

EBIQUITY STANDARD TERMS AND CONDITIONS FOR SERVICES

1 DEFINITIONS AND INTERPRETATION

1.1 In these Standard Terms, the following words and expressions have the following meanings:

"Affiliates": in relation to a party, any entity that directly or indirectly controls, is controlled by, or is under common control with that party;

"Agreement": the SOW and Standard Terms together;

"Applicable Laws": all applicable laws, statutes and regulations from time to time in force in the jurisdiction in which the Services are being provided;

"Business Day": a day, other than a Saturday, Sunday or public holiday in England, when banks in London are open for business;

"Business Hours": means 9.00am to 5.30pm Monday to Friday on a day that is not a public holiday in the place of receipt;

"Client": the entity identified as such in the SOW;

"control": shall be as defined in section 1124 of the Corporation Tax Act 2010, and **controlled** and **change of control** shall be construed accordingly;

"Commencement Date": the date upon which the SOW is accepted, being the earlier of (i) the date the SOW is signed by both parties, or (ii) the date the Services commenced under the SOW;

"Confidential Information": the meaning set out in clause 8.1;

"Contract Compliance Review Services": the services performed by FirmDecisions to assess a media agency's compliance with the terms of its contract with the Client;

"Data": data in any format which is used and/or supplied by Ebiquity as part of the Services;

"Data Protection Legislation": any Applicable Laws and regulations in any relevant jurisdiction relating to privacy or the use or processing of personal data including the Data Protection Act 2018 and any other directly applicable European Union regulation relating to privacy, in each case as such are updated, amended or replaced from time to time;

"Deliverables": all documents, products and materials developed by or on behalf of Ebiquity solely for the Client in connection with the provision of Services, including data, reports and specifications and any other deliverables specified in the SOW;

"Ebiquity": Ebiquity Associates Limited or such other Ebiquity Group Company identified in the SOW;

"Ebiquity Group": Ebiquity plc and its subsidiaries and subsidiary undertakings wherever incorporated;

"Ebiquity Group Company": any company in the Ebiquity Group;

"Fees": means the fees for the Services payable to Ebiquity, as set out in the SOW;

“FirmDecisions”: the Ebiquity Group Company providing the Contract Compliance Review Services under the FirmDecisions brand;

“Input Material”: all documents, information and materials which are reasonably requested by Ebiquity from time-to-time or as set out in the SOW and in each case as provided by the Client and its advertising and media agencies and other suppliers in order that Ebiquity may provide the Services, including data, reports, specifications and any other relevant materials;

“Intellectual Property Rights”: all patents, rights to inventions, utility models, copyright and related rights, trademarks, service marks, trade, business and domain names, rights in trade dress or get-up, rights in goodwill or to sue for passing off, unfair competition rights, rights in designs, rights in computer software, database rights, topography rights, moral rights, rights in Confidential Information (including know-how and trade secrets) and any other intellectual property rights, in each case whether registered or unregistered and including all applications for and renewals or extensions of such rights, and all similar or equivalent rights or forms of protection in any part of the world;

“Losses”: liabilities, claims, costs, damages, awards and expenses (including all reasonable legal fees);

“Media Performance Review”: services provided by Ebiquity comprising media auditing, investment review and benchmarking services. For the avoidance of doubt, Media Performance Review does not include Contract Compliance Review Services;

“Pre-existing Materials”: all documents, information, materials, methodology, formulae, techniques, programs, Data, databases, tools, processes, reports and/or know-how used by Ebiquity and incorporated into the Deliverables which:

- (i) existed prior to the commencement of the Agreement; or
- (ii) are developed by any Ebiquity Group Company during the provision of Services and which were not developed specifically for the Client.

“Services”: the services to be provided by Ebiquity as more particularly detailed in the SOW;

“SOW”: the statement of work for Services agreed between the Client or any of its Affiliates and Ebiquity in writing which details the Services, the timetable for their performance, the Fees and other related matters and which shall incorporate these Standard Terms;

“Standard Terms”: these Ebiquity terms and conditions for Services;

“Term”: the duration of the Agreement from the Commencement Date to the date the Services are completed unless terminated earlier in accordance with clause 10;

“Third Party Materials”: any materials, information, documents and software, which form part of the Deliverables in relation to which the Intellectual Property Rights are owned by a third party.

“VAT”: value added tax chargeable under the Value Added Tax Act 1994.

- 1.2 Clause, Schedule and paragraph headings shall not affect the interpretation of these Standard Terms.
- 1.3 References to clauses and Schedules are to the clauses and schedules of these Standard Terms.
- 1.4 A person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).



- 1.5 Words in the singular shall include the plural and vice versa.
- 1.6 This Agreement shall be binding on, and enure to the benefit of, the parties to this Agreement and their respective personal representatives, successors and permitted assigns, and references to any party shall include that party's personal representatives, successors and permitted assigns.
- 1.7 A reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time.
- 1.8 Any reference to "writing" includes email save for the purposes of clause 11.
- 1.9 Any reference to "includes" or "including" shall be construed as meaning "including without limitation".
- 1.10 References to a "party" and/or "parties" shall refer to Ebiquity and the Client.

2 APPOINTMENT AND DURATION

- 2.1 The Client or the Client's Affiliate may procure any of the Services by agreeing an SOW with Ebiquity or an Ebiquity Group Company pursuant to clause 3.
- 2.2 During the Term, Ebiquity shall provide the Services to the Client in accordance with the SOW which shall be governed by these Standard Terms. For the avoidance of doubt Ebiquity is entitled to instruct any Ebiquity Group Company and/or other subcontractor to perform the whole or any part of the Services and Ebiquity shall procure that such Ebiquity Group Company and/or other subcontractor complies with the duties and obligations of Ebiquity as set out in the Agreement. Ebiquity shall remain responsible to the Client for any acts, or failures to act, of any such Ebiquity Group Company and/or other subcontractor as if they were Ebiquity's acts or failures to act.
- 2.3 These Standard Terms and the SOW shall apply to the provision of the Services to the entire exclusion of all other terms and conditions whether stated in any purchase order or otherwise and supersede any prior agreement, understanding or arrangement between the parties, whether oral or in writing regarding the provision of the Services.
- 2.4 In the event that anything set out in the SOW conflicts with these Standard Terms, the SOW shall prevail.
- 2.5 Once an SOW has been agreed and signed, no amendment shall be made to it except in accordance with clause 16.
- 2.6 Ebiquity Group Companies will not be obliged to perform any work on behalf of the Client until the SOW has been signed by both parties. In addition, Ebiquity Group Companies will not be obliged to deliver any work to the Client until a full and valid purchase order has been received.

3 PROVISION OF SERVICES

- 3.1 Subject to the other terms of the Agreement, Ebiquity shall provide the Services and deliver the Deliverables to the Client in accordance with the SOW.
- 3.2 Subject to clauses 4.1 (c) and 4.2, Ebiquity shall use reasonable endeavours to meet any delivery dates specified in the SOW.
- 3.3 The parties shall co-operate with one another in all matters relating to the Services.

- 3.4 Ebiquty operates business ethics and anti-bribery policies which are available on Ebiquty plc's website (www.ebiquty.com) or upon request. In providing the Services, Ebiquty shall comply with such policies.
- 3.5 Ebiquty will comply with all applicable laws in relation to the provision of the Services.
- 3.6 Any changes to the SOW shall be subject to the mutual agreement of the parties in writing. In the event that the Client requires services or deliverables which are outside of the SOW, the provision of such services or deliverables shall be subject to additional fees, as agreed.
- 3.7 Where Ebiquty provides Services based upon any data supplied by a third party, Ebiquty does not give any warranty or guarantee as to the quality, fitness for purpose or otherwise of the data and does not guarantee that the Services will achieve any intended or desired result unless otherwise stated in the SOW.
- 3.8 Where all or any part of the Services being provided under the SOW relate to Media Performance Review, the terms set out in this clause 3.7 shall additionally apply to such Media Performance Review:
- (a) the Client shall provide, or shall procure that its advertising agencies, media buyers and other suppliers shall provide, in a timely manner, the Input Material and other information requested by Ebiquty in order to perform the Services, including data concerning the Client's advertising expenditure, audience data and audience data concerning peer group advertisers of the Client;
 - (b) the Deliverables may only be used for the Client's internal research and reference purposes and may not be copied, reproduced, rebroadcast or commercially exploited in all or any part except with Ebiquty's prior written consent (not to be unreasonably withheld);
 - (c) if the Services include a media benchmark review, anonymised pricing and audience data relating to the Client provided to Ebiquty by or on behalf of the Client (including without limitation data provided by the Client's media agency) ("Client Pricing and Audience Data") will form part of an aggregate that Ebiquty and/or other Ebiquty Group Companies or other subcontractors of Ebiquty use in supplying the Services to the Client (together being the "Relevant Companies") and will use for the provision of services to other clients of the Relevant Companies. The Client confirms and agrees that the Relevant Companies are permitted to aggregate the Client Pricing and Audience Data into their client costs databases/pools (each an "Aggregate Database") provided that:
 - (i) Ebiquty will procure that its and the other Relevant Companies' shall, at all times (both during and after the term of the Agreement), keep the Client Pricing and Audience Data confidential from their other clients;
 - (ii) Client Pricing and Audience Data which is added to any Aggregate Database will only be used in supplying services to clients in an aggregated and anonymised manner; and
 - (iii) Ebiquty will ensure that no other client of any Relevant Company will be able to determine the Client's individual performance from the information held in any Aggregate Database;

- (d) the Client will procure that its media agency consents to the pooling of Client and Audience Data as set out in clause 3.8(c) in relation to any such data that is sent to Ebiquity from the Client's media agency;
- (e) the right to use the Client Pricing and Audience Data by the Relevant Companies as set out in this clause shall survive termination of the Agreement; and
- (f) where the Media Performance Review includes a review of television and other media spend in territories outside of the UK, this may necessitate the need for the Client to register or have in place a licence with the relevant media ratings and audience measurement board in such territory/territories. Any additional costs incurred by Ebiquity in relation to such licence will be notified by Ebiquity to the Client and will be charged to the Client in addition to the Fees.

3.9 Where all or any part of the Services being provided under the SOW relate to Contract Compliance Review Services the terms set out in this clause 3.9 shall additionally apply to such Contract Compliance Review Services:

- (a) the Client will provide FirmDecisions with access to all relevant records pertaining to the relationship between itself and its advertising and media buying agency; and
- (b) the Client shall use its reasonable endeavours (including exercising all contractual rights) to procure that its advertising and media agencies provide unfettered access to the financial books and accounts they hold in order that FirmDecisions may provide the Services. Neither Ebiquity nor FirmDecisions shall be liable for any failure or delay of the Client's advertising or media agencies to provide any information or records requested by FirmDecisions.

4 CLIENT'S OBLIGATIONS

4.1 The Client:

- (a) shall co-operate with Ebiquity in all matters relating to the Services;
- (b) shall give Ebiquity clear briefings and ensure that all facts given are accurate in all material respects;
- (c) shall provide, or shall cause its advertising and media agencies, and other suppliers to provide, in a timely manner, such Input Material as Ebiquity may reasonably request and shall ensure, so far as is reasonably practicable, that all Input Material is accurate and complete in all material respects;
- (d) shall, where requested by Ebiquity, provide a purchase order number upon signature of the SOW;
- (e) acknowledges that in providing the Services Ebiquity relies on Input Material and Ebiquity is not responsible for the accuracy and completeness of such Input Material;
- (f) shall obtain and maintain all necessary licences and consents and shall comply with all relevant legislation as required to enable Ebiquity to provide the Services in relation to the supply of Input Material to Ebiquity; and
- (g) shall comply with any additional responsibilities of the Client as set out in the SOW.

- 4.2 If Ebiquity's performance of its obligations under the Agreement is prevented or delayed by any act or omission of the Client, its agents, subcontractors or employees (including without limitation the Client's advertising or media agencies or other suppliers), Ebiquity:
- (a) shall be entitled to charge additional fees reasonably incurred by Ebiquity as a result of such prevention or delay; and
 - (b) shall not be liable for any Losses incurred by the Client arising directly or indirectly from such prevention or delay.

5 CHARGES AND PAYMENT

- 5.1 Ebiquity shall invoice the Client for the Fees as follows, unless otherwise in the SOW:
- (a) 50% of the Fees shall be invoiced in advance upon signature of the SOW; and
 - (b) the remaining 50% of the Fees shall be invoiced in equal monthly instalments for the duration of the SOW (with the first invoice for such remaining Fees to be issued one month following commencement of the Services).
- 5.2 The Client agrees to pay the Fees within 30 days of the date of Ebiquity's invoice.
- 5.3 The Fees shall be invoiced by Ebiquity, and payable by the Client, in pounds sterling or such other currency as stated in the SOW.
- 5.4 Without prejudice to any other right or remedy that it may have, if the Client fails to pay on the due date, Ebiquity may:
- (a) add interest on overdue payments before and after any judgment at Royal Bank of Scotland plc base rate (from time to time) plus three percent, calculated on a daily basis and being compounded quarterly until payment is made; and/or
 - (b) suspend or terminate its performance of the Services.
- 5.5 The Fees exclude the cost of hotel, subsistence, travelling and any other ancillary expenses reasonably incurred and the cost of any Third Party Materials or third party services which are reasonably required by Ebiquity for the supply of the Services, unless such costs are specified as being included in the Fees in the SOW. Such expenses, materials and third party services shall be invoiced by Ebiquity at cost in addition to the Fees. Ebiquity shall be entitled to invoice any third party costs and expenses in advance of incurring such costs with the relevant third party.
- 5.6 The actual cost to Ebiquity of third party costs in respect of materials or services purchased overseas for the Deliverables may be more than the cost anticipated at the date when Ebiquity ordered the relevant materials or services (or obtained the Client's approval for such costs) as a result of fluctuations in the rate of currency exchange. If so, Ebiquity will charge the Client at the rate of currency exchange in operation on the date Ebiquity pays for the relevant third party costs, which shall be deemed to be the closing mid-point rate in London for that day as subsequently quoted in the next published edition of The Financial Times.
- 5.7 The Fees are subject to VAT at the prescribed rate (where applicable) and any other tax, duty or levy imposed by legislation from time to time, which shall be payable by the Client.
- 5.8 Each party shall pay all monies which are payable by it to the other without any right of set off, abatement or withholding in respect of monies which are due to it or alleged to be due to it from the other party.

6 INTELLECTUAL PROPERTY RIGHTS

- 6.1 The Client agrees that the Intellectual Property Rights, and any other rights of whatever nature in and to the Pre-existing Materials and Deliverables, shall remain the property of and shall be vested in Ebiquity or its licensor(s). Ebiquity hereby grants to the Client, subject to payment of all Fees, a worldwide, perpetual, fully paid-up, non-transferable, non-sublicensable licence to use the Pre-existing Materials and Deliverables for internal purposes only or as otherwise envisaged by the SOW.
- 6.2 Subject to clause 6.3, or with the written consent of Ebiquity, the Client shall not distribute Deliverables or any other document which Ebiquity provides to the Client in connection with the Services to any third party.
- 6.3 If the Services include Contract Compliance Review Services or Media Performance Review, the Client may distribute the Deliverables to the advertising or media agency whose work has been reviewed or audited, and to media buyers who need to have access to such Deliverables in order to provide their services, and subject to such advertising or media agency and/or, media buyer entering into a third party confidentiality agreement with Ebiquity where requested to do so by Ebiquity. The Client shall ensure that its advertising and media agencies and media buyers do not distribute the Deliverables to any third party.
- 6.4 The Client acknowledges that where relevant, the Client's use of Third Party Materials shall be conditional on Ebiquity obtaining a licence, permission or consent from the relevant licensor on such terms as will entitle Ebiquity to license such rights or give access to such Third Party Materials to the Client. Ebiquity shall notify the Client of any usage restrictions in relation to such Third Party Materials and the Client agrees to comply with the same.
- 6.5 In relation to the Input Materials:
- (a) the Client and its licensors shall retain ownership of all Intellectual Property Rights in the Input Materials; and
 - (b) the Client grants to Ebiquity a full paid-up, non-exclusive, royalty-free, non-transferable licence to copy and modify the Input Materials for the term of the Contract for the purpose of providing the Services to the Client.
- 6.6 Ebiquity:
- (a) warrants that the services and the Deliverables shall not infringe the rights, including any Intellectual Property Rights, of any third party;
 - (b) shall, subject to clause 7, indemnify the Client against all Losses (including but not limited to any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other reasonable professional costs and expenses) suffered or incurred or paid by the Client for actual or alleged infringement of a third party's Intellectual Property Rights arising out of, or in connection with the Services and the Deliverables;
 - (c) shall not be in breach of the warranty at clause 6.6(a), and the Client shall have no claim under the indemnity at clause 6.6(b) to the extent the infringement arises from:
 - (i) the use of Input Materials in the development of, or the inclusion of the Input Materials in, the Services or any Deliverable;
 - (ii) any modification of the Services or any Deliverable, other than by or on behalf of Ebiquity;

- (iii) compliance with the Client's specifications or instructions, where infringement could not have been avoided while complying with such specifications or instructions and provided that Ebiquity shall notify the Client if it knows or suspects that compliance with such specification or instruction may result in infringement; or
- (iv) a breach of this Agreement by the Client.

6.7 The Client:

- (a) warrants that the receipt and use in the performance of the Services by Ebiquity, its agents, subcontractors or consultants of the Input Materials shall not infringe the rights, including any Intellectual Property Rights, of any third party; and
- (b) shall indemnify Ebiquity against all Losses suffered or incurred or paid by Ebiquity arising out of or in connection with any claim brought against Ebiquity, its agents, subcontractors or consultants for actual or alleged infringement of a third party's Intellectual Property Rights arising out of, or in connection with, the receipt or use of the Input Materials in the performance of the Services.

7 LIMITATION OF LIABILITY

- 7.1 Nothing in the Agreement shall exclude or in any way limit a party's liability for fraud, death or personal injury caused by its negligence or any other liability to the extent such liability may not be excluded or limited as a matter of law.
- 7.2 Subject to clause 7.1, in no event will any party be liable under or in connection with the Agreement for any indirect or consequential Loss or damage of any kind or for any loss of business, revenue or profits, or loss or corruption of data or information howsoever arising and whether caused by tort (including negligence), breach of contract or otherwise, whether or not such Loss or damage is foreseeable, foreseen or known.
- 7.3 Subject to clause 7.1, the maximum liability of Ebiquity to the Client, whether in contract, tort (including negligence or breach of statutory duty) misrepresentation, restitution or otherwise, arising under or in connection with this Agreement shall be limited to an amount equal to the total Fees paid to Ebiquity by the Client under the SOW.
- 7.4 Where a SOW is executed by the Client expressly for and on behalf of any Client Affiliates, then:
 - (a) the limits on Ebiquity's liability in this clause 7 will apply collectively to and be shared amongst the Client and all such Client Affiliates, and it is up to the Client and those Client Affiliates how to share it; and
 - (b) the terms and conditions of the Agreement shall be binding on each such parties except that none of the other parties will have the right to bring any claim arising in any way in connection with or relating to the services or the Agreement against Ebiquity and the Client alone shall have the right to bring any claim against Ebiquity in respect of the services or the Agreement. The Client represents and warrants that it has the power and authority to (i) execute the Agreement and (ii) bind itself and all such parties (to the extent that they are not a signatory to the Agreement), to the terms and conditions of the Agreement.
- 7.5 Without any Ebiquity Group Company or subcontractors being considered a party to the Agreement, the liability cap and exclusions in this clause 7 operates to their benefit to the

extent it is judicially determined that any of them have any liability under or in connection with the Agreement or the services.

7.6 Except as expressly stated in the Agreement, all clauses, warranties and terms implied by statute, common law, collaterally or otherwise in respect of the Services and Deliverables are hereby excluded.

8 CONFIDENTIALITY

8.1 Confidential Information:

- (a) shall include any document marked "Confidential", or any information which the recipient was informed before receipt is confidential or which it ought reasonably to expect the other party would regard as confidential;
- (b) in relation to information disclosed by Ebiquity Group Companies, shall include techniques and information relating to the Services, including all data created by Ebiquity Group Companies and all matters connected with the nature and manner of the presentation of the Services; and
- (c) in relation to information disclosed by the Client shall include marketing strategy, media plans, financial records and any information held by the Client's advertising or media agencies or other suppliers which is disclosed to Ebiquity.

8.2 Confidential Information shall exclude information which:

- (a) at the time of receipt by the recipient is in the public domain;
- (b) subsequently comes into the public domain through no fault of the recipient, its officers, employees or agents;
- (c) is lawfully received by the recipient from a third party on an unrestricted basis; and/or
- (d) is already known to the recipient before receipt hereunder.

8.3 Each of the parties undertakes to maintain the confidentiality of the other party's Confidential Information at all times and to use no less adequate measures than it uses in respect of its own confidential information to keep the other party's Confidential Information reasonably secure. Neither party shall at any time without the prior written approval of the other party use, disclose, exploit, copy or modify any of the other party's Confidential Information, except as permitted under the Agreement.

8.4 Each of the parties undertakes to disclose the other party's Confidential Information only to other Ebiquity Group Companies and other subcontractors and those of each of their employees and directors to whom, and to the extent to which, such disclosure is necessary for the purposes contemplated under the Agreement.

8.5 The Client acknowledges that nothing in the Agreement shall affect an Ebiquity Group Company's right to use as it sees fit any general know-how or intelligence gained by Ebiquity Group Companies in the course of its appointment provided it does not result in the disclosure to third parties of Client's Confidential Information.

8.6 No party shall be in breach of this clause 8 if it discloses the other party's Confidential Information in circumstances where such disclosure is required by law, regulation or order of a competent authority, provided that the other party is given reasonable advance notice of the intended disclosure, where practicable, and a reasonable opportunity to challenge the same.

9 DATA PROTECTION AND DATA PROCESSING

- 9.1 In respect of any “personal data” (as such term is defined in the Data Protection Act 2018) that Ebiquity collects, including any contact information of the representatives of the Client made available to Ebiquity, Ebiquity shall process such personal data in accordance with its privacy policy set out on www.ebiquity.com.
- 9.2 Subject to clause 9.1, Ebiquity does not generally require in order to perform the Services any personal data. Therefore, other than where expressly requested by Ebiquity, or where Ebiquity expressly consents to the same in advance, the Client shall not send, and shall procure that no third party sends on its behalf, any personal data to Ebiquity and both parties acknowledge and agree there is no transfer of personal data through the provision of the Services.
- 9.3 To the extent that personal data is processed by Ebiquity on behalf of the Client following an express request by Ebiquity, or Ebiquity’s express consent to the same in advance, the parties shall enter into a data processing agreement based on a template available from Ebiquity on request or as otherwise agreed between the parties, which shall be proportionate to the type of personal data being processed.
- 9.4 Both parties shall comply with the applicable requirements of the Data Protection Legislation.

10 TERMINATION OF AGREEMENT

- 10.1 Each party may terminate the Agreement immediately by notice in writing to the other if:
- (a) such other commits a material breach of the Standard Terms or the SOW which, if capable of being remedied, shall not have been remedied within thirty (30) days of receipt of notice from the terminating party identifying the breach and requiring its remedy; or
 - (b) the Client fails to pay any amount due under the Agreement or the SOW on the due date for payment and remains in default not less than 21 days after being notified in writing to make such payment; or
 - (c) such other is unable to pay its debts as they fall due or enters into a compulsory or voluntary liquidation or compounds with or convenes a meeting of its creditors or has a receiver, manager or administrator appointed or ceases for any reason to carry on business or takes or suffers any similar action which, in the opinion of the terminating party, means that the other is unable to pay its debts as they fall due,
- and the Client shall immediately pay to Ebiquity all of its outstanding unpaid invoices and interest. In respect of Services supplied but for which no invoice has been submitted, Ebiquity may submit an invoice, which shall be payable within 30 days.
- 10.2 Either party may terminate the Agreement for convenience on 60 days’ written notice. However, in the event that any SOW is not completed at the date of termination of the Agreement, the terms of the Agreement shall remain in force in respect of such SOW until the Services provided under such SOW are completed.
- 10.3 The parties shall not enter into any further SOW after the date on which notice to terminate is served under clause 10.2.

- 10.4 In the event that the Client wishes to cancel the Services set out in the SOW at any time, any such cancellation shall be subject to the Client paying for the following:
- (a) the balance of all Fees payable in connection with such SOW, notwithstanding its early cancellation; and
 - (b) any third party costs and expenses which Ebiquity has incurred or to which it is committed.

11 CONSEQUENCES OF TERMINATION

- 11.1 On termination of the Agreement or the SOW:
- (a) Ebiquity shall on request return any of the Input Materials not used up in the provision of the Services; and
 - (b) the following clauses shall continue in force: clause 1 (Definitions and Interpretation), clause 5 (Charges and payment), clause 6 (Intellectual property rights), clause 7 (Limitation of liability), clause 8 (Confidentiality), clause 11 (Consequences of termination), clause 12 (Notices), clause 17 (Waiver), clause 18 (Severance), clause 23 (Governing law and jurisdiction).
- 11.2 Termination or expiry of the Agreement or the SOW shall not affect any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination or expiry, including the right to claim damages in respect of any breach of the Agreement or the SOW which existed at or before the date of termination or expiry.

12 NOTICES

- 12.1 Any notice given to a party under on in connection with the Agreement or the SOW shall be in writing (including email) and shall be:
- (a) delivered by hand or by pre-paid first-class post or other next Business Day delivery service at its registered office (if a company) or its principal place of business (in any other case); and
 - (b) delivered by email.
- 12.2 Any notice shall be deemed to have been received:
- (a) if delivered by hand, on signature of a delivery receipt; and
 - (b) if sent by pre-paid first-class post or other next Business Day delivery services, at 9.00 am on the third Business Day after posting or at the time recorded by the delivery service; and
 - (c) if sent by email, at the time of transmission, or, if this time falls outside Business Hours in the place of receipt, when Business Hours resume.
- 12.3 This clause does not apply to the service of any proceedings or any documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

13 FORCE MAJEURE

A party will not be liable to the other for any failure to perform any obligation under the Agreement if the failure was due to circumstances beyond the reasonable control of the non-performing party (including strikes, lock-outs or other industrial disputes, failure of a utility

service or transport network, act of God, global health pandemics (as defined by the World Health Organisation or other like-in scope organisation), war, 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 or default of suppliers or subcontractors). The foregoing shall not apply to the Client's obligation to pay the Fees.

14 PUBLICITY

14.1 The Client hereby consents to the Ebiquity Group stating that it provides services to the Client and including the Client's name and logo on its website or other marketing materials. Except where a case study does not identify the client, consent will be obtained for any case study or other marketing material where the client is specifically named.

15 ASSIGNMENT AND OTHER DEALINGS

15.1 Save in relation to Ebiquity Group Companies, no party may transfer or assign the Agreement without the other party's prior written consent, which shall not be unreasonably withheld or delayed.

16 VARIATION

16.1 No variation of this Agreement shall be effective unless it is in writing and signed by the parties (or their authorised representatives) referring specifically to this Agreement.

17 WAIVER

17.1 A waiver of any rights or remedy under this Agreement or by law is only effective if given in writing and shall not be deemed a waiver of any subsequent breach or default.

17.2 A failure or delay by a party to exercise any right or remedy provided under this Agreement or by law shall not constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict any further exercise of that or any other right or remedy. No single or partial exercise of any right or remedy provided under this Agreement or by law shall prevent or restrict the further exercise of that or any other right or remedy.

18 SEVERANCE

18.1 If any provision or part-provision of the Agreement is held by any competent authority to be invalid or unenforceable in whole or part the validity of all other provisions (and if applicable, the remainder of the provision in question) shall not be affected.

19 ENTIRE AGREEMENT

19.1 The Agreement constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.

19.2 Each party agrees that it shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in the Agreement. Each party agrees that it shall have no claim for innocent or negligent misrepresentation based on any statement in the Agreement.

20 NO PARTNERSHIP OR AGENCY

- 20.1 Nothing in the Agreement is intended to, or shall operate to, create a partnership between the parties, or to authorise either party to act as agent for the other, and neither party shall have authority to act in the name or on behalf of or otherwise to bind the other in any way.

21 THIRD PARTY RIGHTS

- 21.1 Save for Ebiquity Group Companies, a person who is not party to the Agreement shall have no right to enforce any term of the Agreement under the Contracts (Rights of Third Parties) Act 1999. Ebiquity Group Companies shall be entitled to enforce the Agreement directly against the Client as if they were a party to the Agreement. However, the consent of Ebiquity Group Companies is not required in order to make amendments to the Agreement.

22 COUNTERPARTS

- 22.1 The Agreement may be executed by manual, electronic or facsimile signatures and in any number of counterparts, each of which when executed shall constitute a duplicate original, but all the counterparts shall together constitute the one agreement.

23 GOVERNING LAW AND JURISDICTION

- 23.1 The Agreement, and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation shall be governed by, and construed in all respects in accordance with, the laws of England and Wales and the parties hereto hereby submit to the exclusive jurisdiction of the courts of England save in respect of enforcement of judgments where their jurisdiction shall be non-exclusive.