of, any of a party's obligations under any Order and/or these General Terms, in each case howsoever caused including (without limitation) if caused by negligence.
- 1.1.19 **"Licensed Capacity"** means the capacity for which the Customer has licensed use of the Services as set out in the Order. This may be by reference to number of Authorised Users, or any other appropriate metric that is set out in the Order and/or the Product Terms.
- 1.1.20 **"Order"** means a legally binding contract that is formed, separate from all others in accordance with clause 2.
- 1.1.21 **"parties"** means the parties to an Order (being Heywood and a Customer) and **"party"** shall be interpreted accordingly.
- 1.1.22 **"Permitted Purpose"** means the permitted purpose set out in the applicable Product Terms and/or Order or, if none is specified, the Customer's internal business operations.
- 1.1.23 **"Personal Data Security Incident"** means a breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to, Services Personal Data transmitted, stored or otherwise processed.
- 1.1.24 **"Processing"** has the meaning set out in the Data Protection Laws and for the purposes of clause 6 "process", "processing" and "processed" will be interpreted accordingly.
- 1.1.25 **"Product Terms"** means any additional terms and conditions (including the usage rights and terms describing and governing the applicable Software and/or Services including but not limited to Support Services and Implementation and Consultancy Services, and any documents incorporated, or referred to, therein) applicable to the relevant Software and/or Services ordered by the Customer and which are incorporated into an Order.
- 1.1.26 **"Renewal Period"** means the period described as such in the Order.
- 1.1.27 **"Restricted Transfer"** means a transfer of Services Personal Data which is undergoing processing or which is intended to be processed after transfer, to a country or territory to which such transfer is prohibited or subject to a requirement to take additional steps to adequately protect the Services Personal Data for the transfer to be lawful under the Data Protection Laws.
- 1.1.28 **"Service Description"** means the document(s), which may be made available to the Customer (and/or Authorised Users) by Heywood from time to time (whether via the Services or otherwise) in the Product Terms and/or Order or otherwise which sets out a description of the Services and the instructions for the use of the Services.
- 1.1.29 **"Services"** means the services (including Support Services) provided by Heywood to the Customer under an Order as more particularly described in such Order, any applicable Product Terms and the Service Description but excluding Third Party Software and Services and Implementation and Consultancy Services.
- 1.1.30 **"Services Personal Data"** means Personal Data which is to be processed under an Order, as more particularly described in Schedule 1 to that Order.
- 1.1.31 **"Software"** means the software applications as may be provided by Heywood as part of the Services.
- 1.1.32 **"Sub-Processor"** means any person (including any member of Heywood's Group) appointed, engaged or permitted by Heywood to process personal data, including those set out in Schedule 2 to an Order to process Services Personal Data.
- 1.1.33 **"Subscription Fees"** means the Fees for any Subscription Services.
- 1.1.34 **"Subscription Services"** means subscription services, such as for Software, (if any) specified in the Order.
- 1.1.35 **"Subscription Term"** means, in relation to an Order, the Initial Subscription Term together with any subsequent Renewal Periods of that Order.
- 1.1.36 **"Support Services"** means the support services provided by Heywood to the Customer under an Order as more particularly described in the applicable Product Terms and/or Service Description.

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- 1.1.37 **"Third Party Software and Services"** means third party services and third party software and links to, content (whether static or dynamic content) from, and integrations (including, without limitation, through open APIs) with third party websites, applications and services which are not proprietary to Heywood.
- 1.1.38 **"Virus"** means anything or device (including any software, code, file or programme) which may: prevent, impair or otherwise adversely affect the operation of any computer software, hardware or network, any telecommunications service, equipment or network or any other service or device; prevent, impair or otherwise adversely affect access to or the operation of any programme or data, including the reliability of any programme or data (whether by re-arranging, altering or erasing the programme or data in whole or part or otherwise); or adversely affect the user experience, including worms, trojan horses, viruses and other similar things or devices.
- 1.1.39 **"Vulnerability"** means a weakness in the computational logic (for example, code) found in software and hardware components that when exploited, results in a negative impact to the confidentiality, integrity, or availability, and the term **"Vulnerabilities"** shall be construed accordingly.
- 1.2 Clause, schedule and paragraph headings shall not affect the interpretation of these General Terms.
- 1.3 Any words following the words "include", "includes", "including", "in particular" or any similar words or expressions will be construed without limitation and accordingly will not limit the meaning of the words preceding them.
- 1.4 An obligation on a party to procure or ensure the performance or standing of another person will be construed as a primary obligation of that party.
- 1.5 A person includes an individual, corporate or unincorporated body (whether or not having separate legal personality) and in the case of Heywood, Heywood's legal and personal representatives, successors or permitted assigns.
- 1.6 A reference to a company shall include any company, corporation or other body corporate, wherever and however incorporated or established.
- 1.7 Unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular and a reference to one gender shall include a reference to the other genders.
- 1.8 A reference to a statute or statutory provision is a reference to it as it is in force as at the Effective Date and shall include all subordinate legislation made thereunder as at the Effective Date.
- 1.9 Except where the context otherwise requires, a reference to an Order is a reference to an Order incorporating the terms of these General Terms.
- 1.10 A reference to writing or written includes email but not fax.
2. **ORDER PROCESS**
- 2.1 Each Order incorporates the terms and conditions of these General Terms and the Product Terms referred to in such Order (if any) as if written out in full in that Order (construed with the necessary changes made).
- 2.2 Each Order will be a separate legally binding contract and constitutes the entire agreement and understanding between the parties in respect of the matters dealt with in such Order and will be formed when signed by Customer and Heywood.
3. **USER SUBSCRIPTIONS**
- 3.1 Unless explicitly stated otherwise in the applicable Product Terms and/or Order, and subject to the Customer purchasing the Licensed Capacity in accordance with the relevant Order (including the Product Terms), the restrictions set out in this clause 3 and the other terms and conditions of the relevant Order, Heywood hereby grants to the Customer a non-exclusive, non-transferable right, without the right to grant sublicences, to use and to permit the Authorised Users and if applicable any Authorised Third Parties to use the Services and the Service Description during the Subscription Term solely for the Permitted Purpose.
- 3.2 The Customer is prohibited from using the Services to provide any service to a third party except for any Authorised Third Parties.
- 3.3 In relation to the Authorised Users:
- 3.3.1 the Customer will procure that the aggregate use of the Services and the Service Description shall not exceed the Licensed Capacity it has purchased from time to time;
- 3.3.2 the Customer shall remain solely responsible for determining whether to grant, and the level of access granted to, any Authorised User in accordance with the relevant Order, including any subsequent changes to and/or removal of any such access;
- 3.3.3 the Customer will not allow or suffer any bypassing of the Licensed Capacity including for example permitting the sharing of logon details with multiple Authorised Users;
- 3.3.4 the Customer will procure that each Authorised User keeps a secure password for their use of the Services and Service Description, that such password shall comply with and be changed in accordance with the password requirements set by Heywood from time to time and that each Authorised User shall keep their password confidential;
- 3.3.5 it shall maintain a written, up to date list of current Authorised Users (including Authorised Third Parties) and provide such list to Heywood within five (5) Business Days of Heywood's written request at any time or times;
- 3.3.6 it shall notify Heywood immediately in writing in the event that an Authorised User leaves the employment of (or otherwise ceases to be

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- engaged by) the Customer, or is otherwise no longer designated by the Customer as an Authorised User (or upon becoming aware that any of the foregoing are scheduled to take place), in which case:
- (a) Heywood shall use reasonable endeavours to end such Authorised User's access within thirty (30) Business Days (or such other period as may be specified in the applicable Product Terms and/or Order) from the date of the Customer's notice in writing (or such later date as is notified by the Customer in relation to scheduled changes); and
  - (b) the Customer acknowledges and agrees that, subject to clause 13.2, Heywood shall not have any Liability for any continued access by an Authorised User in the event that the Customer has failed to so notify Heywood.
- 3.4 The Customer shall not (and shall procure that Authorised Users shall not) access, store, distribute or transmit any Viruses, or any other material during the course of its (or their) use or receipt of the Services that is unlawful, harmful, threatening, defamatory, obscene, infringing, harassing or racially or ethnically offensive; facilitates illegal activity; depicts sexually explicit images; promotes unlawful violence; is discriminatory based on race, gender, colour, religious belief, sexual orientation or disability; or is otherwise illegal or causes damage or injury to any person or property, and Heywood reserves the right, without Liability or prejudice to its other rights to the Customer, to disable the Customer's (and/or any Authorised User's) access to any material that breaches the provisions of this clause.
- 3.5 The Customer shall not (and shall procure that Authorised Users shall not):
- 3.5.1 except as may be allowed by any applicable law which is incapable of exclusion by agreement between the parties and except to the extent expressly permitted under these General Terms, the applicable Product Terms and/or Order: (a) attempt to copy, modify, decrypt, extract, duplicate, create derivative works from, frame, mirror, republish, download, display, transmit, or distribute all or any portion of the Software, the Services and/or Service Description (as applicable) in any form or media or by any means; (b) attempt to de-compile, reverse compile, disassemble, reverse engineer or otherwise reduce to human-perceivable form all or any part of the Software or the Services; or; (c) remove or conceal any proprietary rights notice in the Services or any Third Party Software and Services and must include any such notice on any copy that it is permitted to make under these General Terms;
  - 3.5.2 access all or any part of the Services and Service Description in order to build a product or service which competes or would be capable of competing with the Services and/or the Service Description;
  - 3.5.3 subject to clause 23.1, license, sell, resell, rent, lease, transfer, assign, distribute, display, disclose, or otherwise commercially exploit, or otherwise make the Services, Third Party Software and Services and/or Service Description available to any third party except the Authorised Users and Authorised Third Parties;
  - 3.5.4 attempt to obtain, or assist third parties in obtaining, access to the Services and/or Service Description, other than as provided under this clause 3;
  - 3.5.5 introduce or permit the introduction of, any Virus or Vulnerability into Heywood's or its Group's or its or their subcontractors' or suppliers' networks or systems; or
  - 3.5.6 make any claim or representation (whether express or implied) that the Services, or the Customer's use of the Services, results in the Customer complying with its own legal and/or regulatory obligations or facilitates any third party's compliance with their own legal and/or regulatory obligations.
- 3.6 The Customer shall use all reasonable endeavours to prevent any unauthorised access to, or use of, the Services and/or the Service Description and, in the event of any such unauthorised access or use, promptly notify Heywood in writing.
- 3.7 The rights provided under this clause 3 are granted to the Customer only, and shall not be considered granted to any member of the Customer's Group.
- #### 4. ADDITIONAL LICENSED CAPACITY
- 4.1 Subject to clause 4.2 and clause 4.3 and any provisions to the contrary in the Product Terms, the Customer may, from time to time during any Subscription Term, seek to purchase additional Licensed Capacity in excess of the number set out in the relevant Order and Heywood may grant access to the Services and the Service Description for such additional Licensed Capacity in accordance with these General Terms.
- 4.2 If the Customer wishes to purchase additional Licensed Capacity, the Customer shall notify Heywood in writing. Heywood shall evaluate such request for additional Licensed Capacity and respond to the Customer with approval or rejection of the request. Where Heywood approves the request, Heywood shall confirm the price of such additional Licensed Capacity. If no objection from the Customer is received, Heywood shall activate the additional Licensed Capacity within five (5) Business Days of its approval of the Customer's request.
- 4.3 If Heywood approves the Customer's request to purchase additional Licensed Capacity, the Customer shall, within 30 days of the date of Heywood's invoice, pay to Heywood the relevant fees for such additional Licensed Capacity. Unless otherwise stated in the Order, if such additional Licensed Capacity are purchased by the Customer part way through

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- the Initial Subscription Term or any Renewal Period (as applicable), such fees shall be pro-rated from the date of activation by Heywood for the remainder of the Initial Subscription Term or then current Renewal Period (as applicable).
- 4.4 Heywood will have the right, but not the obligation to check that the use of the Services is within the allowed usage contracted in the form of Licensed Capacity. Additional Licensed Capacity must be purchased by the Customer in the event actual usage exceeds the agreed Licensed Capacity.
5. **SERVICES, IMPLEMENTATION AND CONSULTANCY SERVICES AND SERVICE IMPROVEMENT**
- 5.1 In consideration of the Customer's payment of all applicable Fees in accordance with payment terms set forth in an Order and/or these General Terms, and subject to the Customer's performance of any Customer obligations and dependencies specified in the Order, any applicable Product Terms and these General Terms, Heywood shall provide the applicable Services, Support Services and/or Implementation and Consultancy Services as specified in the Order on and subject to these General Terms.
- 5.2 The Customer acknowledges that Heywood reserves the right, in its sole discretion, to make any changes to the Services that it deems necessary or useful to maintain or enhance: (i) the quality or delivery of the Services; (ii) the competitive strength of or market for Heywood's services; or (iii) the cost efficiency or performance of the Services.
- 5.3 In the event of legislative or regulatory changes affecting the Services or pension schemes generally, Heywood shall be entitled to modify or amend the Services by following the Change Control Process.
- 5.4 Heywood may (i) compile statistical and other information related to the performance, operation and use of the Services, and (ii) use data from the Services in aggregated form for service or product development and improvement purposes, operations management purposes, to create statistical analyses and benchmarks, and for research. Heywood may make such data available to other customers for benchmarking purposes however, this will not be in a form that could serve to identify the Customer or any individual.
6. **DATA PROTECTION**
- 6.1 The Customer authorises Heywood, on its own behalf and on behalf of the other members of its Group, to process the Services Personal Data during the Subscription Term as a Processor for the purpose set out in Schedule 1 to the Order.
- 6.2 The Customer warrants to Heywood, on its own behalf and on behalf of the other members of its Group, that:
- 6.2.1 it has all necessary rights authorise Heywood to process Services Personal Data in accordance with these General Terms and the Data Protection Laws; and
- 6.2.2 its instructions to Heywood relating to processing of Services Personal Data will not put Heywood in breach of Data Protection Laws, including with regard to Restricted Transfers.
- 6.3 The Customer acknowledges that as Controller, it is solely responsible for determining the lawful processing conditions upon which it shall rely in authorising Heywood to process Services Personal Data.
- 6.4 If Heywood considers that any instructions from the Customer or a member of its Group relating to processing of Services Personal Data may put Heywood in breach of Data Protection Laws, Heywood will be entitled not to carry out that processing and will not be in breach of the terms of an Order or these General Terms or otherwise have Liability to the Customer or any member of its Group as a result of its failure to carry out that processing. The Customer authorises Heywood, on its own behalf and on behalf of the other members of its Group, to engage Sub-Processors, including those set out in any Order and in a list held by Heywood which is available upon request. Heywood will inform the Customer of any intended changes concerning the addition or replacement of Sub-Processors, thereby giving the Customer the opportunity to reasonably object to such changes. The Customer will be given 30 calendar days to submit to Heywood a written objection to any change or addition, after which period and if no objection has been received, Heywood will be entitled to consider that the Customer does not object to the additional or replacement Sub-Processor. If the Customer objects, the Customer and Heywood will negotiate in good faith to seek a mutually agreeable solution. If a solution is not agreed within 30 days either party has the right to immediately terminate the Order on written notice to the other party.
- 6.5 If Heywood appoints a Sub-Processor, Heywood will put a written contract in place between Heywood and the Sub-Processor that specifies the Sub-Processor's processing activities and imposes on the Sub-Processor no less protective terms to those imposed on Heywood in this clause 6. Heywood will remain liable to the Customer for performance of the Sub-Processor's obligations.
- 6.6 Heywood will:
- 6.6.1 process the Services Personal Data only on documented instructions from the Customer or the relevant member of its Group (unless Heywood or the relevant Sub-Processor is required to process Services Personal Data to comply with domestic law to which Heywood is subject, in which case Heywood will notify the Customer of such legal requirement prior to such processing unless such law prohibits notice to the Customer on public interest grounds). For the purpose of this clause 6.6.1, the obligations on Heywood to perform the Services are documented instructions. Nothing in this clause 6.6.1 will permit the Customer to vary Heywood's obligations under these General Terms other than in accordance with the terms of these General Terms;

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- 6.6.2 without prejudice to clause 6.2.2, immediately inform the Customer if, in its reasonable opinion, any instruction received from the Customer or a member of its Group infringes any data protection provisions in United Kingdom law;
- 6.6.3 ensure that any individual authorised to process Services Personal Data:
- (a) is subject to confidentiality obligations or is under an appropriate statutory obligation of confidentiality; and
  - (b) complies with clause 6.6.1;
- 6.6.4 at the option of the Customer, delete or return to the Customer all Services Personal Data after the end of the provision of Services relating to processing, and delete any remaining copies. Heywood will be entitled to retain any Services Personal Data which it has to keep to comply with any applicable law or which it is required to retain for insurance, accounting, taxation or record keeping purposes;
- 6.6.5 implement appropriate technical and organisational measures to ensure a level of security for the Services Personal Data that is appropriate to the level of risk;
- 6.6.6 notify the Customer without undue delay after becoming aware of a Personal Data Security Incident;
- 6.6.7 provide reasonable assistance to the Customer (at the Customer's cost) in:
- (a) complying with its obligations under the Data Protection Laws relating to the security of processing Services Personal Data;
  - (b) responding to requests for exercising Data Subjects' rights under the Data Protection Laws, including by appropriate technical and organisational measures, insofar as this is possible;
  - (c) documenting any Personal Data Security Incidents and reporting any Personal Data Security Incidents to any Data Protection Supervisory Authority and/or Data Subjects; and
  - (d) conducting privacy impact assessments of any processing operations and consulting with Data Protection Supervisory Authorities, Data Subjects and their representatives accordingly;
- 6.6.8 make available to the Customer all information necessary to demonstrate compliance with the obligations set out in this clause 6; and
- 6.6.9 allow for and contribute to audits, including inspections, conducted by the Customer or another auditor mandated by the Customer, provided that the Customer gives Heywood at least 30 days' prior written notice of each such audit and that each audit is carried out at the Customer's cost, during business hours, so as to cause the minimum disruption to Heywood's business and without the Customer or its auditor having any access to any data belonging to a person other than the Customer. Any materials disclosed during such audits and the results of and/or outputs from such audits will be deemed to be Confidential Information of Heywood and the provisions of clause 11 will apply to them.
- 6.7 Heywood may make a Restricted Transfer if it demonstrates or implements an appropriate safeguard for that Restricted Transfer in accordance with Data Protection Laws. Such appropriate safeguards may include:
- 6.7.1 an appropriate safeguard as directed by the Customer, as determined by the Customer in accordance with Data Protection Laws;
  - 6.7.2 that the country or territory to which the Restricted Transfer is to be made ensures an adequate level of protection for processing of Personal Data pursuant to adequacy regulations made in accordance with Data Protection Laws; or
  - 6.7.3 an appropriate safeguard provided by the relevant Processor in accordance with Data Protection Laws, in which case the Customer will execute any documents (including data transfer agreements containing the standard contractual clauses for the transfer of personal data to Processors established in third countries) relating to that Restricted Transfer which the relevant Processor requires it to execute from time to time.
- 6.8 The qualifications at clause 6.7 will not apply if:
- 6.8.1 the Customer's instructions pursuant to clause 6.6.1 require Heywood to make a Restricted Transfer and Heywood requires (pursuant to clauses 6.2.2 and 6.6.2) the Customer to demonstrate that an appropriate safeguard in accordance with Data Protection Laws has been put in place prior to such Restricted Transfer; or
  - 6.8.2 Heywood or the relevant Sub-Processor is required to make a Restricted Transfer to comply with domestic law to which Heywood is subject, in which case Heywood will notify the Customer of such legal requirement prior to such Restricted Transfer unless such law prohibits notice to the Customer on public interest grounds.
7. **HEYWOOD'S OBLIGATIONS**
- 7.1 In respect of Services provided by Heywood under a relevant Order, Heywood undertakes that the Services will be performed substantially in accordance with the relevant Service Description and with reasonable skill and care.
  - 7.2 The undertaking at clause 7.1 shall not apply to the extent of any non-conformance which is caused by any part of the Services that are not proprietary to Heywood, use of the Services contrary to Heywood's instructions, Service Description or modification or alteration of the Services by any party other than Heywood or Heywood's duly authorised contractors or agents. If the Services do not conform with the foregoing undertaking, Heywood will, at its

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- expense, use reasonable endeavours to correct any such non-conformance promptly, or provide the Customer with an alternative means of accomplishing the desired performance. Such correction or substitution constitutes the Customer's sole and exclusive remedy for any breach of the undertaking set out in clause 7.1.
- 7.3 In respect of Support Services and/or Implementation and Consultancy Services provided by Heywood under an Order, Heywood undertakes that the Support Services and/or Implementation and Consultancy Services will be performed with reasonable skill and care.
- 7.4 Heywood does not warrant that:
- 7.4.1 the Customer's use of the Services will be uninterrupted or error-free;
- 7.4.2 the Services, Service Description and/or the information obtained by the Customer through the Services (including through any Third Party Software and Services) will meet the Customer's requirements;
- 7.4.3 the Services or any Third Party Software and Services will enable the Customer to meet its own (or its customers' or clients') legal or regulatory compliance obligations or requirements (including for clarity its obligation to provide pensions dashboards); or
- 7.4.4 the Software or the Services will be free from Vulnerabilities or Viruses.
- 7.5 Heywood is not responsible for any delays, delivery failures, or any other loss or damage resulting from the transfer of data over communications networks and facilities, including the internet, and the Customer acknowledges that the Services and Service Description may be subject to limitations, delays and other problems inherent in the use of such communications facilities.
- 7.6 Heywood is not responsible for any loss or damage as a result of any Service unavailability where such unavailability results from the unavailability of any Third Party Software and Service including downtime (whether scheduled or unscheduled) or service suspension for any reason, with or without prior notice.
- 7.7 These General Terms and any Order shall not prevent Heywood from entering into similar agreements with third parties, or from independently developing, using, selling or licensing documentation, products and/or services which are similar to those provided under any Order or these General Terms.
- 7.8 Heywood warrants that it has and will maintain all necessary licences, consents, and permissions necessary for the performance of its obligations under any Order and these General Terms.
- 7.9 In the event of any loss or damage to Customer Data, the Customer's sole and exclusive remedy against Heywood shall be for Heywood to use reasonable commercial endeavours to restore the lost or damaged Customer Data from the latest back-up of such Customer Data maintained by Heywood. Heywood shall not be responsible for any loss, destruction, alteration or disclosure of Customer Data caused by any third party (except those third parties sub-contracted by Heywood to perform services related to Customer Data maintenance and back-up for which it shall remain fully liable.)
- 7.10 The Services may consist of and/or contain links to Third Party Software and Services. The Customer agrees that:
- 7.10.1 Heywood does not endorse, support, represent or guarantee the completeness, truthfulness, accuracy, reliability, usefulness, timeliness or other attributes of Third Party Software and Services (or any products or other services associated therewith);
- 7.10.2 Heywood provides such Third Party Software and Services (or links to, content from, and integrations with the same) on an 'as is, where is' basis and has no responsibility for the content, availability or reliability of such Third Party Software and Services, and does not review, test or attempt to verify the accuracy of any Third Party Software and Services; and
- 7.10.3 the Customer's use of such Third Party Software and Services may be subject to the Customer's agreement to, and compliance with, the terms applicable to each such Third Party Software and Services (including any such terms as may be notified from time to time by Heywood or as set out or referred to in the relevant Order or any applicable Product Terms).
- 7.11 Third Party Software and Services do not include any Sub-Processors for which Heywood will remain responsible for as part of the Services in accordance with these General Terms.
8. **CUSTOMER'S OBLIGATIONS**
- 8.1 The Customer shall:
- 8.1.1 provide Heywood with: (a) all necessary co-operation in relation to each Order and these General Terms; and (b) all necessary access to such information as may be required by Heywood, in order to provide the applicable Services, Support Services, Implementation and Consultancy Services and/or Third Party Software and Services including but not limited to Customer Data and security access information;
- 8.1.2 without affecting its other obligations under any Order and these General Terms, comply with all applicable laws and regulations with respect to its activities under any Order and these General Terms and shall not use or provide access to the Services in a manner that may breach any applicable export control or economic sanctions laws for any jurisdiction;
- 8.1.3 carry out all other Customer responsibilities set out in each Order and these General Terms in a timely and efficient manner. In the event of any delays in the Customer's provision of such assistance as agreed by the parties, Heywood may adjust any agreed timetable or delivery

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- schedule as reasonably necessary, and where Customer's delay or failure to provide such assistance causes Heywood or a member of Heywood's Group to incur additional costs in performing the Services, Support Services, and/or Implementation and Consultancy Services, Heywood shall be entitled to require the Customer to pay such costs promptly on demand, and Heywood will not be liable for any delays caused by Customer's failure to provide such assistance in a timely manner;
- 8.1.4 where relevant, be responsible for determining the appropriate level of access granted to any Authorised User and ensure that the Authorised Users' use the Services and the Service Description is in accordance with the terms and conditions of each Order and these General Terms and shall be responsible for any Authorised User's breach of any Order and these General Terms;
- 8.1.5 obtain and shall maintain all necessary licences, consents, and permissions necessary for Heywood, its contractors and agents to perform their obligations under each Order and these General Terms, including without limitation the Services;
- 8.1.6 ensure that its network and systems comply with the relevant specifications provided by Heywood from time to time;
- 8.1.7 comply and procure that all Authorised Users comply with the reasonable instructions of the members of the Heywood Group and all requirements and instructions set out in the Service Description and any other documentation, descriptions or manuals provided by the Heywood Group; and
- 8.1.8 be, to the extent permitted by law and except as otherwise expressly provided in any Order and these General Terms, solely responsible for procuring, maintaining and securing its network connections and telecommunications links from its systems to Heywood's data centres, and all problems, conditions, delays, delivery failures and all other loss or damage arising from or relating to the Customer's network connections or telecommunications links or caused by the internet.
- 8.2 The Customer shall own all right, title and interest in and to all of the Customer Data that is not personal data. The Customer shall have sole responsibility for the legality, reliability, integrity, accuracy and quality of all Customer Data.
- 8.3 The performance of the Services is conditional upon the Customer's fulfilment of its obligations under each Order and these General Terms.
- 8.4 The Customer represents, warrants and undertakes to Heywood that:
- 8.4.1 it shall at all times comply with (and shall procure the compliance of each of its Authorised Users with) all Third Party Software and Services and their terms (including any terms as may be notified from time to time by Heywood); and
- 8.4.2 it shall only use the Third Party Software and Services as necessary for its intended use and not for any other purpose.
9. **CHARGES AND PAYMENT**
- 9.1 The Customer shall pay the applicable Fees and any other amounts specified in the Order to Heywood as set out in, and in accordance with, the charges and payment provisions (including invoicing schedule) in the Order.
- 9.2 If Heywood has not received payment within 30 days after the due date, and without prejudice to any other rights and remedies of Heywood, Heywood may, at its discretion:
- 9.2.1 without Liability to the Customer, disable the Customer's (including any and all Authorised Users') password, account and access to all or part of the Services and Heywood shall be under no obligation to provide any or all of the Services while the invoice(s) concerned and any interest charged pursuant to clause 10.2.2 remain unpaid; and/or
- 9.2.2 charge interest on such due amounts on a daily basis at an annual rate equal to 4% over the then current UK Bank of England base rate from time to time, commencing on the due date and continuing until fully paid, whether before or after judgment.
- 9.3 Heywood shall be entitled to annually increase any and all fees on 1 July from the Effective Date. Such increase shall not exceed the percentage increase during the preceding 12 months in the Retail Price Index plus 5%.
- 9.4 All Fees set out in an Order are exclusive of all applicable taxes, which will be added to invoices in accordance with applicable legislation.
10. **PROPRIETARY RIGHTS**
- 10.1 Unless otherwise specified in the applicable Product Terms and/or Order, the Customer acknowledges and agrees that the Services, Implementation and Consultancy Services, Service Description and Heywood's name, logos and branding (including trade marks) have been developed at substantial cost and expense by Heywood and its licensors and that they constitute valuable commercial and proprietary property of Heywood and its licensors. The Customer further acknowledges and agrees that all Intellectual Property Rights in and to the Services, Implementation and Consultancy Services, Service Description, Heywood's name, logos and branding (including any trade marks) and any Intellectual Property Rights that are created in the course of Heywood's performance of the Services or Implementation and Consultancy Services including any changes, developments, improvements or configurations made to the same (collectively the "**Heywood IPR**") are (and will be) owned solely and exclusively by Heywood and its licensors. Except as expressly stated herein or in the applicable Product Terms, these General Terms and any Order do not and will not grant the Customer any rights to any of the Heywood IPR or to any other of Heywood's Intellectual Property Rights.

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|--------|--|--------|--|
| 10.2   | Heywood confirms that it has and will have all the rights in relation to the Services, Implementation and Consultancy Services and the Service Description that are necessary to grant all the rights it purports to grant under, and in accordance with, the terms of each Order and these General Terms.   | 11.    | <b>CONFIDENTIALITY AND COMPLIANCE WITH POLICIES</b>  |
| 10.3   | Unless otherwise specified in the applicable Product Terms and/or Order and without prejudice to clause 8.2, the Customer grants, will grant and will procure that each other Authorised User grants to Heywood a non-exclusive, world-wide, royalty free license to use any materials (including Customer Data) provided to Heywood or in the Software solely in connection with the performance of, and to the extent required to perform, the Services and/or Implementation and Consultancy Services during each Subscription Term.  | 11.1   | Each party may be given access to Confidential Information from the other party in order to perform its obligations under any Order and these General Terms. A party's Confidential Information shall not be deemed to include information that:   |
| 10.4   | Unless otherwise specified in the applicable Product Terms and/or Order, the Customer grants to Heywood and its Group:   | 11.1.1 | is or becomes publicly known other than through any act or omission of the receiving party;  |
| 10.4.1 | a worldwide, perpetual, irrevocable, sub-licensable and royalty-free licence to use and incorporate into its services and products any suggestion, enhancement request, recommendation, correction or other feedback provided by Customer or Authorised Users relating to the operation or use of Heywood's services and products; and   | 11.1.2 | was in the other party's lawful possession before the disclosure;  |
| 10.4.2 | a worldwide, irrevocable, sub-licensable and royalty-free licence for such period as is required by Heywood to: (a) host and display Customer Data on the Product(s) in order for Heywood to comply with its obligation under each Order and these General Terms and/or to comply with any statutory or regulatory requirements; and (b) use the Customer's name and logo for the purpose of identifying the Customer as a customer of Heywood in accordance with clause 15.2.   | 11.1.3 | is lawfully disclosed to the receiving party by a third party without restriction on disclosure; or  |
| 10.5   | Unless otherwise specified in the applicable Product Terms and/or Order, if for any reason and at any time during a Subscription Term, the Customer acquires (whether by operation of law, contract, assignment or otherwise) any Heywood IPR whether made by Heywood, the Customer or a third party, the Customer hereby unconditionally and irrevocably assigns (by way of a present and, where appropriate, future assignment), with full title guarantee (and free from all charges, liens and encumbrances), its entire rights, title and interest in and to all such Intellectual Property Rights to Heywood (or at Heywood's direction to Heywood's nominated licensor) including the right to sue for damages and other remedies for infringements of such Intellectual Property Rights and shall undertake all activities and enter all such documents as is required by Heywood in order to formalise and perfect such assignment. | 11.1.4 | is independently developed by the receiving party, which independent development can be shown by written evidence.   |
| 10.6   | The Customer will procure the irrevocable waiver of all moral rights (and any broadly equivalent rights which may exist in any territory of the world) in any Heywood IPR created by the Customer or any other third party appointed by the Customer on or after the Effective Date.   | 11.2   | Subject to clauses 11.4 and 11.5, each party shall hold the other's Confidential Information in confidence and not make the other's Confidential Information available to any third party, or use the other's Confidential Information for any purpose other than the implementation of any Order and these General Terms.   |
|        |  | 11.3   | Each party shall take all reasonable steps to ensure that the other's Confidential Information to which it has access is not disclosed or distributed by its employees or agents in violation of the terms of any Order and these General Terms.   |
|        |  | 11.4   | A party may disclose Confidential Information:   |
|        |  | 11.4.1 | to the extent such Confidential Information is required to be disclosed by law, by any governmental or other regulatory authority or by a court or other authority of competent jurisdiction, provided that, to the extent it is legally permitted to do so, it gives the other party as much notice of such disclosure as possible and, where notice of disclosure is not prohibited and is given in accordance with this clause 11.4, it takes into account the reasonable requests of the other party in relation to the content of such disclosure; and  |
|        |  | 11.4.2 | to its personnel, professional and legal advisers, and relevant third party providers who: (a) need to know such Confidential Information for purposes of the receiving party's exercise of its rights or performance of its obligations under and in accordance with each Order and these General Terms; (b) have been informed of the confidential nature of the Confidential Information and the receiving party's obligations under this clause 11; and (c) are bound by written confidentiality and restricted use obligations at least as protective of the Confidential Information as the terms set forth in this clause 11. |
|        |  | 11.5   | Notwithstanding anything to the contrary in this clause 11, Heywood may disclose the Customer's Confidential Information and the contents of any Order to its Group companies and any purchaser or potential purchaser of all or substantially all the assets or shares of   |

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	Heywood, provided such purchaser or potential purchaser has been informed of the confidential nature of the Confidential Information and is bound by written confidentiality and restricted use obligations at least as protective of the Confidential Information as the terms set forth in this clause 11.		Description in accordance with the relevant Order infringes a third party's intellectual property rights, and shall indemnify the Customer for any amounts finally awarded against the Customer by a court of competent jurisdiction or paid in settlement of claims where the settlement is pre-approved by Heywood in writing, provided that:
11.6	No party shall make, or permit any person to make, any public announcement concerning an Order without the prior written consent of the other parties (such consent not to be unreasonably withheld or delayed), except as required by law, any governmental or regulatory authority (including, without limitation, any relevant securities exchange), any court or other authority of competent jurisdiction.	12.3.1	Heywood is given prompt written notice of any such claim;
		12.3.2	the Customer provides reasonable co-operation to Heywood in the defence and settlement of such claim, at Heywood's expense;
		12.3.3	the Customer does not compromise or settle such claim and uses all reasonable endeavours to mitigate any losses or damage; and
11.7	The above provisions of this clause 11 shall survive termination of each Order, however arising.	12.3.4	Heywood is given sole authority to defend or settle the claim.
12.	<b>INDEMNITY</b>	12.4	In the defence or settlement of any claim, Heywood may procure the right for the Customer to continue using the applicable Services, replace or modify the Services so that they become non-infringing or, if such remedies are not reasonably available, terminate the relevant Order on two (2) Business Days' notice to the Customer without any additional Liability or obligation to pay liquidated damages or other additional costs to the Customer.
12.1	The Customer shall defend, indemnify and hold harmless Heywood and the other members of the Heywood Group (and each of its and their subcontractors, officers, directors and employees) against claims, actions, proceedings, losses (including all direct, indirect and consequential losses), Liabilities, damages, expenses and costs (including without limitation court costs and reasonable legal fees) arising out of or in connection with:	12.5	In no event shall Heywood, its employees, agents and sub-contractors be liable to the Customer to the extent that the alleged infringement is based on or arises out of:
12.1.1	the Customer's and any Authorised User's use of, or access to, the Services, the Implementation and Consultancy Services any Third Party Software and Services and/or Service Description other than in accordance with the terms of the relevant Order and the reasonable instructions of the members of the Heywood Group;	12.5.1	a modification of the Services or Service Description by anyone other than Heywood; or
12.1.2	any failure by the Customer to enter into, or any breach by the Customer of any of its obligations under any Third Party Software and Services terms (including any failure or delay in performing, or negligent performance or non-performance of, any of those obligations);	12.5.2	the Customer's (or any Authorised User's) use of the Services or Service Description in a manner contrary to the relevant Order (including without limitation as a result of any breach by the Customer of its obligations set out in the relevant Order or the instructions given to the Customer by Heywood); or
12.1.3	any claim that any Customer Data breaches any applicable law or infringes or misappropriates any third party's Intellectual Property Rights including, or that any Customer Data posted, displayed, distributed, broadcast, or otherwise published contains libellous, defamatory or otherwise injurious or unlawful material; and	12.5.3	the Customer's (or any Authorised User's) use of any Third Party Software and Services (whether or not in accordance with the remainder of the relevant Order and these General Terms); or
12.1.4	any claim brought or threatened by any Authorised User against Heywood.	12.5.4	the Customer's (or any Authorised User's) use of the Services or Service Description after notice of the alleged or actual infringement from Heywood, the party claiming infringement, or any appropriate authority; or
12.2	Heywood shall:	12.5.5	Customer Data.
12.2.1	give the Customer prompt notice of any such claim; and	12.6	This clause 12 states the Customer's sole and exclusive rights and remedies, and subject to clause 13, Heywood's (including Heywood's employees', agents' and sub-contractors') entire obligations and liability, for infringement of any Intellectual Property Rights.
12.2.2	provide reasonable co-operation to the Customer in the defence and settlement of such claim, at the Customer's expense.	13.	<b>LIMITATION OF LIABILITY</b>
12.3	Subject to clause 12.5, and unless otherwise specified in the applicable Product Terms and/or Order, Heywood shall defend the Customer against any legal proceeding that the Customer's use of the Services or Service	13.1	Except as expressly and specifically provided in these General Terms:
		13.1.1	the Customer is solely responsible for:

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- (a) the suitability of the Services, Implementation and Consultancy Services and any Third Party Software and Services for its intended use by and on behalf of the Customer;
- (b) as necessary for its intended use, verifying the authenticity, integrity, validity, security and accuracy of any output of the Services, Implementation and Consultancy Services and Third Party Software and Services prior to using it;
- (c) its own and any of its customers', clients' or third party's (including without limitation any shareholder, investors or beneficial owners) legal and regulatory compliance (including for clarity its obligation to provide pensions dashboards) and for the configuration and use of the Services and/or any Third Party Software and Services for that purpose; and
- (d) results obtained from the use of, and any and all analysis of outputs of and from, the Services, Implementation and Consultancy Services and/or any Third Party Software and Services and the Service Description by the Customer, and for conclusions drawn from such use,
- and Heywood shall have no Liability for (i) any of the foregoing, (ii) any damage caused by errors or omissions in any Customer Data, or any information, instructions or scripts provided to Heywood by the Customer in connection with the Services or Implementation and Consultancy Services, (iii) any actions taken by Heywood at the Customer's direction, (iv) the Customer's use of the Services and/or Third Party Software and Services; or (v) any Service unavailability pursuant to clause 7.6; and
- 13.1.2 all warranties, representations, conditions and all other terms of any kind whatsoever implied by statute or common law are, to the fullest extent permitted by applicable law, excluded from each Order and these General Terms.
- 13.2 Nothing in any Order or these General Terms excludes the Liability of Heywood: (a) for death or personal injury caused by Heywood's negligence; (b) for fraud or fraudulent misrepresentation; or (c) for any matter for which it is not permitted by law to exclude or limit, or to attempt to exclude or limit, its Liability.
- 13.3 Subject to clause 13.2:
- 13.3.1 Heywood shall not have any Liability for any:
- (a) loss of or damage to opportunity, savings, margin, revenue, profits, use, contract, goodwill, business, injury to reputation, punitive damages or losses suffered by third parties (in each case whether direct, indirect or consequential);
- (b) loss or corruption of data or information (in each case whether direct, indirect or consequential);
- (c) losses, costs, damages, charges or expenses arising from or in connection with any third party provided material or Third Party Software and Services (in each case whether direct, indirect or consequential);
- (d) for any special, indirect or consequential loss, costs, damages, charges or expenses however arising.
- 13.4 Subject to clause 13.2 and clause 13.3, unless otherwise specified in the applicable Product Terms and/or Order, Heywood's total maximum aggregate Liability arising out of or in connection with each Order shall be limited to the Fees paid to Heywood under that Order in the 12 months immediately following such Order's Effective Date.
- 13.5 The limitation of Liability set out in clause 13.4 shall not apply in respect of any Liability which may arise:
- 13.5.1 under clause 12.3 (IPR Indemnity) in respect of which Heywood's maximum aggregate Liability shall be limited to £2,000,000 in aggregate; or
- 13.5.2 out of a breach of clause 6 (Data Protection) in respect of which each party's maximum aggregate Liability shall be limited to £3,000,000 in aggregate.
14. **TERM AND TERMINATION**
- 14.1 These General Terms and each Order will become effective on the Effective Date and will continue in full force and effect until terminated as provided hereunder.
- 14.2 Each Order will continue for the Initial Subscription Term and will renew automatically for a Renewal Period (or further Renewal Period, as applicable) unless either Party terminates such Order by giving the other party prior written notice of at least sixty (60) days before the expiry of the Initial Subscription Term or any subsequent Renewal Period (such notice to take effect on the day prior to the commencement of the following Renewal Period). The Subscription Fees applicable during any automatic Renewal Period shall be determined in accordance with the relevant Order.
- 14.3 Without affecting any other right or remedy available to it, either party may terminate an Order with immediate effect by giving written notice to the other party to such effect if:
- 14.3.1 the other party fails to pay any amount due under such Order on the due date for payment and remains in default not less than 14 days after being notified in writing to make such payment;
- 14.3.2 the other party commits a material breach of any other term of such Order 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; or

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- 14.3.3 an Insolvency Event affecting the other party occurs.
- 14.4 On termination of an Order for any reason:
- 14.4.1 all licences granted under such Order shall immediately terminate and the Customer shall immediately cease all use of the Services and/or the Service Description (and Heywood shall be entitled to immediately deactivate all Authorised User accounts and access to the Services);
- 14.4.2 any unpaid Fees or other amounts due to Heywood under such Order shall become immediately due and payable by the Customer to Heywood. For the avoidance of doubt, if an Order is terminated within the Initial Subscription Term or within a Renewal Period, all sums due to Heywood for such period shall become immediately due and payable by the Customer to Heywood;
- 14.4.3 each party shall return and make no further use of any equipment, property, Service Description and other items (and all copies of them) belonging to the other party that was provided in connection with such Order;
- 14.4.4 Heywood will take any actions that are marked as Heywood actions on termination in the Service Description relating to such Order;
- 14.4.5 Heywood may retain certain Customer Data (a) as required in order to comply with any applicable law; (b) to allow usage in accordance with clause 8.2; and/or (c) as permitted or required under its record retention policies from time to time. Heywood may destroy or otherwise dispose of any Customer Data in its possession unless Heywood receives, no later than ten days after the effective date of the termination of the relevant Order, a written request from the Customer to deliver the then most recent back-up of the Customer Data. Heywood shall use reasonable commercial endeavours to deliver the back-up to the Customer within 30 days of receipt of such written request, provided that the Customer has, at the time of the request, paid all fees and charges outstanding at and resulting from termination (whether or not due at the date of termination). The Customer shall pay all reasonable expenses incurred by Heywood in returning or disposing of Customer Data; and
- 14.4.6 any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination, including the right to claim damages in respect of any breach of the Order which existed at or before the date of termination shall not be affected or prejudiced.
- 14.5 On termination of an Order for any reason, all other Orders will continue in full force and effect.
- 14.6 On termination of any Order, clauses 1, 6 and 8 to 28 (inclusive) of these General Terms will continue in force, together with any other provisions which expressly or impliedly continue to have effect after expiry or termination of the relevant Order.
15. **PUBLICITY**
- 15.1 Neither party will issue any press release or similar publicity regarding the parties' relationship under any Order or these General Terms without the other's written approval.
- 15.2 Heywood may identify the Customer, by name and by logo, as a customer of the Services on Heywood's website and other marketing materials, save that any use of the Customer's logo will only be used in accordance with any guidelines that the Customer gives Heywood for the use of such logo.
- 15.3 Provided that the Customer is satisfied with the Services, Heywood may develop a case study for public dissemination and marketing use by Heywood describing the benefits the Customer has derived from the Services. The Customer will reasonably cooperate with such case study. Publishing shall be subject to the Customer's prior written approval, not to be unreasonably withheld.
16. **FORCE MAJEURE**
- Heywood shall have no liability to the Customer under any Order or these General Terms if it is prevented from or delayed or hindered in performing its obligations under such Order or these General Terms, or from carrying on its business, by acts, events, omissions or accidents beyond its reasonable control, including, without limitation, strikes, lock-outs or other industrial disputes (whether involving the workforce of Heywood or any other party), failure of a utility service or transport or telecommunications network, act of God, war, insurrection, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, storm, pandemic or default of suppliers or sub-contractors, provided that the Customer is notified of such an event and its expected duration.
17. **CONFLICT**
- If there is an inconsistency between any of the provisions in these General Terms, the Product Terms or the Order, then the following order or priority shall apply: (i) the Order (highest priority); (ii) the applicable Product Terms; (iii) these General Terms; and (iv) any other document incorporated by reference (lowest priority).
18. **VARIATION**
- 18.1 No variation of any Order shall be effective unless it is in writing and signed by the parties (or their authorised representatives).
- 18.2 Heywood shall be entitled to vary these General Terms from time to time. Such varied terms shall either be updated on Heywood's website or alternatively shall be provided to the Customer no later than ten (10) Business Days prior to the intended effective date of such varied terms.
19. **WAIVER**
- No failure or delay by a party to exercise any right or remedy provided under any Order or

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these General Terms 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.

### 20. **RIGHTS AND REMEDIES**

Except as expressly provided in any Order or these General Terms, the rights and remedies provided under each Order and these General Terms are in addition to, and not exclusive of, any rights or remedies provided by law.

### 21. **SEVERANCE**

21.1 If any provision or part-provision of an Order or these General Terms 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 such Order or these General Terms.

21.2 If any provision or part-provision of an Order or these General Terms is deemed deleted under clause 21.1 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.

### 22. **ENTIRE AGREEMENT**

22.1 Each Order, any applicable Product Terms and these General Terms constitute 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 their respective subject matter.

22.2 Each party acknowledges that in entering an Order 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 such Order or these General Terms.

22.3 Nothing in this clause shall limit or exclude any liability for fraud or fraudulent misrepresentation.

### 23. **ASSIGNMENT**

23.1 The Customer shall not, without the prior written consent of Heywood, assign, transfer, charge, sub-contract or deal in any other manner with all or any of its rights or obligations under any Order or these General Terms.

23.2 Heywood may at any time assign, transfer, charge, sub-contract or deal in any other manner with all or any of its rights or obligations under any Order or these General Terms and Customer shall do all acts as reasonably required to give effect to this clause 23.2.

### 24. **NO PARTNERSHIP OR AGENCY**

Nothing in any Order or these General Terms is intended to or shall operate to create a partnership between the parties, or authorise

either party to act as agent for the other, and neither party shall have the authority to act in the name or on behalf of or otherwise to bind the other in any way (including, but not limited to, the making of any representation or warranty, the assumption of any obligation or liability and the exercise of any right or power).

### 25. **THIRD PARTY RIGHTS**

25.1 Each Heywood Group member shall be entitled to enforce its rights under the indemnities given in their favour under any Order or these General Terms subject to and in accordance with the Contracts (Rights of Third Parties) Act 1999.

25.2 Other than as set out in clause 25.1, an Order or these General Terms does not confer any rights on any person or party (other than the parties to this Agreement, Heywood Group and, where applicable, their successors and permitted assigns) pursuant to the Contracts (Rights of Third Parties) Act 1999. The rights of Heywood and the Customer to rescind or vary any Order or these General Terms (as applicable) are not subject to the consent of any other person (including any of the third parties referred to in clause 25.1).

### 26. **NOTICES**

26.1 Any notice required to be given by a party under any Order shall be in writing and shall be delivered by hand or sent by pre-paid first-class post or recorded delivery post to the other party at its address set out in such Order, or such other address as may have been notified by that party for such purposes, or sent by email to the other party's email address as set out in the Order (if any).

26.2 A notice delivered by hand shall be deemed to have been received when delivered (or if delivery is not in business hours, at 9:00 am on the first Business Day following delivery). A correctly addressed notice sent by pre-paid first-class post or recorded delivery post shall be deemed to have been received at the time at which it would have been delivered in the normal course of post. A notice sent by fax shall be deemed to have been received at the time of transmission (as shown by the timed printout obtained by the sender).

### 27. **GOVERNING LAW**

Each Order (incorporating these General Terms) and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England and Wales.

### 28. **JURISDICTION**

The courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with each Order and these General Terms or their subject matter or formation (including non-contractual disputes or claims).

**SCHEDULE - CHANGE CONTROL PROCESS**

**1. GENERAL**

- 1.1 Requests for changes to an Order or any applicable Product Terms may be initiated by the Customer or Heywood.
- 1.2 The parties shall conduct discussions relating to proposed changes in good faith.

**2. PROCEDURE**

- 2.1 Where a written request for a change is received by Heywood from the Customer, Heywood shall complete a Change Control Note ("**CCN**") following the appropriate technical evaluation.
- 2.2 A request for a change originated by Heywood shall be submitted to the Customer in the form of a CCN.
- 2.3 Each CCN shall be in the form set out at Appendix A and shall contain at a minimum:
  - the date of the request for the change;
  - the reason for the change;
  - full details of the change;
  - a timetable for implementation;
  - the price and schedule of payments for the change;
  - impact statement: details of the likely impact of the change and the likely effect of not implementing the change;
  - any other details as deemed necessary to facilitate review and acceptance of the CCN.
- 2.4 The Customer shall evaluate the CCN and, as appropriate;
  - request further information; or
  - arrange for the CCN to be signed by the Customer and returned to Heywood; or
  - notify Heywood of the rejection of the CCN.
- 2.5 Work will not proceed on any CCN until it is agreed and signed by the parties.
- 2.6 A CCN signed by the parties shall constitute an amendment to an Order and/or the applicable Product Terms.

**Appendix A - CHANGE CONTROL NOTE (CCN)**

<b>(a) Order Details</b>	<b>(b) Change Control Notice Details</b>
Parties:	Reference No:
Date of Order:	CCN Date:
<b>( c ) Raised by:</b>	
<b>(d) Priority: Immediate action required</b> <input type="checkbox"/> <b>High level of impact on Services</b> <input type="checkbox"/> <b>Low impact scheduled event</b> <input type="checkbox"/>	
<b>(e) Reason for the change:</b>	
<b>(f) Description of the change:</b>	
<b>(g) Timetable for the change and commencement date:</b>	
<b>(h) Change to prices:</b>	
<b>(j) Impact Statement:</b>	
<b>(l) Other details as required:</b>	

The parties hereby agree to change the Order and/or any applicable Product Terms in the manner and in consideration of the terms set out above. Save as expressly set out in this Change Control Notice the terms and conditions of the Order, any applicable Product Terms and the General Terms shall remain in full force and effect.

For and on behalf of Heywood  
  
 Signed: \_\_\_\_\_  
 Print Name: \_\_\_\_\_  
 Title: \_\_\_\_\_  
 Date: \_\_\_\_\_

For and on behalf of the Customer  
  
 Signed: \_\_\_\_\_  
 Print Name: \_\_\_\_\_  
 Title: \_\_\_\_\_  
 Date: \_\_\_\_\_