

Master Services Agreement

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THE PARTIES AGREE:

1. INTERPRETATION

- 1.1. This Agreement shall be subject to the definitions and rules of interpretation set out in Schedule 1.

2. APPLICATION OF THE MSA

- 2.1. This master services agreement (the “**MSA**”), as well as the terms contained within its schedules, will apply to all Orders for Services which the Customer places with Netcalibre. Each Order will also be subject to the terms of the Service Terms applicable to Orders of that type. Taken together those documents shall be the ‘**Agreement**’ (which is defined in full in the relevant schedule).
- 2.2. The terms of this MSA shall apply from the Commencement Date and shall govern any and all Orders placed by the Customer. No Order or other contract for Services will be deemed to have come into effect between Netcalibre and the Customer unless and until the Customer has signed an Order Form in respect of that Order, or unless Netcalibre has commenced supplying the Services to the Customer (in which case the Order shall be deemed subject to the terms of the most recent version of the applicable Order Form provided by Netcalibre to the Customer).
- 2.3. In the event of any conflict between:
 - 2.3.1. The Order Form;
 - 2.3.2. The Service Terms;
 - 2.3.3. This MSA; and
 - 2.3.4. Any schedule to this MSA.

A document higher in the list above will take precedence over a document lower in the list.
- 2.4. The terms of this MSA shall prevail over, and shall exclude the effect of, any alternative terms that either party may attempt to impose or incorporate (or which may be implied by trade, custom, or course of dealing) subsequent to the Commencement Date, unless those terms specifically declare an intention to exclude the terms of this particular MSA and are signed by both parties.
- 2.5. In consideration of timely and continued receipt of the Fees from the Customer, Netcalibre shall provide the Services requested by the Customer pursuant to this Agreement’s terms.

3. PLACING AND DURATION OF ORDERS

- 3.1. An Order shall, unless otherwise stated in the relevant Order Form, commence on the date on which the Order Form specifying its scope is signed by both parties (the “**Order Commencement Date**”).
- 3.2. Each Order shall run for the term specified in the applicable Order Form and shall be automatically extended or renewed as set out in that Order Form or, where that Order Form does not specify, the Service Terms applicable to the type of Services provided as part of that Order.
- 3.3. In the event that neither the Order Form or the relevant Service Terms specify a term as described in clause 3.2 then an Order shall run for 12 months (the “**Initial Term**”) and shall thereafter be automatically renewed for a period of 12 months (a “**Renewal Term**”) unless either party gives the other 60 days’ notice prior to the conclusion of the Initial Term or the then current Renewal Term.
- 3.4. Where an Order is placed for multiple Services which are to be supplied together, the supply of individual Services may be terminated by the Customer as set out in the Order Form or, where the Order Form does not specify, the relevant Service Terms. The termination of the provision of any one such Service in this fashion shall not cause the termination of the others unless, in the sole discretion of Netcalibre, termination of that Service makes provision of one or more of those other Services untenable.
- 3.5. Unless otherwise specified in this Agreement, all notices given by the Customer specifying that an Order or Service is to be terminated must be given in writing.
- 3.6. Termination of an Order or Service shall not, unless this Agreement specifies otherwise, entitle Customer to any refund of any portion of the relevant Fees payable in respect of that Order or Service, nor shall it relieve the Customer of any obligation to pay any aspect of the Fees which would have become payable in respect of it during the then current Initial Term or Renewal Term.

4. USE AND PROVISION OF THE SERVICES

- 4.1. The Customer shall ensure that it and its employees, agents and contractors, receive and use the Services in accordance with all applicable Acceptable Use Policies. Further, without prejudice to the terms of any such Acceptable Use Policy, the Customer shall not use the Services, nor shall it store, distribute or transmit any material using or through the Services, which:
 - 4.1.1. is unlawful, harmful, threatening, defamatory, obscene, harassing or racially or ethnically offensive;
 - 4.1.2. facilitates illegal activity;
 - 4.1.3. depicts or promotes unlawful sexual imagery or violence;
 - 4.1.4. promotes unlawful violence, discrimination based on race, gender, colour, religious belief, sexual orientation, disability, or any other illegal activities; or

- 4.1.5. constitutes a violation or infringement of the rights of any person, firm or company (including, without limitation, rights of copyright and confidentiality).
- 4.2. The parties agree that Netcalibre shall not be responsible for any failure to meet any agreed deadline, Service Level, or other metric specified in this Agreement if such failure is directly or indirectly caused by any:
 - 4.2.1. act or omission of the Customer, or its employees, agents, or subcontractors;
 - 4.2.2. failure of Customer Equipment
 - 4.2.3. failure of any software operated by Customer that is not Supported Software;
 - 4.2.4. failure caused by Customer Equipment and/or of any software that is not Supported Software;
 - 4.2.5. an event of Force Majeure;
 - 4.2.6. failure by the Customer to comply with any obligation to report a particular event or occurrence in accordance with the terms of this Agreement; or
 - 4.2.7. planned maintenance event which has been notified to the Customer in accordance with this Agreement or, if no such notice provisions are contained in the relevant Order, upon reasonable notice.

5. SET-UP OF SERVICES

- 5.1. Where a timetable for delivery and set-up of Services is not specified in an Order Form, Netcalibre and the Customer shall endeavour to agree a plan for the delivery, set-up and/or Installation of the Services as soon as practicable after the Order Commencement Date.
- 5.2. Netcalibre shall use reasonable endeavours to meet any dates for Installation specified in the Order Form or agreed pursuant to clause 5.1 but the parties agree that all such dates are provided as targets and estimations only, and that time shall not be of the essence in respect of Netcalibre's obligations.
- 5.3. Netcalibre shall notify the Customer promptly on the Go Live Date of each Service. Unless otherwise described in the applicable Order Form or Service Terms, the Customer shall within five (5) Business Days of such notification (the "**Testing Period**") review the operation of the Service to confirm that there are no Defects. The Customer shall give Netcalibre a detailed description of any Defect in writing within the Testing Period.
- 5.4. Netcalibre shall, on receipt of notice as set out in clause 5.3, use reasonable efforts to correct any Defect identified by the Customer within a reasonable time and, when it considers that the identified Defect or Defects have been remedied, re-submit the Service and/or Sold Equipment to the Customer. The process described in Clauses 5.2 and 5.3 shall then be repeated.
- 5.5. If the Customer does not notify Netcalibre of any Defects within the Testing Period and/or if the Customer commences use of a Service in a live operational capacity, then the Service

shall be deemed to have been Accepted at either the conclusion of that Testing Period or the day on which that Service is used or deployed in a live or production environment, whichever is earliest.

6. NETCALIBRE'S OBLIGATIONS

- 6.1. Netcalibre warrants that Services will be provided with reasonable care and skill and that each Service will be provided in accordance with its Specification in all material respects.
- 6.2. The warranty set out in Clause 6.1 above shall not apply to any failure by any Service to comply with its Specification where that non-conformity is caused by use of any of the Services other than in the fashion set out in the relevant Order Form or where that use is contrary to Netcalibre's reasonable instructions or exceeds the uses reasonably contemplated by Netcalibre.
- 6.3. In the event that a Service fails to function in conformity with clause 6.1 Netcalibre will, at its expense, exercise its reasonable commercial efforts to correct any such non-conformity as soon as reasonably practicable.
- 6.4. Netcalibre agrees to exercise its reasonable endeavours to comply with reasonable requests received from the Customer to the extent that these relate to the provision of the Services, and in any event to respond to such requests in a professional manner.
- 6.5. Notwithstanding the foregoing, Netcalibre does not warrant that the Customer's use of the Services will be uninterrupted or fault free.
- 6.6. Netcalibre agrees not to use the Customer Equipment or any other equipment belonging to the Customer save for the purposes of performing its obligations under an Order or otherwise as directed by the Customer in writing.
- 6.7. Save as expressly provided in Order Forms and relevant Service Terms all representations, warranties and other terms, whether express or implied by law or otherwise, are strictly excluded to the fullest extent permitted by law. In particular, Netcalibre makes no warranties, guarantees or assurances regarding the performance of the Services when used with, or run in conjunction with, any particular operating systems and/or software including Supported Software and software of the Customer or any third parties.

7. CUSTOMER'S OBLIGATIONS

- 7.1. The Customer shall at all times:
 - 7.1.1. co-operate with Netcalibre in all matters relating to the Services and promptly comply with all reasonable instructions given by Netcalibre relating to the same;
 - 7.1.2. promptly provide to Netcalibre, such materials, documentation, instructions and other information ("**Customer Materials**") as Netcalibre may reasonably require in order to perform the Services, and shall ensure that the Customer Materials are complete and accurate in all material respects;

- 7.1.3. provide all such assistance, and access to and use of its premises, (including providing adequate office space, facilities and utilities where necessary) as may be reasonably requested by Netcalibre from time to time;
- 7.1.4. ensure that all Customer Equipment is, and remains throughout the duration of this Agreement, in good working order and suitable for the purposes for which it is used and that such equipment conforms and is used in accordance with all Applicable Law;
- 7.1.5. carry out all other Customer responsibilities (as may be set out in an Order Form, Service Terms, or this MSA) in a timely and efficient manner;
- 7.1.6. ensure that, without cost or charge to Netcalibre:
 - (a) prior to commencement of the Services, any Customer Equipment to be hosted at a facility owned or controlled by Netcalibre is clearly identified as belonging to the Customer and that such Customer Equipment is labelled (where applicable, in the fashion directed by Netcalibre) and all individual components which make up the Customer Equipment are easily identifiable from the front and rear to assist with timely execution of any maintenance and support;
 - (b) it takes all necessary steps to ensure that it has in place appropriate business continuity and disaster recovery arrangements to mitigate the risk of loss or damage to its business in the event of the occurrence of a Force Majeure event. The Customer acknowledges that, unless expressly agreed in an Order Form, the Services do not include the provision by Netcalibre of any:
 - (i) space for hosting of Customer Equipment;
 - (ii) any replacement equipment of any kind; or
 - (iii) any contingency arrangements (such as backup or disaster recovery services) designed to safeguard against events of Force Majeure;
 - (c) it has obtained and maintained all necessary underlying rights, wayleaves, licences and consents, and that it complies with all relevant legislation in relation to its use and receipt of the Services;
 - (d) it maintains, at its own cost, with a reputable insurance company such insurance cover against all risks which would normally be insured against by a prudent business of its type, including insurance in relation to its receipt of the Services (and any loss that a failure of the Services would foreseeably cause to it) and in relation to third party property or personnel (such as Netcalibre's employees, agents or Subcontractors) harm that might be caused by the negligence or default of the Customer, or the Customer's employees or agents, or caused by any malfunctioning of the Customer Equipment, and any related loss or business interruption; and the Customer

shall upon reasonable request provide Netcalibre with evidence that such insurance has been effected and is and will be maintained. The Customer agrees and acknowledges that the Customer Equipment is not and will not be insured by Netcalibre;

- (e) where Netcalibre needs to attend the Customer's premises, that it shall prepare its premises before the arrival of Netcalibre in accordance with Netcalibre's reasonable instructions. The Customer is responsible for restoring or replacing any items moved and any necessary redecoration;
- (f) it shall afford Netcalibre reasonable access at all times to its premises for the installation, connection, inspection and planned or emergency maintenance or removal of equipment, facilities and systems relating to the Services;

7.1.7. comply with all Applicable Law, including applicable requirements relating to health and safety and electrical equipment;

7.1.8. not hold itself out as being an agent, partner, representative or otherwise being entitled to bind Netcalibre or any member of its company group (whether by committing it to contract or otherwise);

7.1.9. not offer or attempt to re-sell, sub-licence, or otherwise re-market any Services unless specifically permitted to do so by the terms of an Order Form (or as is specifically permitted by the terms of the Specification particular to that Service);

7.1.10. not publish or cause anything to be published, whether in hard copy or by any electronic medium, which contains adverse or derogatory comments about Netcalibre or any other member of its company group;

7.1.11. provide Netcalibre, in such form/format as Netcalibre may direct, with the names and e-mail addresses of all persons who are authorised to issue instructions to it and, where any of those persons cease to be so authorised, notify Netcalibre immediately;

7.1.12. ensure that no data received or transmitted by the Customer via any of the Services will adversely affect, interfere with or be malicious to any of Netcalibre's or any third party networks, equipment or software;

7.1.13. ensure that the Customer Equipment will not at any time perform operations designed to intercept data not directly addressed to the Customer Equipment or otherwise breach or disrupt voice or Internet communications; and

7.1.14. apply such security updates and patches as may, from time to time, be required to ensure compliance with the Order and generally Accepted Standards of information security.

7.2. In the event of any delays to or failures in the Customer's compliance with Clause 7.1, Netcalibre shall automatically be granted an extension to any affected timetable or delivery

schedule equal to the length of the Customer's delay or failure (or, where the disruption caused to Netcalibre reasonably requires a longer period of time to remedy, an extension equal to the length of time so required) and the Customer agrees and acknowledges that any such delays or non-compliance shall relieve Netcalibre of any obligation or liability in respect of (a) any delays to any timetables or deadlines so affected, or (b) any failure to meet any Service Level which results from such a failure.

8. NON-SOLICITATION OF EMPLOYEES OR CONTRACTORS

8.1. In order to protect the confidential information and business connections of each Party and their Group Companies to which the other Party may have access as a result of the Services provided under this Agreement the Parties hereby covenant with each other (on their own behalf and as trustees and agents for each of their Group Companies) that neither Party shall whether directly or indirectly (except with the prior written consent of the other Party):

8.1.1. for the duration of the term of this Agreement and for 6 months after the date of termination of this Agreement, solicit or entice or endeavour to solicit or entice from the employment or service of the other Party any Restricted Person;

8.1.2. for the duration of the term of this Agreement and for 6 months after the date of termination of this Agreement, employ or engage any Restricted Person.

8.2. If either Party commits any breach of this clause 8, the infringing party shall, on demand, pay to the injured Party a sum equal to one year's basic salary or the annual fee payable by the Party to the Restricted Person plus the recruitment costs incurred by the injured Party in replacing such person. The parties confirm that these liquidated damages are reasonable and proportionate to protect the legitimate interest of the Parties in performance.

8.3. Each of the restrictions in this clause 8 is intended to be separate and severable. If any of the restrictions shall be held to be void but would be valid if part of their wording were deleted, such restriction shall apply with such deletion as may be necessary to make it valid or effective.

8.4. The Parties have entered into the restrictions in this clause 8 having been separately legally advised.

9. SYSTEM CAPACITY AND PERFORMANCE

9.1. Should the Customer's usage of the Services, or any component of the Services, be in excess of any specification of capacity or bandwidth (or any similar or analogous measure) specified in any relevant Order Form or Service Terms, recommended by Netcalibre and/or published by any vendor of the relevant components, then Netcalibre shall not be liable for any degradation in the quality of any Service caused by such excess usage. Netcalibre reserves the right to suspend the provision of the Services in such circumstances, giving as much notice as is reasonably practicable, where such excess usage exceeds any relevant capacity specifications.

- 9.2. If the Customer chooses not to make any upgrade to its equipment, systems or software which is recommended by Netcalibre in accordance with Clause 9.1, then Netcalibre may notify the Customer in writing that all support in respect of such Services or component is thereafter provided on a reasonable efforts, discretionary and no liability basis, and following such notice any contrary provision contained in any applicable Order Form or Service Terms shall be deemed null and void until such time as Netcalibre's recommended upgrades are implemented.
- 9.3. Where the Service performance is impacted by a capacity issue in the fashion described in clause 9.1 and (a) the Customer fails to follow the recommendations of Netcalibre in the fashion described in clause 9.2, and (b) as a result the Service is considered by Netcalibre to be unsustainable, then without prejudice to Clause 9.2 Netcalibre may at its sole discretion terminate the Service or Order in question by one month's written notice to the Customer.

10. FEES AND PAYMENT

- 10.1. The Customer shall pay the Fees as set out in each Order Form as specified therein.
- 10.2. The Customer shall be liable to pay to Netcalibre the value of all reasonable expenses incurred by Netcalibre in the provision of the Services, including (where relevant) travel costs, hotels, and subsistence incurred by Netcalibre in performance of Services at sites owned or operated by the Customer. Where not otherwise specified in the Order Form the amount payable by the Customer shall be the full value of the expenses.
- 10.3. The Customer shall pay all invoices within the timeframe specified on the face of the relevant invoice (or, where no timeframe is specified, within thirty (30) days of issue of the relevant invoice).
- 10.4. All invoices will be subject to VAT which will be payable in addition to the Fees for the Services specified therein.
- 10.5. Where Netcalibre wishes to enter into such an arrangement Netcalibre may collect Fees by way of a direct debit arrangement (which shall require the Customer to complete a direct debit mandate as directed by Netcalibre).
- 10.6. If any sum payable pursuant to an Order is not paid on or before the due date of the relevant invoice then, without prejudice to any other rights it may have, Netcalibre shall be entitled to charge the Customer interest on that sum at the rate of eight per cent (8%) per annum above the base lending rate from time to time of Barclays Bank PLC commencing from the due date of that invoice through to the date that full payment is made, interest to accrue daily. The Customer shall reimburse all costs and expenses (including legal costs) incurred by Netcalibre in the collection of any overdue amount. If the Customer is committed to making a number of payments pursuant to this MSA, then all payments still to be made at the date of default shall immediately become due in full to Netcalibre.
- 10.7. Subject to Clause 10.3, if the Customer fails to make full payment of any invoice by its due date Netcalibre may give the Customer written notice of the fact that it is in default (a "Payment Default Notice") and unless the amount of that invoice is paid in full within ten

(10) Business Days of the Customer's receipt of that Payment Default Notice, Netcalibre may, without prejudice to any other rights it may have:

10.7.1. suspend the Services immediately until it has received payment in full of all sums due; and/or

10.7.2. terminate the Order for material irremediable breach immediately; and/or

10.7.3. exercise a lien over the equipment owned by Customer until such time as all outstanding payments are made in full (and, if payment is not received within a reasonable timeframe, Netcalibre shall be entitled to sell or lease any such equipment in order to make good Customer's debt).

10.8. In addition to any rights specified in any relevant Service Terms, Netcalibre reserves the right to increase the Fees (such increase shall be effective following expiry of the Initial Term) by giving not less than ninety (90) days' notice in writing to the Customer, if the Customer does not accept the increase then it shall be entitled to terminate the Order for the relevant Services by giving not less than sixty (60) days' notice in writing, such notice to be given within thirty (30) days of receiving notice of the increased Fees. For the avoidance of doubt, the termination right set out in this clause 10.8 shall not apply in respect of increases to the Fees made pursuant to other clauses of this Agreement or applicable Service Terms.

10.9. In addition to any rights specified in any relevant Service Terms, Netcalibre reserves the right to increase the Fees in relation to each Service by a sum equal to any percentage increase in the published Retail Prices Index (or any replacement method of indexation) or by a rate of up to 5% (at Netcalibre's sole discretion), such an increase not to be made in respect to a Service within the first year of provision of that Service nor to be made more than once in any given twelve (12) month period.

10.10. All payments by the Customer shall be made in pounds sterling (£) and without deduction or set off of any amount except where an Order Form specifically states otherwise.

10.11. Fees in relation to any particular Service may be amended at any time by Netcalibre if the scope of, or functionality required in, the Services changes or increases as a result of the Customer's changes, requirements or instructions. Where this occurs the parties note that it is their intention that an amended Order Form shall be agreed and appended to the original Order.

10.12. Fees specified in Order Forms or elsewhere in this Agreement are exclusive of, and may be increased without notice as a result of, the imposition by any relevant authority of any tax, levy or charge on services of the type specified therein (including, for the avoidance of doubt, any taxes specific to the telecommunications and/or fibre optic network industries). Such increases shall not incur any penalty for Netcalibre, nor give rise to any right to cancel, suspend or terminate any Order or Service.

10.13. In the event that additional Fees are incurred by Netcalibre, whether during or after the Initial Term of a Service, as a result of:

10.13.1.any alteration or addition to the schedule of work for the Services as detailed in the Order Form or as otherwise agreed in writing;

10.13.2.abortive visits to the Customer's premises arising from failure or delay by the Customer in providing access to Netcalibre or its Subcontractors;

10.13.3.delays arising from the failure of the Customer to provide access, data or information reasonably required by Netcalibre from time to time or failure or delays by the Customer in attending or arranging meetings reasonably required by Netcalibre in order to perform the Services;

10.13.4.any other breach of this MSA by the Customer;

Netcalibre shall be entitled to recover such reasonable additional Fees from the Customer and the Customer shall fully indemnify and keep Netcalibre indemnified in respect of the same.

10.14. Netcalibre reserves the right to invoice the Customer via any company within its company group from time to time. For the avoidance of doubt, such action shall not affect the rights and obligations of the parties hereunder.

10.15. Netcalibre shall be entitled to charge for any costs reasonably incurred by it resolving any complaints or reports received from any governmental or other competent authority or from any emergency service organisation in relation to the Customer's use of the Services.

10.16. Where Netcalibre receives any enquiry of the type described in 10.15 then it shall, where not prevented by law from doing so, inform the Customer of such enquiry and shall (to the extent that it is permitted to do so) consult with the Customer as to the form that any response from Netcalibre shall take.

11. SERVICE CREDITS

11.1. Service Credits may be available against certain losses of service and/or failures to meet Service Levels where expressly stated and defined in the applicable Service Terms.

11.2. If, in Netcalibre's reasonable opinion, only a proportion of a particular Service is affected by a loss of service which engages the Service Levels, Netcalibre shall credit the Customer's account with the corresponding proportion of the applicable Service Credit. For the purpose of calculating the proportion of a Service Credit due to the Customer, Netcalibre (in its sole discretion but acting reasonably) shall determine which proportion of the Service was affected by the relevant loss of service.

11.3. The calculation of the Service Credit shall be as specified in the relevant Service Terms.

11.4. The maximum Service Credit granted in any given calendar month is limited to the amount of Fees payable by the Customer in respect of that calendar month, unless the relevant Service Terms specifically state otherwise.

11.5. A Service Credit shall not be credited to the Customer unless the Customer requests it from Netcalibre within thirty (30) days of the first date on which Netcalibre failed to meet the

relevant Service Level in the fashion that entitled the Customer to claim that Service Credit. Any claim for a Service Credit must be made in writing. If the Customer fails to claim any Service Credit in the period specified in this clause 11.5 then its entitlement to claim that Service Credit will lapse. A Service Credit which is claimed by the Customer shall be applied by Netcalibre as a reduction to the next invoice payable by the Customer.

- 11.6. The parties agree that Service Credits shall be the sole and exclusive remedy of the Customer for the relevant loss of service and/or Netcalibre's failure to meet the applicable Service Levels in respect of which they are granted.

On expiry or termination of this MSA or any Order for any reason any outstanding Service Credits shall not be recoverable by the Customer.

12. INTELLECTUAL PROPERTY

- 12.1. In consideration for full and timely payment of all Fees due from the Customer, Netcalibre grants to the Customer a non-exclusive, non-transferable licence for the term of the respective Order, to use any software, reports, information, or other material produced or provided by Netcalibre pursuant to an Order Form for the duration of the relevant Order and pursuant to the terms of this Agreement for the Customer's own internal purposes. The copyright and any other intellectual property rights in such material shall be vested in and remain the absolute property of Netcalibre or its licensors. Nothing in this Agreement shall operate to prevent Netcalibre from making use of any know-how, or any materials or principles, learned or developed during the performance of its obligations pursuant to this Agreement.
- 12.2. Nothing in this Agreement shall have the effect of transferring, assigning or licensing any intellectual property rights from Netcalibre to the Customer unless the contrary is specifically stated.
- 12.3. Where the Customer requires the use of licensed software, code, access control lists or other configuration information ("Licensed Software") to use the Services supplied under any Order Form, then such Licensed Software shall be identified in the Order Form and Netcalibre will provide the Customer with either:
- 12.3.1. where the Licensed Software is owned, customised or created by Netcalibre; for the duration of the term of the Order, a non-exclusive, non-transferrable licence to use such Licensed Software for its internal purposes only and solely to the extent required to permit delivery of the Services. The Customer will in no event be entitled to claim title to or any ownership interest in the Licensed Software (or any derivations, modifications or improvements thereto), and the Customer will execute any documentation reasonably required by Netcalibre to recognise Netcalibre's existing and continued ownership of or rights to the Licensed Software, or
- 12.3.2. where the Licensed Software is licensed by Netcalibre from a third party provider, the benefit of the extent of the licence granted to Netcalibre by the licensor of the Licensed Software, the scope of which shall be specified in the Service Description or otherwise notified in writing to the Customer and incorporated in the Order. In

such cases the Customer accepts that it may be obliged to accept end-user terms specified by the provider of the relevant Licensed Software.

- 12.4. The Customer agrees that it will not, and will not allow others for whom it is responsible to: copy any Licensed Software except as allowed and permitted by the express written consent of Netcalibre and/or the relevant software provider; reverse engineer, decompile or disassemble the Licensed Software, except where the Customer may decompile the Licensed Software only to the extent expressly permitted by law; sell, pledge, lease, license, sublicense or otherwise deal in the Licensed Software; create, write or develop any derivative software or any other software program based on the Licensed Software or any Confidential Information of Netcalibre; or take any action prohibited by the owner of the Licensed Software, provided that Netcalibre and/or the relevant software provider notified the Customer in advance of such prohibitions.

13. CONFIDENTIALITY

- 13.1. Netcalibre and the Customer will each treat as confidential all Confidential Information obtained from each other under or in connection with this MSA and any Order.
- 13.2. Netcalibre and Customer shall not use the other's Confidential Information except for the purpose of exercising or performing their respective rights and obligations under this Agreement (such use a "Permitted Purpose") and shall not disclose such Confidential Information in whole or in part to any third party, except as expressly permitted by this Clause 13.
- 13.3. 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 to third parties by its Representatives in violation of this Clause 13.
- 13.4. The Customer acknowledges that Netcalibre's Confidential Information includes any designs, plans, software or other materials created by Netcalibre in connection with the Services and the Customer agrees not to make use of any such material for any purpose other than receipt of the Services from Netcalibre.
- 13.5. Netcalibre acknowledges that the Customer Data is the Confidential Information of the Customer.
- 13.6. A party may disclose the other party's Confidential Information to its employees and/or professional advisors who need to know such Confidential Information for the Permitted Purpose, provided that:
 - 13.6.1. it informs such parties of the confidential nature of the Confidential Information prior to disclosure; and
 - 13.6.2. at all times it is responsible for such representatives' compliance with the confidentiality obligations set out in this Clause 13.
- 13.7. A party may disclose Confidential Information to the extent required 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.

13.8. The restrictions set out in this Clause 13 do not apply to information which:

13.8.1. is or becomes generally available to the public (other than as a result of its disclosure by the receiving party, or such parties to whom that party has disclosed such information pursuant to clause 13.6, in breach of this Clause 13);

13.8.2. was available to the receiving party on a non-confidential basis prior to disclosure by the disclosing party;

13.8.3. was, is or becomes available to the receiving party on a non-confidential basis from a person who, to the receiving party's knowledge, is not bound by a confidentiality agreement with the disclosing party or otherwise prohibited from disclosing the information to the receiving party; or

13.8.4. is developed by or for the receiving party independently of the information disclosed by the disclosing party.

13.9. Each party reserves all rights in its Confidential Information. No rights or obligations in respect of a party's Confidential Information other than those expressly stated in this MSA or a Order are granted to the other party or may be implied.

13.10. The provisions of this Clause 13 shall continue to apply after termination of this MSA, or the expiry of the last Order entered into pursuant to its terms, for a period of two (2) years.

14. LIMITATION OF LIABILITY

14.1. This Clause 14 sets out the entire liability of each party (including any liability for the acts or omissions of its employees, agents and subcontractors) to the other in respect of any loss or damage suffered by the other which arises from its subject matter, whether the same arises from any breach of contract, tortious act, breach of statutory duty, or otherwise, and irrespective of how such loss or damage is claimed, or whether either party foresaw or was made aware of the possibility of it.

14.2. Except as expressly and specifically provided in any Order Form or Service Terms:

14.2.1. the Customer assumes sole responsibility for results obtained from the use and/or receipt of Services, and for any conclusions drawn from such results and/or actions taken or not taken in reliance on the same; and

14.2.2. Netcalibre shall have no liability for any damage caused by errors or omissions in any information, instructions or scripts provided to Netcalibre by the Customer in connection with the Services, or any actions taken by Netcalibre at the Customer's direction.

14.3. Nothing in this Agreement shall exclude or limit either party's liability for:

14.3.1. death or personal injury caused by that party's negligence;

- 14.3.2. fraud or fraudulent misrepresentation;
- 14.3.3. any other liability which cannot be lawfully limited or excluded.
- 14.4. No limitations on liability shall apply to the Customer's liability to pay any Fees due pursuant to the terms of this Agreement, nor for any liability of the Customer to pay interest due thereon.
- 14.5. Subject to Clauses 14.3 and 14.4, neither party shall be liable to the other or to any third party for:
 - 14.5.1. any indirect or consequential loss or damage;
 - 14.5.2. any loss, howsoever arising, which relates to loss of: revenues, profits, contracts, business, data, use of money, or any failure to make any anticipated saving; and
 - 14.5.3. any loss of goodwill or reputation.
- 14.6. Subject to Clauses 14.3 and 14.4, the total cumulative liability of either party arising under or in connection with any Order shall be limited to an amount equal to the sum equal to 200% of the Fees paid or payable by the Customer in respect of that Order in the twelve (12) month period which preceded the first occasion on which relevant loss or damage was incurred by the claiming party, or £1 million, whichever is least.

15. SUSPENSION OF THE SERVICES

- 15.1. Netcalibre may, at its sole discretion upon giving notice to the Customer either orally (confirming such notification in writing) or in writing, elect to suspend all or part of the Services until further notice where:
 - 15.1.1. it is entitled to terminate any Order pursuant to Clause 16.1 or 16.2;
 - 15.1.2. it reasonably suspects that the Services are being used in breach of clause 4.1, or fraudulently or otherwise unlawfully;
 - 15.1.3. it is entitled to suspend provision of any other service under the terms of any other agreement between Netcalibre and the Customer; or
 - 15.1.4. it is obliged to do so in order to comply with an order, instruction or request of government, an emergency services organisation or other competent administrative or regulatory authority.
- 15.2. Any exercise by Netcalibre of its right of suspension in respect of an event referred to in this Clause 15 shall not exclude Netcalibre's right subsequently to terminate an Order or to claim any applicable remedies in respect of the Customer's breach.
- 15.3. Suspension of the Services for any reason will not relieve the Customer of any duty to pay any invoice and all Orders will remain in effect.
- 15.4. In the event that a suspension is implemented as a consequence of the breach, fault or omission of the Customer, the Customer shall reimburse Netcalibre for all reasonable costs

and expenses incurred in the implementation of such suspension and/or the recommencement of the provision of the Services as appropriate.

- 15.5. Netcalibre shall not be liable to the Customer for any fees incurred by the Customer for the use of other services, whether provided by Netcalibre or any other person during any period of unavailability, occurring as a result of implementing a suspension pursuant to Clause 15.1.

16. TERMINATION

- 16.1. Netcalibre shall be entitled to terminate any Order forthwith by giving notice in the event that:

16.1.1. the Customer fails to pay any amount due under that Order and fails to pay such amount within ten (10) Business Days of being notified in writing to do so;

16.1.2. Netcalibre has terminated, or is entitled to terminate, any other contract that it has entered into with the Customer on any grounds which are the same as, or are analogous to, those set out in this Clause 16.

- 16.2. Either party shall be entitled to terminate an Order by giving notice in writing to the other party if:

16.2.1. the other party commits a material breach of that Order and (if such breach is remediable) fails to remedy that breach within a period of thirty (30) days after being notified in writing to do so;

16.2.2. the other party suspends, or threatens to suspend, payment of its debts, or is unable to pay its debts as they fall due or admits inability to pay its debts, or (being a company) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986, or (being an individual) is deemed either unable to pay its debts or as having no reasonable prospect of so doing, in either case, within the meaning of section 268 of the Insolvency Act 1986, enters bankruptcy or (being a partnership) has any partner to whom any of the foregoing apply;

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

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

- 16.2.5. an application is made to court, or an order is made, for the appointment of an administrator, or if a notice of intention to appoint an administrator is given or if an administrator is appointed, over the other party (being a company);
 - 16.2.6. the holder of a qualifying charge over the assets of that other party (being a company) has become entitled to appoint or has appointed an administrative receiver;
 - 16.2.7. a person becomes entitled to appoint a receiver over the assets of the other party or a receiver is appointed over the assets of the other party;
 - 16.2.8. a creditor or encumbrancer of the other party attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of the other party's assets and such attachment or process is not discharged within fourteen (14) days;
 - 16.2.9. any event occurs, or proceeding is taken, with respect to the other party in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clauses 16.2.2 – 16.2.8 (inclusive);
 - 16.2.10. the other party suspends, ceases, or threatens to suspend or cease, carrying on all or a substantial part of its business; or
 - 16.2.11. the other party threatens, whether orally or in writing (whether in hard copy, by any electronic medium or otherwise) to adversely affect the on-going operations of the first party's business or that of any member of its group provided that this clause shall not apply to any action taken by Netcalibre in accordance with an Order or at any time that the Customer has not paid the Fees by the due date or is otherwise in breach of an Order.
- 16.3. If a party has the right to terminate any Order pursuant to Clauses 16.1 or 16.2, it may instead elect to terminate one or more of the individual Services provided thereunder, in which event such Services shall be so terminated but the Order will continue in full force and effect in relation to all of the other Services provided thereunder.
 - 16.4. Any provision of an Order which expressly or by implication is intended to come into or continue in force on or after termination of that Order shall remain in full force and effect.
 - 16.5. Termination of an Order, for any reason, shall not affect the accrued rights, remedies, obligations or liabilities of the parties accrued before the date of its termination or expiry.
 - 16.6. On termination of an Order for any reason, then without prejudice to any other right Netcalibre may have, the following provisions shall apply to such termination as appropriate:
 - 16.6.1. Netcalibre shall immediately cease provision of the Services contracted for as part of that Order;

- 16.6.2. all amounts payable by the Customer to Netcalibre pursuant to that Order's terms shall become immediately due (subject to receipt by the Customer of a valid invoice in respect of the same);
- 16.6.3. the Customer shall pay Netcalibre's reasonable cost for storing any equipment owned by Customer at its premises which is not collected from those premises within fifteen (15) days of termination of the Order;
- 16.6.4. each party shall return and make no further use of any equipment, property, materials and other items (and all copies of them) belonging to the other party; and
- 16.6.5. Netcalibre may destroy or otherwise dispose of any of the Customer Data in its possession.
- 16.7. Notwithstanding its obligations in Clause 16, if a party is required by any law, regulation, or government or regulatory body to retain any documents or materials which it would otherwise be required to return or destroy under Clause 16, it shall notify the other party in writing of such retention, giving details of the documents or materials that it must retain. Clause 13 shall continue to apply to any such retained documents and materials.
- 16.8. Clauses which are by their nature clearly designed to survive the termination of this Agreement shall continue in full force and effect after its termination.

17. FORCE MAJEURE

- 17.1. The Customer acknowledges and agrees that Netcalibre does not and cannot control the flow of data to or from its networks or the storage of data held outside its networks. Such flow and/or storage depend, in large part, on the performance of Internet services and/or telecommunications networks provided or controlled by third parties. At times, actions or inactions of such third parties can impair or disrupt Netcalibre's connections to the Internet (or portions thereof) or such other platforms upon which access to the Services may be provided. Although Netcalibre will use reasonable efforts to take all actions reasonably necessary to remedy and avoid such events, Netcalibre cannot guarantee that such events will not occur. Accordingly, save as provided expressly in an Order, Netcalibre gives no warranty in relation to such events and any occurrence of such will be classed as an event of Force Majeure.
- 17.2. Each party will give notice forthwith to the other party upon becoming aware of an event of Force Majeure, such notice to contain details of the circumstances giving rise to the event of Force Majeure.
- 17.3. If a default due to an event of Force Majeure shall continue for more than sixty (60) days, then either party will be entitled to terminate any affected Orders (subject always to the terms of clause 16.3) by giving not less than thirty (30) days written notice to the other. Neither party shall have any liability to the other in respect of the termination of an Order as a result of an event of Force Majeure save and except for the Customer's payment obligations up to and including the effective date of termination of the relevant Order.

18. DATA PROTECTION, RIPA 2000 AND INFORMATION SECURITY BEST PRACTICE

Processor's obligations

- 18.1. The Parties shall comply with all applicable requirements of the Data Protection Legislation. This clause 18 is in addition to, and does not relieve, remove or replace, a party's obligation under the Data Protection Legislation.
- 18.2. The Parties agree that for the purposes of the Data Protection Legislation the Customer shall be the Data Controller and Netcalibre shall be the Data Processor in respect of any Personal Data which is transferred from the Customer to Netcalibre in accordance with this Agreement. Such Personal Data is anticipated to include:
 - 18.2.1. information relating to the customers and employees of the Customer, as they may be inputted into, or processed in the course of, the various services provided by Netcalibre to the Customer. Such processing shall take place during the provision by Netcalibre of the Services to the Customer in accordance with this Agreement.
- 18.3. The Customer consents to Netcalibre appointing third party processors to process the Personal Data under this Agreement. Where Netcalibre appoints a third party to process Personal Data it shall only use Data Processors providing sufficient guarantees to implement appropriate technical and organisational measures in such a manner that processing meets the requirements of the GDPR and ensures the protection of the rights of Data Subjects.
- 18.4. Netcalibre shall:
 - 18.4.1. only process the Personal Data for the performance of its obligations under pursuant to this Agreement and in accordance with the written instructions of the Customer, including with regard to transfers of Personal Data to a third country or an international organisation, unless required to do so by Union or Member State law to which Netcalibre is subject; in such a case, Netcalibre shall inform the Customer of that legal requirement before processing, unless that law prohibits such disclosure from being made;
 - 18.4.2. ensure that persons with access to the Personal Data are subject to a strict duty of confidentiality or are under an appropriate statutory obligation of confidentiality;
 - 18.4.3. ensure that it has in place appropriate technical and organisational measures, to protect against unauthorised or unlawful processing of Personal Data and against accidental loss or destruction of, or damage to, Personal Data, having regard to the state of technological developments and the costs of implementing any measures;
 - 18.4.4. ensure that, where it does engage with a third party processor in accordance with clause 18.3, it will enter into a written agreement incorporating the same data protection obligations set out in clause 18 of this Agreement;
 - 18.4.5. assist the Customer in responding to any request from any Data Subject which concerns the exercise of that Data Subject's right under the GDPR (subject to the reimbursement by the Customer of all costs reasonably incurred in the course of the same);

- 18.4.6. assist in ensuring compliance with the Customer's obligations under Article 32 to 36 of the GDPR, including in respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators, (subject to the reimbursement by the Customer of all costs reasonably incurred in the course of the same);
- 18.4.7. notify the Customer without undue delay after becoming aware of any relevant Personal Data breach;
- 18.4.8. at the written instruction of the Customer securely delete or return all Personal Data and copies thereof to the Customer on termination of this Agreement unless Union or Member State law requires storage of that Personal Data; and
- 18.4.9. maintain records of all information necessary to demonstrate compliance with the obligations laid down in Article 28 of the GDPR and grant the Customer and its auditors access to Netcalibre's processing facilities to conduct audits and inspections (subject to the reimbursement by the Customer of all costs reasonably incurred in the course of the same); and
- 18.4.10. immediately inform the Customer if, in its opinion, any instruction given by the Customer infringes the GDPR or other Union or Member State data protection provisions.

Data Protection Indemnity

- 18.5. Each Party agrees to indemnify and keep indemnified and defend at its own expense the other Party against all costs, claims, damages or expenses incurred by the other Party or for which the other Party may become liable due to any failure by the first Party or its employees or agents to comply with any of its obligations pursuant to this clause 18.5. In order to avail itself of this indemnity the claiming party must: promptly notify the indemnifier of any relevant claim of which the indemnified party becomes aware; not make any admission of liability or offer to settle in respect of any relevant claim without the prior written permission of the indemnifier; grant the indemnifier full control of all relevant proceedings on request, and; provide the indemnifier with such assistance in dealing with such claims as it may reasonably request.
- 18.6. The Parties acknowledge that to the extent that either Party is a Data Processor pursuant to this Agreement it will be reliant on the other, the Data Controller, for direction as to the extent to which the Data Processor is entitled to use and process the relevant Personal Data. Consequently, the Data Processor will not be liable to the Data Controller for any claim brought by a Data Subject arising from any action or omission by the Data Processor, to the extent that such action or omission resulted directly from the Data Controller's instructions.

Ancillary Provisions

- 18.7. Subject to and in accordance with Data Protection Legislation, the Customer consents to Netcalibre collecting data about Customer's use of the Services and to it providing such

data to any governmental or regulatory body in any fashion that it is required to do in order to comply with any applicable law and regulations.

- 18.8. Netcalibre shall comply with the Regulation of Investigatory Powers Act 2000 and similar or subordinate legislation or requirements made hereunder and as modified from time to time and Customer consents to Netcalibre doing all such acts as may be required of it to comply with such requirements.

19. TUPE

- 19.1. Both parties warrant that there will be no relevant transfer for the purposes of the Transfer of Undertakings (Protection of Employment) Regulations 2006 ("TUPE"), and each party hereby indemnifies the other party against all losses, damages, liabilities, and reasonable costs and expenses arising in connection with any claim (whether successful or not) arising under, or in connection with the application of TUPE.

20. ANTI-BRIBERY

- 20.1. Each party shall:

- 20.1.1. comply with all applicable laws, regulations, mandatory codes and sanctions relating to anti-bribery and anti-corruption including the Bribery Act 2010 ("Relevant Requirements");
- 20.1.2. have and shall maintain in place throughout the term of this Agreement its own policies and procedures, including adequate procedures under the Bribery Act 2010, to ensure compliance with the Relevant Requirements, and will enforce them where appropriate;
- 20.1.3. promptly report to the other party any request or demand for any undue financial or other advantage of any kind received by it in connection with the performance of any Order; and
- 20.1.4. immediately notify the other party if a foreign public official becomes one of its officers or employees or acquires a direct or indirect interest in the first party (and the first party warrants that it has no foreign public officials as officers, employees or direct or indirect owners at the date of any Order).

- 20.2. Any breach of this Clause 20 shall be deemed a material breach under Clause 16.

- 20.3. For the purposes of this Clause 20 a person associated with a party includes any subcontractor of that party.

21. WAIVER

- 21.1. No failure or delay by a party to exercise any right or remedy provided under the terms of this Agreement or by law shall constitute a waiver of that or any other right or remedy, nor shall it preclude or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall preclude or restrict the further exercise of that or any other right or remedy.

22. CAPACITY

22.1. Each party warrants to the other that:

22.1.1. it has full capacity and authority to enter into and perform its obligations under this Agreement; and

22.1.2. this Agreement, and all Orders entered into pursuant by it, are and will be executed by its duly authorised representatives who have the power and authority to commit it to their respective terms.

23. SEVERANCE

23.1. If any court or administrative body finds that any provision of this Agreement (or part of any provision) is invalid, illegal or unenforceable, that provision or part-provision shall, to the extent required, be deemed to be deleted, and the validity and enforceability of the other provisions of this Agreement shall not be affected.

23.2. If any invalid, unenforceable or illegal provision of this Agreement would be valid, enforceable and legal if amended, the parties shall negotiate in good faith to amend such provision such that, as amended, it is legal, valid and enforceable, and, to the greatest extent possible, achieves the parties' original commercial intention.

24. ENTIRE AGREEMENT

24.1. This Agreement constitutes the entire agreement between the parties and supersedes all previous discussions, correspondence, negotiations, arrangements, understandings and agreements between them relating to its subject matter.

25. ASSIGNMENT AND SUBCONTRACTING

25.1. The Customer shall not be entitled to assign or subcontract all or any of its rights or obligations under this Agreement without the prior written consent of Netcalibre, such consent not to be unreasonably withheld or delayed.

25.2. Netcalibre shall be entitled to assign or subcontract all or any of its rights and obligations under this Agreement (or any Order) to any person without the prior written consent of the Customer.

26. THIRD-PARTY RIGHTS

26.1. This Agreement and its Orders are made for the benefit of the parties to it and (where applicable) their successors and permitted assigns, and is not enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 or otherwise by any person who is not a party to it. Nothing in this Agreement shall preclude the right of a member of Netcalibre's group from making any claim against the Customer in the event that such rights are assigned to it pursuant to clause 25.

27. DISPUTE RESOLUTION

- 27.1. The parties agree to use reasonable endeavours to resolve any dispute or claim relating to a Order in accordance with this Clause 27 in good faith. Each party must follow the procedures in this Clause 27 before starting court proceedings (except for urgent injunctive or declaratory relief).
- 27.2. If a dispute or claim arises between the parties that cannot be resolved promptly between the parties at an operational level, either party may notify the other party of a formal dispute. Each party must nominate a senior executive to meet within fifteen (15) Business Days of the date of the notice (or any other agreed period) to make good faith efforts to resolve the dispute or claim.

28. NOTICES

- 28.1. Any notice or other communication required to be given to a party under or in connection with this contract shall be in writing and shall be delivered by hand or sent by pre-paid first-class post or other next working day delivery service, at its registered office (if a company) or (in any other case) its principal place of business, or sent by fax to the other party's main fax number.
- 28.2. Any notice or communication shall be deemed to have been received, if delivered by hand, on signature of a delivery receipt or at the time the notice is left at the proper address, or if sent by fax, at 9.00 am on the next Business Day after transmission, or otherwise at 9.00 am on the second Business Day after posting or at the time recorded by the delivery service.

29. GOVERNING LAW AND JURISDICTION

- 29.1. This Agreement 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.
- 29.2. The parties irrevocably agree that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with this Agreement or its subject matter or formation (including non-contractual disputes or claims).

SCHEDULE 1 DEFINITONS

The following terms shall have the following meanings when used in this Agreement (save where the context clearly and unambiguously requires otherwise):

Accept	means acceptance by the Customer of a particular Service, which may be express or deemed, and which shall be taken as confirmation by the customer that the relevant Service has been supplied without Defects (and terms such as “ Accepted ” shall be interpreted accordingly);
Acceptable Use Policy	means any policies set out in a Schedule of this MSA titled ‘Acceptable Use Policies’ (or such policies as Netcalibre may publish on its website or notify the Customer of in writing from time to time);
Agreement	means the terms of this Master Services Agreement and all of its Schedules, as well as any terms agreed between the parties to it in Order Forms;
Business Day	means a Monday, Tuesday, Wednesday, Thursday or Friday which is not a public holiday in in the United Kingdom;
Commencement Date	means the date on which the MSA is entered into by the parties to it;
Confidential Information	means all information (however recorded or preserved) that is disclosed or made available (in any form or medium), directly or indirectly, by one party to this MSA to the other, which relates to the business of the disclosing party and which is marked as ‘confidential’ or which a reasonable individual would recognise was of a confidential or sensitive nature;
Customer Data	means all data provided by the Customer to Netcalibre during the term of this Agreement;
Customer Equipment	Means any and all equipment owned and/or operated by the Customer irrespective of where such equipment may be situated; including for the avoidance of doubt, equipment located at premises controlled by the Customer or by Netcalibre;
Data Controller	shall have the meaning of ‘data controller’ set out in the Data Protection Legislation;

Data Processor	shall have the meaning of 'data processor' set out in the Data Protection Legislation;
Data Protection Legislation	means, for such time as they are in force in England and Wales, the DPA, the GDPR and all related legislation which may supplement, amend, implement or replace them and which relates to the protection of individual's rights in their personal data and the protection of their privacy
Data Subject	shall have the meaning of 'data subject' set out in the Data Protection Legislation;
Defect	means a failure of a Service to operate in accordance with its agreed Specification in all material respects
DPA	means the Data Protection Act 2018;
Fees	means all fees due to Netcalibre from the Customer pursuant to the terms of this Agreement, as shall be specified in Order Forms agreed pursuant to its terms;
Force Majeure	means, without limitation, any event of, flood, drought, earthquake or other natural disaster, any epidemic or pandemic, any terrorist attack, civil war, civil commotion or riots, war, threat of or preparation for war, armed conflict, imposition of sanctions, embargo, or breaking off of diplomatic relations, nuclear, chemical or biological contamination or sonic boom, any law or any action taken by a government or public authority, including without limitation imposing an export or import restriction, quota or prohibition, any collapse of buildings, fire, explosion or accident, any labour or trade dispute, strikes, industrial action or lockouts, or any interruption or failure of any utility service;
Group Company	means the Party, its Subsidiaries or Holding Companies from time to time and any Subsidiary of any Holding Company from time to time. Where " Subsidiary and Holding Company " means in relation to a company a "subsidiary" and a "holding company" as defined in section 1159 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) a nominee;

GDPR	has the meaning given to it in section 3(10) (as supplemented by section 205(4)) of the DPA 2018;
Go Live Date	the date on which Netcalibre considers that a Service is ready for use by the Customer;
Initial Term	shall, in respect of an Order, have the meaning specified in the Order Form specific to that Order or, where the Order Form does not specify, the meaning set out in the relevant Service Terms. Where both the Order Form and the Service Terms are silent, the definition set out in clause 3.3 shall apply;
Installation	means, where such activity is required, the physical delivery and set-up of a Service, whether the same occurs on a site controlled by the Customer or Netcalibre (and terms such as “ Installed ” shall be interpreted accordingly);
Office Hours	means the business hours set out on Netcalibre’s website or, in respect of a particular service, such hours as may be specified in the Order Form which relates to that Service;
Order	means an order of Services which is placed by the Customer with Netcalibre pursuant to the terms of this MSA, the relevant Service Terms, and the Order Form which specifies the parameters of that Order;
Order Commencement Date	shall have the meaning set out in clause 3.1;
Order Form	means a written confirmation from the Customer which indicates that it wishes to place an Order for Services with Netcalibre, which may take the form of a written order form, an e-mail confirming acceptance of an Order, or the submission of a digital acceptance by way of an e-commerce platform or similar service;
Personal Data	shall have the meaning set out in the Data Protection Legislation;
processing and process	shall, when used in the context of activity relevant to Data Protection Legislation, have the meaning set out in that Data Protection Legislation;
Renewal Term	shall, in respect of an Order, have the meaning specified in the Order Form specific to that Order or, where the Order Form does not specify, the meaning

set out in the relevant Service Terms. Where both the Order Form and the Service Terms are silent, the definition set out in clause 3.3 shall apply;

- Restricted Person** means any director, officer, principal, agent, employee, worker or independent contractor who is, or has at any time in the preceding 6 months from the date of proposed engagement by the other Party been, employed or otherwise engaged in the provision of the Services and/or the management of Orders pursuant to this Agreement on behalf of the other Party or their Group Company and who could materially damage the individual interests of the other Party if they were involved in any capacity in any business concern which competes with the business of the other Party.
- Service** means a service provided by Netcalibre to the Customer pursuant to the terms of the Agreement, as shall be specified in the applicable Order Form;
- Service Credit** means a credit issued against payable Fees, which Netcalibre shall grant to the Customer in the event that the Service Levels are breached in a fashion that the applicable Service Terms specify shall entitle the Customer to receive such a credit.
- Service Levels** means the Service Levels provided in respect of Services, as shall be specified in Schedule 2;
- Service Terms** means the schedules to this MSA which specify terms applicable to the various Services that are to be provided pursuant to its terms;
- Specification** Means, in respect of a Service, the specification of that Service agreed in its Order Form and any relevant Service Terms;
- Supported Software** means software which is known to Netcalibre and which its Services are designed to be compatible with, as shall be specifically set out in Order Forms depending on the Service being provided;
- in writing** means, in relation to a notice given, either written in a physical format such as a letter or fax, or sent by e-mail (but not by any other electronic medium).

Clause, schedule and paragraph headings shall not effect the interpretation of the Agreement and are provided solely for the convenience of the reader.