

This Agreement sets out the terms and conditions upon which Capita will provide translation and/ or interpreting services to the Customer.

IT IS AGREED AS FOLLOWS:

1. DEFINITIONS AND INTERPRETATION

1.1 In this agreement, unless the context otherwise requires:

"Affiliate" means any subsidiary or parent or holding company of any company or any other subsidiary of such parent or holding company. For the purpose of this definition, "subsidiary" and "holding company" shall have the meanings assigned to them under Section 1159 and Schedule 6 of the Companies Act 2006, and a company shall be treated, for the purposes only of the membership requirement contained in subsections 1159(1)(b) and (c), as a member of another company even if its shares in that other company are registered in the name of (a) another person (or its nominee) whether by way of security or in connection with the taking of security or (b) its nominee;

"Agreement" means this agreement comprising the clauses and the Quotation and the Order;

"Applicable Law" means any law for the purposes of anti-bribery and corruption or anti-money laundering;

"Business Day" means any day outside weekends and UK bank holidays between 8am and 6pm (GMT);

"Capita" means Amity Communications Limited registered in England, (No. 06547495), the registered office of which is at Suite A, 10th Floor Maple House, High Street, Potters Bar, Hertfordshire, EN6 5BS;

"Charges" means the charges payable by the Customer to Capita for the provision of the Services as set out in Quotation;

"Customer" means the company, firm, body or person whose name and details appear on the Quotation to whom Capita is to provide the Services under this Agreement;

"Effective Date" means the date of the Order;

"Face to Face Interpreting" means the provision of an Interpreter to attend a face to face appointment between the Customer and the service user at a Customer venue. The Interpreter will interpret on behalf of the Requester to ensure understanding between parties. This would include interpretation of verbal and non-verbal languages, including but not limited to, British Sign Language and Deaf Blind Manual services. These services are provided by Capita approved Sub-contractors.

"Force Majeure" means any act, omission, event or circumstance, beyond the reasonable control of the party affected, including but not limited to, any act of God, fire, disaster, war, civil

commotion, insurrection, embargo, prevention from or hindrance in obtaining raw materials, energy or other supplies, explosion, industrial dispute affecting a third party for which a substitute third party is not reasonably available, breakdown of plant or machinery, computer system failure, flood, severe weather conditions, riots, accident, or any act of any governmental, regulatory or other official body;

“Good Industry Practice” means the exercise of that degree of skill, care, diligence prudence and foresight that would ordinarily be expected from a skilled and experienced person seeking in good faith to comply with its contractual obligations under this Agreement and all applicable law and engaged in the same type of undertaking and under the same or similar circumstances and conditions as those envisaged by this Agreement;

“Index” means the percentage change recorded in the “all items” figure of the Index of Retail Prices published by the Office for National Statistics or any successor body for the preceding twelve month period;

“Inducement” means (i) any payment, gift, consideration, benefit or advantage of any kind, which is (or is agreed to be) offered, promised, given, authorised, requested, accepted or agreed, whether directly or indirectly (through one or more intermediaries) which could act as an inducement or reward, for any form of improper conduct by any person in connection with their official, public, fiduciary, employment or business role, duties or functions; and/or (ii) anything that would amount to an offence of bribery or corruption under Applicable Law; and/or (iii) any facilitation payment; and “Induce”, “Induced”, “Inducing” and other variants of “Inducement” shall be construed accordingly;

“Intellectual Property Rights” means all rights in patents (including applications for patent protection), trademarks, service marks, design rights (whether registered or unregistered, legal or beneficial, and including semi-conductor topographies), copyright (including rights in computer software), database rights, sui generis rights, confidential information, trade secrets, trade or business names, service marks and protections from trademark dilution or otherwise protected trademarks, publicity rights; domain names and other similar rights or obligations whether registerable or not in any country and applications for any of the foregoing;

“Interpreter” or “Translator” means the linguists used by Capita in the provision of the Services;

“Machine Translation Engine” means an engine which is built by Capita using various pieces of corpora including but not limited to content readily available on the internet, Original Works, Translated Works and glossaries.

“Order” means an order for the Services received by Capita from the Customer by way of a purchase order or written confirmation in response to a Quotation that the Customer accepts the Quotation and for Capita to provide the Services;

“Original Works” means the documents, files, materials and works provided by the Customer for the purposes of carrying out the Services;

“Pre-existing Intellectual Property” means any Intellectual Property Rights, which are owned by or licensed to each party prior to the Effective Date;

“Public Official” means any person holding a legislative, administrative or judicial position of any kind, whether appointed or elected, including any person employed by or acting on behalf of a public agency, body or state-owned enterprise, a public international organisation (as defined in the UK Bribery Act 2010 and/or any other Applicable Law) or a political party or organisation, or a candidate for any such office;

“Quotation” means the provision of a price breakdown for Services requested by the Customer and which specifies the Charges. Capita may submit the Quotation via email or via a portal for acceptance by the Customer within 30 (thirty) days;

“Services” means the services provided to the Customer by Capita under this Agreement and set out within the Quotation and in response to an Order;

“Relevant Supplier” means Capita or the representative member of any VAT group of which Capita is at any relevant time a member;

“Requester” means the Customer or the service user requiring the Services;

“Review Cycle” means where Capita have completed Translated Works but the Requester sends it to a colleague within the Customer organisation for their approval / input / and Capita are required to wait for feedback before invoicing.

“Staff” means the natural persons who provide the Services on behalf of Capita, who may be employees of Capita or Sub-contractors, self-employed or supplied by a Sub-contractor;

“Sub-contractor” means an Interpreter, a Translator and/or a person and/or an agency providing elements of the Services to Capita;

“Telephone Interpreting” means a service where the service user can call a designated telephone number and be connected to a Interpreter;

“Translated Works” means the result of all translations of Original Works and Services required to be undertaken by Capita on behalf of the Customer under this Agreement;

1.2 In this Agreement, unless the context otherwise requires:

- a) A reference to any statute or statutory provision shall be construed as a reference to the same as it may have been, or may from time to time be, amended, modified or re-enacted and includes any subordinate legislation for the time being in force made under it;

- b) Headings and titles are for convenience only and do not affect the interpretation of this Agreement;
- c) General words shall not be given a restrictive meaning by reason of the fact that they are followed by particular examples intended to be embraced by the general words;
- d) The Quotation and Order form part of this Agreement which shall set out the Services and Charges and shall have the same force and effect as if expressly set out in the body of this Agreement and any reference to this Agreement shall include the Quotation and the Order;
- e) To the extent that there is an inconsistency between the terms of the body of this Agreement, the Quotation and the Order, the terms of the body of this Agreement shall prevail. For the avoidance of doubt any agreed changes to the Agreement in accordance with clause 18 (Change Control) of this Agreement shall form part of this Agreement and such change shall prevail;
- f) A person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality); any individual, firm, association or partnership, government or state;
- g) Words in the singular shall include the plural and vice versa and words in one gender include both genders;
- h) Unless otherwise stated, any reference in this Agreement to a clause is a reference to a clause of this Agreement.
- i) "Including", "included", "include", "such as", "comprising", "comprise" and the like shall be deemed to be completed by the expression "but not limited to".
- j) a reference to any party includes its successors in title and permitted assignees.

2. SERVICES

- 2.1 The Customer appoints Capita to provide the Services and Capita agrees to provide the Services in response to an Order on the terms contained in this Agreement.
- 2.2 Quotations are not binding on Capita and a contract will only come into being when Capita issues a written confirmation of the Order, or when Capita delivers the Translated Works to the Customer, whichever occurs first.

3. DELIVERY

- 3.1 The dates for delivery of the Translated Works, or the dates for carrying out the Services, are approximate only and, unless otherwise expressly agreed by Capita, time is not of the essence for delivery or performance, and no delay shall entitle the Customer to reject any delivery or performance or to repudiate or terminate the Agreement.

4. CAPITA OBLIGATIONS AND WARRANTIES

- 4.1 Capita undertakes and agrees with the Customer that it shall at all times during the continuance of this Agreement, perform or procure the performance of the Services in accordance with Good Industry Practice.
- 4.2 Capita shall use all reasonable care and skill in selecting the appropriate and qualified resource to perform the Services in accordance with the terms of this Agreement.
- 4.3 Capita will use reasonable endeavours to provide the Services to meet the requirements of the Customer set out in the Quotation. Subject to clause 14, the Customer acknowledges that any Original Works, Translated Works and Services submitted by either party over the internet cannot be guaranteed to be free from the risk of interception or error free even if transmitted in encrypted form and that Capita has no liability for such loss, corruption or interception of any Original Works or Translated Works or Services.
- 4.4 Except as expressly provided in this Agreement no warranty, condition, undertaking or term, expressed or implied, statutory or otherwise as to the condition, quality, performance or fitness for purpose of the Services will be assumed by Capita and except as expressly provided in this Agreement all such warranties, conditions, undertaking and terms are excluded to the extent permitted by law.
- 4.5 Capita shall not be responsible for checking the accuracy of the Original Works.
- 4.6 Capita shall only be obliged to retain Original Works and Translated Works in any format (including electronic format and hard copy versions of Original Works and Translated Works) for the purposes of returning the same to the Customer on or after termination or expiry of this Agreement or upon reasonable request from Customer at any point during the continuance of this Agreement for a period of 12 (twelve) months from receipt of the Original Works by Capita. Capita shall not be obliged to provide any Original Works or Translated Works to the Customer on the expiry of 12 (twelve) months of receiving Original Works from the Customer.

5. CUSTOMER'S OBLIGATIONS AND WARRANTIES

- 5.1 The Customer warrants, undertakes and agrees with Capita that it shall at all times during the continuance of this Agreement:
 - 5.1.1 obtain and maintain all consents, permissions and licences necessary to enable Capita to perform its obligations under this Agreement; and
 - 5.1.2 provide sufficient information and materials to Capita as reasonably requested by Capita in the provision of the Services and performance of its obligations under this Agreement; and
 - 5.1.3 comply with the terms of any software licence agreement in place from time to time between the Parties; and

- 5.1.4 have all requisite corporate power and authority to enter into this Agreement.
- 5.2 Unless otherwise agreed, the Customer appoints Capita as sole supplier to the Customer for the Services and the Customer therefore undertakes that it will not appoint any person other than Capita to supply the Services to the Customer.
- 5.3 In the event the Customer requires Capita to provide the Services on Customers premises, or any other premises designated by the Customer, the Customer shall:
 - 5.3.1 Assign members of staff with suitable skill and experience to be responsible for Capita activities;
 - 5.3.2 Provide such access to premises, systems and other facilities which may be reasonably required by Capita;
 - 5.3.3 Provide such information as may be required by Capita to carry out the Services and ensure all such information is correct and accurate;
 - 5.3.4 Ensure that all necessary safety and security precautions are in place at Customers premises.
- 5.4 Capita shall be entitled to charge the Customer for any additional costs and expenses which Capita may incur as a result of any hazardous conditions or material encountered at the Customer premises.
- 5.5 Capita shall not be obliged to continue to perform the Services where the Customer breaches any of the warranties given by the Customer in this clause 5, or where Capita considers there is a safety hazard or such performance would represent a breach of law.
- 5.6 If the Customer should fail to acknowledge its acceptance of the Translated Works or Services in writing, within five (5) days of Capita providing the Services or Translated Works, the said failure shall be deemed an acceptance of such Services or Translated Works. For the avoidance of doubt the Customer shall notify Capita of any complaint, errors and/or request amendments with respect to the Services or Translated Works within 30 (thirty) days of receipt of the same. Requests for amendments after 30 (thirty) days of receipt by Customer of the Translated Works or Services may incur additional charges. Unless otherwise agreed, Capita shall only accept requests for amendments in ttx, bilingual word or annotated PDF file format.

6. CHARGES AND PAYMENT

- 6.1 In consideration of the provision of the Services, the Customer shall pay Capita the Charges in accordance with this Agreement.
- 6.2 Capita will invoice the Customer for the Charges, together with any applicable VAT and/or other local taxes as applicable which shall be payable by Customer, in accordance with this Clause 6 and the provisions of the Quotation.

- 6.3 Where applicable, on each anniversary of this Agreement, the Charges shall be reviewed in line with the Index.
- 6.4 The Charges shall be exclusive of value added tax (VAT) (if any) or any other local applicable equivalent taxes, or other government excise or sales duties and taxes in force from time to time, which shall be paid additionally, where applicable, by the Customer at the rate and the manner prescribed by law from time to time. Capita shall invoice the Customer for all appropriate taxes and expenses for which Capita is obligated to collect. The Customer shall be liable to pay any penalties or interest on such taxes which are payable by Capita as a result of any delay by the Customer in paying such taxes.
- 6.5 The parties acknowledge that the Charges have been calculated on the assumption that the Relevant Supplier is entitled to full recovery of input VAT wholly or partly attributable to the provision of the Services. If for any reason, whatsoever, there is a change in VAT rates or the applicability of VAT or the amount of VAT due or paid then the parties will agree revisions to Charges to restore them to the same position as they had been in prior to the relevant change.
- 6.6 Payment of all Charges and invoices shall be made by the Customer in full and in cleared funds, within 30 (thirty) days from the date of invoice. All payments shall be made without deduction or set-off.
- 6.7 In the event that the Customer fails to pay any undisputed amounts when due, Capita may, suspend further work both on the same Order, and on any other order from the Customer, without prejudice to any other right Capita may have until full payment for the outstanding amount is received.
- 6.8 Capita reserves the right to charge interest on overdue sums, such interest to be accruing and calculated daily on the amount outstanding at the rate of 4% (four per cent) per annum above the published base rate of Barclays Bank plc. from time to time. In addition to this an administration charge of £50.00 (fifty pounds) will be applied after 60 (sixty) days and a further £50 after 90 (ninety) days. For foreign currencies the exchange rate will be taken from HSBC Bank on the appropriate day.
- 6.9 Disputed Invoices
- 6.9.1 If the Customer disputes, in good faith, any items on an invoice in whole or in part the Customer shall notify Capita of the reasons within 14 (fourteen) days
- 6.9.2 Capita and the Customer shall use their respective reasonable endeavours to resolve any such dispute in accordance with clause 17 (Dispute Resolution).
- 6.9.3 On settlement of the dispute and dependent upon the outcome Capita shall either submit an invoice for sums due and the Customer shall make the appropriate payment in accordance with the provisions of clause 6.6 or Capita shall issue a credit note to Customer for the sums in dispute.

- 6.10 Any payments made by or due from the Customer under this Agreement shall be free and clear of all taxation whatsoever save only for any deductions or withholdings required by law.
- 6.11 If any deductions or withholdings are required by law, the Customer shall be liable under this sub-clause 6.11 to pay to Capita such further sums as will ensure that the aggregate of the sums paid or payable under this sub-clause and clause 6 shall, after deducting therefrom all deductions or withholdings from such sums, leave Capita with the same amount as it would have been entitled to receive under clause 6 in the absence of any such deductions or withholdings.
- 6.12 The parties shall use commercially reasonable efforts to do all such acts and to sign all such documents as will enable them to minimize the amount of any such withholding tax obligation. In the event there is no applicable double taxation agreement or treaty, or if an applicable double taxation agreement or treaty reduces but does not eliminate such withholding or similar tax, the paying party shall deduct any withholding taxes from payment and pay such withholding or similar tax to the appropriate government authority, deduct the amount paid from the amount due to the receiving party and secure and send to the receiving party proper evidence of payment of all withholding tax and other certificates that might be required and sufficient to allow Capita to document such tax withholdings adequately for purposes of claiming foreign tax credits and similar benefits.
- 6.13 Quotations shall not be binding on Capita and are given on the basis that the terms quoted will remain open for acceptance by the Customer to place an Order for 30 days (thirty) from the date of Quotation.
- 6.14 Quotations are given on the basis of a description given by the Customer or its authorised representatives of the Original Works, the purpose of the translation and any other relevant instructions given to Capita necessary to enable Capita to perform the Services. Such Quotations may be amended at any time if, in Capita's sole opinion, the actual Original Works received from the Customer differs from or is inadequate or inaccurate to the description, purpose or instructions relating to the Original Works received by Capita prior to providing a Quotation.
- 6.15 Services lasting over 21 (twenty one) days will be invoiced 50% (fifty percent) on commencement and 50% (fifty percent) on completion. Services running under 21 (twenty one) days will be invoiced in full on completion.
- 6.16 Projects which require a Review Cycle will be invoiced: (a) 50% (fifty percent) on delivery for review and 50% (fifty percent) balance on completion; or (b) in full 30 (thirty) days after delivery for review, whichever is the earlier. For the avoidance of doubt, the Customer shall be in breach of its payment obligations under this Agreement where there is a delay in payment due to Customer Review Cycles being prolonged.
- 6.17 Unless agreed in writing to the contrary the Parties agree that Charges shall in be pounds sterling. Where the agreed Charges are in any other currency including but not limited to

Euros or US Dollars the Parties shall review the same every 3 (three) months in line with exchange rates.

7. TERM AND TERMINATION

- 7.1 Subject to clause 7.2, this Agreement shall commence on the Effective Date and shall continue in force until the Services set out in the Quotation have been completed in accordance with the terms of this Agreement. .
- 7.2 Either party may terminate this Agreement immediately if:
- 7.2.1 the other party commits any material breach of this Agreement and fails to remedy such breach within 30 (thirty) days of written notice notifying the breach and requiring its remedy;
 - 7.2.2 the other party becomes bankrupt or makes any arrangement with or for the benefits of its creditors or (being a company) enters into compulsory or voluntary liquidation or amalgamation (other than for the purpose of a bone fide reconstruction or amalgamation without insolvency) or has a receiver or manager appointed of the whole or substantially the whole of its undertakings or if any distress or execution is threatened or levied upon any property of the other party or if the other party is unable to pay its debts as they fall due; or
 - 7.2.3 an event of Force Majeure which prevents the supply of the Services persists for 3 (three) months or more.
- 7.3 Where the Customer has placed an Order and subsequently requests to cancel such Order for any reason whatsoever, the full Charges for the Order shall remain payable by the Customer unless otherwise agreed in advance by both parties.
- 7.4 Where the Customer requires a reduced scope of Services under an Order Capita shall be paid for all Services already delivered with respect to the Order and the any changes to the scope of Services shall be subject to clause 18.

8. CONSEQUENCES OF TERMINATION

- 8.1 Upon termination or expiry of this Agreement for any reason whatsoever:
- 8.1.1 Capita shall cease to perform any of the Services;
 - 8.1.2 any outstanding Charges shall remain due and payable by the Customer to Capita in accordance with the terms of this Agreement within 30 (thirty) days of the date of invoice and, in respect of Services supplied but for which no invoice has been submitted, Capita may submit an invoice, which shall be payable within 30 (thirty) days of the date of invoice except where any invoice is disputed by the Customer which shall be resolved in accordance with clause 17;

- 8.1.3 Capita shall deliver to the Customer, at the Customer's expense and where practicable, any Original Works and other materials supplied to Capita, except as required by law or to maintain proper books and records;
 - 8.1.4 each party shall return to the other any of the other party's Confidential Information; and
 - 8.1.5 the Customer shall pay to Capita any necessary breakage costs or any unrecovered investment balances.
- 8.2 Termination of this Agreement does not affect either party's accrued rights, remedies and obligations at the date of termination and the continuation of any provision expressly stated to survive or implicitly surviving termination or expiry shall not be affected. For the avoidance of doubt, termination or expiry of this Agreement will not relieve the Customer of its obligation to pay the Charges in respect of any Services supplied by Capita to Customer prior to the date of termination or expiry.

9. CONFIDENTIALITY

- 9.1 In this Agreement "Confidential Information" shall mean any information which is marked as confidential, or is by its nature clearly confidential including, without limitation, any information relating to that party's services, operations, plans or intentions, service information, design rights, trade secrets, market opportunities, technical know-how, business affairs or those of its clients and is disclosed (whether in writing, verbally or by any other means and whether directly or indirectly) by either party ("the Disclosing Party") to the other ("the Receiving Party"). Confidential Information shall also include the terms of this Agreement.
- 9.2 The Receiving Party shall only use the Confidential Information solely for the purposes of performing its obligations in accordance with the terms of this Agreement.
- 9.3 The Receiving Party will exercise in relation to the Disclosing Party's Confidential Information no lesser security measures and degree of care than those which the Receiving Party applies to its own confidential information and in any event will exercise a reasonable and appropriate degree of care and protection.
- 9.4 The Receiving Party undertakes not to disclose any of the Disclosing Party's Confidential Information to any third party except that it may disclose such Confidential Information to its employees, professional advisors, personnel, contractors, agents, sub-contractors or any person whose duties reasonably require such disclosure but only to the extent necessary for the performance of its obligations under this Agreement. The Receiving Party shall ensure that any third party to whom it discloses the Confidential Information shall be informed of the confidential nature of the information and be bound by obligations of confidentiality on terms no less onerous than those set out in this Agreement.
- 9.5 The Receiving Party undertakes to destroy or subject to clause 4.6 return (at the Disclosing Party's discretion) to the Disclosing Party all of the Disclosing Party's Confidential Information

in its possession, custody or control on receipt of a request to that effect and, in any event, upon termination or expiry of this Agreement.

9.6 Without prejudice to any other rights or remedies that either party may be entitled to, the parties acknowledge that damages may not be an adequate remedy for breach of these confidentiality obligations and agree that both Parties will be entitled to seek the remedies of injunction, specific performance and any other available equitable relief for any threatened or actual breach.

9.7 The provisions of this Clause 9 shall not apply to any Confidential Information:

9.7.1 to the extent that it is or comes into the public domain otherwise than as a result of a breach of this Agreement by the Receiving Party;

9.7.2 which the Receiving Party can show by its written records was in its possession prior to receiving it from the Disclosing Party and which it had not previously obtained from the Disclosing Party or a third party on its behalf under an obligation of confidence; or

9.7.3 has been independently developed by the Receiving Party without access to the Confidential Information; or

9.7.4 which after being disclosed to the Receiving Party, is disclosed to that party again by a third party at liberty to disclose it to that party;

9.7.5 Which is required to be disclosed by law or any regulatory authority, provided that the party that is required to disclose the Confidential Information, where practicable and legitimate to do so:

9.7.5.1 promptly notifies the owner of any such requirement; and

9.7.5.2 co-operates with the owner regarding the manner, scope or timing of such disclosure or any action that the owner may take to challenge the validity of such requirement.

9.8 Notwithstanding termination or expiry of this Agreement, the obligations of each party concerning confidentiality shall terminate 5 (five) years following receipt of the Confidential Information.

10. LIMITATION OF LIABILITY

10.1 Notwithstanding anything else in this Agreement, the aggregate liability of either party to the other under or in connection with this Agreement, whether arising under contract or by way of indemnity, negligence or otherwise, shall, subject to Clause 10.2 below, be limited to an aggregate liability of 100% (one hundred percent) of the Charges paid or payable in the calendar year in which the event giving rise to such liability occurred.

10.2 Exclusions to limit of liability in clause 10.1

10.2.1 The limitation of liability set out in Clause 10.1 above does not apply to:

10.2.1.1 either party's liability arising from death or injury to persons; or

10.2.1.2 either parties liability arising as a result of fraud; or

10.2.1.3 breach by either party of clause 9 (Confidentiality); or

10.2.1.4 the Customers indemnification requirements under clauses 10.6; 10.9; 13.5; 16 and 19; or

10.2.1.5 the Customer payment obligations under clause 6 and 12

to which no limit applies.

10.2.2 Liability of Capita with respect to breach of clause 14 (Data Protection) shall be limited to £500,000 (five hundred thousand pounds).

10.3 Exclusion of Consequential Loss

10.3.1 For the purposes of this clause 10.3 the expression "Consequential Loss" shall mean:

10.3.1.1 consequential, special, pure economic or indirect loss or damage; and

10.3.1.2 loss and / or deferral of production, loss of product, use, business, capital, revenue, profit or anticipated profits (if any), business opportunities, goodwill, goods, contracts, anticipated savings, corruption of data or information and similar losses in each case whether direct or indirect to the extent that these are not included in 10.3.1.1, and whether or not reasonably foreseeable by either party or that party was aware of the possibility of that loss or damage arising.

10.3.2 Neither party shall, in any event, be liable to the other for Consequential Loss.

10.4 Capita shall not, in any event, be liable for any loss, damage, costs or expenses suffered by the Customer as a result of any claim against the Customer made by a third party.

10.5 Except in respect of injury to or death of any person, Capita shall not in any event be liable for any claim arising out of the provision of the Services unless the Customer has notified Capita of such claim within a reasonable time of delivery of the Translated Works or Services to which the claim relates.

10.6 Capita shall in no circumstances be liable for loss or damage caused by any default, act or omission on the part of Customer its agents, subcontractors, contractors or clients and Customer agrees to indemnify, defend and hold harmless Capita in respect of any claims by third parties which are caused by or arise from any reasonable act by Capita carried out pursuant to instructions issued by Customer.

- 10.7 The parties agree that the foregoing limitations and exclusions represent the parties' agreement based on the level of risk assumed by Capita and the Customer in connection with this Agreement.
- 10.8 The parties expressly agree that should any limitation or provision contained in this clause 10 be held to be invalid under any applicable statute or rule of law it shall to that extent be deemed omitted but if any party thereby becomes liable for loss or damage which would otherwise have been excluded such liability shall be subject to the other limitations and provisions set out herein.
- 10.9 Customer shall be responsible for all content contained within the literature and Original Works provided by Customer to Capita for translation and Customer shall upon demand indemnify and keep indemnified Capita in full against all losses, damages, costs, charges, claims and expenses of whatever nature incurred directly or indirectly as a result of any claim by a third party relating to the content of the literature and Original Works provided by Customer.

11. SUB-CONTRACTORS

- 11.1 Capita may supply the Services through Sub-contractors.
- 11.2 Capita shall be entitled to select such Sub-contractors as it thinks fit to perform the Services and no prior consent of the Customer (written or verbal) shall be required with respect to the use of Sub-contractors.
- 11.3 Sub-contracting to Sub-contractors shall not in any way relieve Capita from its obligations to provide the Services and Capita shall, subject to the provisions of clauses 5 and 10 of this Agreement, be liable for any Sub-contractor's performance of the Services.

12. NON-SOLICITATION

Unless otherwise agreed by Capita, the Customer (which for the purposes of this clause includes any of the Customer's Affiliates) shall not during the term of this Agreement and for a period of one year after termination of the Agreement, either directly or indirectly, on its account or for any other person, firm or company solicit, employ, endeavour to entice away from Capita or use the services of Capita's Staff or any of its Sub-contractors. In the event of any breach under this clause, the Customer shall pay to Capita an amount equal to the aggregate remuneration paid by Capita to that member of Staff or Subcontractor for the year immediately prior to the date on which the Customer employed or used the services of that member of Staff or Subcontractor.

13. INTELLECTUAL PROPERTY

- 13.1 Subject to clause 13.3, neither the Customer nor Capita shall have the right of use, other than for the purposes of this Agreement, whether directly or indirectly, of any Pre-existing Intellectual Property provided by the other Party and the Intellectual Property Rights and title in such shall remain with the Party providing such Pre-existing Intellectual Property.

- 13.2 All Intellectual Property Rights in the Original Works and, subject to payment of all Charges by Customer in accordance with this Agreement, the Translated Works developed exclusively and solely for the Customer under this Agreement shall vest in the Customer.
- 13.3 The Customer hereby grants a perpetual royalty free, irrevocable licence to Capita (and the Sub-contractors) to store and use the Original Works and the Translated Works and the Intellectual Property Rights and all know-how developed in the same.
- 13.4 For the avoidance of doubt Intellectual Property Rights and title in the Machine Translation Engine shall vest in Capita.
- 13.5 The Customer warrants that the Original Works or instructions furnished or given by the Customer to Capita shall not cause Capita to (directly or indirectly) infringe any Intellectual Property Rights of any third party in the performance of the Services and, to the extent that Capita shall so infringe, the Customer shall upon demand indemnify and keep indemnified Capita (which for the purposes of this clause includes Capita's Staff, agents and representatives) in full against all losses, damages, costs, charges, claims and expenses of whatever nature incurred directly or indirectly as a result of such infringement.

14. DATA PROTECTION

- 14.1 In the event that Capita processes personal data and/or sensitive personal data (both as defined in the Data Protection Act 1998 ("DPA") and hereafter referred to as "Personal Data") pursuant to this Agreement, the remaining provisions of this Clause 14 will apply.
- 14.2 Capita will act in the capacity of Data Processor (as defined in the DPA) in the performance of the Services. As Data Processor, the Capita shall at all times perform the Services in such a manner as not to cause the Customer in any way to be in breach of the DPA. In particular, Capita shall at all times in respect of Personal Data comply with the seventh principle of the Data Protection Act (the "Principle") and only process such Personal Data in accordance with instructions given by the Customer from time to time. The Customer shall also comply fully with all applicable Guidelines and Codes of Practice issued by the Information Commissioner in the UK from time to time.
- 14.3 Capita will, on termination of the Agreement or any part of the Service, and at the request of the Customer either return or destroy the Personal Data (including all copies of it) immediately.

15. FORCE MAJEURE

- 15.1 Neither party shall in any circumstances be liable to the other for any loss of any kind whatsoever including but not limited to any damages or abatement of Charges whether directly or indirectly caused to or incurred by the other party by reason of any failure or delay in the performance of its obligations hereunder which is due to Force Majeure. Notwithstanding the foregoing, each party shall use all reasonable endeavours to continue to perform, or resume performance of, such obligations hereunder for the duration of such Force Majeure event.

- 15.2 The affected party shall notify the other party as soon as reasonably possible of the cause and the likely duration of the cause, the performance of the affected party's obligations, to the extent affected by the cause, shall be suspended during the period that the cause persists.

16. ETHICAL BEHAVIOUR

- 16.1 The Parties shall not, and each Party shall ensure that its respective Affiliates and personnel shall not, Induce or do or agree to do any other act, failure to act or thing in connection with the provision of the Services or any other agreement between any Customer Affiliate and any member(s) of Capita plc. or its Subcontractors (to the extent engaged by Capita in providing the Services to the Customer), including the performance or award of any such agreement, that contravenes any Applicable Law or requirement of a regulatory authority relating to anti-bribery and corruption or anti-money laundering, including:
- 16.1.1 the UK Bribery Act 2010 (and/or the laws and legislation it repeals), the Proceeds of Crime Act 2002, the Theft Act 1968, the Fraud Act 2006 and the Companies Act 2006;
 - 16.1.2 in the case of a Public Official, any Applicable Law applicable to the Public Official in his capacity as such; and
 - 16.1.3 the principles described in the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, signed in Paris on 17 December 1997, which entered into force on 15 February 1999, and the commentaries to it (as amended and/or added to from time to time).
- 16.2 The Customer undertakes, warrants and represents that it shall maintain policies, procedures and guidelines that are applicable to all Customer Affiliates and Customer personnel and are intended and designed to prevent them doing or failing to do any act or thing that contravenes any Applicable Law or requirement of a regulatory authority relating to anti-bribery and corruption or anti-money laundering, including a gifts and entertainment policy requiring such persons not to undertake, offer, promise, give, authorise, request, accept or agree any Inducement (or to agree to do any of the foregoing).
- 16.3 The Customer agrees to notify Capita and confirm the same promptly in writing immediately upon discovering any instance where it has, or any of the Customer Affiliates or Customer personnel have, failed to comply with any provisions of this clause 16.
- 16.4 Each Party agrees to notify the other as soon as reasonably practicable upon becoming aware of any extortive solicitation, demand or other request for anything of value, by or on behalf of any person (including any Public Official) relating to this Agreement or its subject matter.
- 16.5 Each Party shall hold harmless, indemnify and keep indemnified the other party and its successors assigns, officers, employees and representatives against losses which it suffers or incurs in connection with a breach of this clause 16. This clause 16.5 shall not require a Party to indemnify the Party for the amount of any fine constituting a criminal penalty, to the extent that such indemnity would not be permitted by Applicable Law.

- 16.6 Upon reasonable request by Capita from time to time the Parties shall meet to discuss, agree and document in accordance with clause 20.4 any additions or amendments to the requirements of this Agreement that Capita considers necessary or appropriate to comply with the requirements of, and implement appropriate checks, controls, processes and procedures in relation to, the UK Bribery Act 2010 or any other Applicable Law relating to anti-bribery and corruption or anti-money laundering.
- 16.7 Without prejudice to the parties' respective obligations to comply with Applicable Law, if the Customer or its personnel receive a request to audit or for information, data, access and/or any other requirement, from any regulatory authority as contemplated by the agreement:
- 16.7.1 the Customer shall promptly notify Capita in writing of such request; and
- 16.7.2 if Capita considers that the relevant regulatory authority may be acting outside the scope of its lawful authority in making such request, Capita shall notify the Customer of the same and the Parties shall promptly discuss and agree (acting reasonably) the relevant response to that regulatory authority, provided that if Capita wishes the Customer to cooperate with the request notwithstanding any considerations as to the scope of the regulatory authority's lawful authority, the Customer shall comply with all instructions of Capita in relation to such request (subject always to the provisions of this agreement).

17. DISPUTE RESOLUTION

- 17.1 If a dispute arises in relation to any aspect of this Agreement, the representatives of the Customer and Capita responsible for the administration of this Agreement shall first consult and discuss in good faith in an attempt to come to an agreement in relation to the disputed matter. If the Parties fail to resolve the dispute at that level within a reasonable period of time (having due regard for the nature of the dispute and the operational necessity for its resolution), the dispute shall be escalated to the respective responsible company directors within each Party for resolution.
- 17.2 If the dispute remains unresolved between the Parties after fourteen (14) days after it has been referred to the directors of the Parties pursuant to Clause 17.1 above, then:
- 17.2.1 if the Parties so agree, the Parties may proceed to mediation provided by the Centre for Dispute Resolution (or such other body as the Parties may agree); or
- 17.2.2 if the Parties so agree, the Parties may proceed to arbitration by an arbitrator recognised by the Chartered Institute of Arbitrators; or
- 17.2.3 the Parties may employ any other method or procedure for the resolution of disputes as may be agreed between them; and

17.2.4 if no such agreement is reached between the Parties pursuant to clauses 17.2.1 to 17.2.3 above within a period of seven (7) days, both Parties shall be entitled to pursue the matter in law.

17.3 Each Party shall provide all reasonable assistance to the other in resolving any dispute that may arise between the Parties which relates in any way to the performance, acts or omissions of the that Party.

18. CHANGE CONTROL

This Agreement shall not be varied or amended unless such variation or amendment is agreed in writing by a duly authorised representative of Capita on behalf of Capita and by a duly authorised representative of the Customer on behalf of the Customer and in accordance Capita's standard Change Control Process which can be made available by Capita upon request. Capita will implement agreed changes to this Agreement if the Parties have agreed this in accordance with Capita's standard Change Control Process. Such amended services and charges will be deemed to be the Services and Charges and shall take effect for the remaining term of this Agreement.

19. TUPE

19.1 If upon or at any time following commencement of this Agreement any employees of the Customer or any contractor of the Customer claims that their employment should have or has transferred to Capita as a result of the provisions of the Transfer of Undertakings (Protection of Employment) Regulations 2006 (as amended and / or replaced from time to time) ("the TUPE Regulations"), then:

19.1.1 Capita may, within 30 (thirty) Business Days of becoming aware of any such claim, terminate such person's employment;

19.1.2 the Customer will indemnify Capita in full against any actions, proceedings, costs, claims, demands, awards, fines, orders, expenses and liability whatsoever (including legal and other professional fees and expenses) in relation to such person whether arising directly or indirectly out of or in connection with such termination or otherwise, and against any sums payable to or in relation to such person in respect of his/her employment from the commencement of this Agreement to the date of such termination pursuant to clause 19.1.1; and

19.1.3 when reasonably required do to so by Capita, the Customer will assist Capita in taking and/or defending any proceedings by and/or against Capita in connection with the termination of such employment.

20. GENERAL

- 20.1 This Agreement constitutes the entire agreement and supersedes any previous agreements, prior representations (except for fraudulent representations), arrangements and understandings between the parties relating to the subject matter of this Agreement.
- 20.2 Each party acknowledges that it has entered into this Agreement in reliance only upon the representations, warranties and promises specifically contained expressly in this Agreement and, save as expressly set out in this Agreement, each party shall have no liability in respect of any other representation, warranty or promise made prior to the date of this Agreement unless it was made fraudulently.
- 20.3 All business with Capita relating to the provision of Services is transacted on the terms set out in this Agreement which the Customer has accepted or the Customer has deemed to have accepted upon the Effective Date.
- 20.4 This Agreement may only be capable of being varied in writing signed by a duly authorised officer or other representative of each of the Parties.
- 20.5 This Agreement is severable in that if any provision is determined to be illegal or unenforceable by any court of competent jurisdiction such provision shall be deemed to have been deleted without affecting the remaining provisions of this Agreement.
- 20.6 Nothing in this Agreement shall constitute or be deemed to constitute a partnership, agency or joint venture between the Parties hereto or constitute or be deemed to constitute either Party the agent of the other for any purpose whatsoever and neither Party shall have any authority or power to bind the other or to contract in the name of or create a liability against the other.
- 20.7 Nothing in this Agreement shall render any member of the Staff or Sub-contractor an employee, agent or partner of the Customer.
- 20.8 Unless otherwise agreed in writing, no failure by either party to exercise any right or remedy available to it hereunder nor any delay so to exercise any such right to remedy shall operate as a waiver of it nor shall any single or partial exercise of any right or remedy preclude any other or further exercise thereof or the exercise of any other right or remedy.
- 20.9 This Agreement shall not give rise to any rights enforceable by a third party pursuant to the Contract (Rights of Third Parties) Act 1999 but without prejudice to any rights or remedies that exist or are available apart from that Act.
- 20.10 To give notice under this Agreement, a letter must be delivered personally or sent by pre-paid recorded first class post or facsimile transmission to the address or fax numbers set out within the Quotation or to any other address or fax number given in writing. The Parties may serve notice by e-mail provided that such email is followed by letter sent to the address set out in the Quotation. A notice delivered by hand is served when delivered, a notice sent by first class

recorded post is served 48 hours after posting and a notice served by fax or email is served when the fax is sent and confirmed by a conformation receipt or email is sent.

20.11 These terms and conditions shall:

20.11.1 apply to and be incorporated into this Agreement; and

20.11.2 apply to and be incorporated in any Quotation and Order; and

20.11.3 prevail over the Customer's standard terms and conditions or any terms or conditions contained in, referred to, attached to or enclosed with any Customer provided documentation or otherwise including but not limited to in the Customer's purchase order, Order, confirmation of order, acceptance of a quotation or specification, or implied by law, trade custom, practice or course of dealing which shall have no effect and this Agreement negates the same.

20.11.4 apply to all Services provided to you unless otherwise agreed between the parties in writing.

20.12 Unless otherwise agreed in writing by the Parties, the Parties agree that Capita may disclose for marketing purposes the fact that the Customer is a client of Capita. Customer agrees that Capita may use the Customer's name and logo to the extent necessary for the purpose of the provision of the Services and for marketing purposes for the duration of this Agreement.

20.13 The Customer shall not, assign or otherwise transfer any part of this Agreement without Capita's prior written consent (such consent not to be unreasonably withheld or delayed). Capita may assign, or otherwise transfer any part of this Agreement without Customer's prior written consent.

20.14 This Agreement shall be binding upon any successors in title of the Parties.

20.15 Information provided in Capita's brochures, catalogues or other published material is general description only and does not form part of this Agreement.

21. JURISDICTION

This Agreement is governed by and shall be construed in accordance with English law and the parties submit to the exclusive jurisdiction of the English courts.