



Terms and Conditions of Sale

Please read these Terms and Conditions and any applicable Supplemental Terms and Conditions carefully. The following Terms and Conditions apply to all contracts that Opal may enter into from time to time for the supply to the Customer of Services provided or to be provided, Equipment sold or to be sold and/or Software licensed or to be licensed. The definitions and the rules of interpretation set out in clause 19 shall apply to these Terms and Conditions and all Contracts created in accordance with them.

1. Formation of Contract

- 1.1 These Terms and Conditions shall apply to, and be incorporated into, each Contract. No addition to, variation of, exclusion or attempted exclusion of any term of a Contract shall be binding on Opal unless it is in writing and signed by a director of Opal. The parties agree that these Terms and Conditions will prevail over any inconsistent terms and conditions contained in or referred to in, the Customer's purchase order, confirmation of order or specification, or as may otherwise be implied by law, trade, custom, practice or a course of dealing.
- 1.2 The Customer's purchase order constitutes an offer by the Customer to purchase the Products specified in it on the basis of the Offer Document, these Terms and Conditions and any Supplemental Terms (if any) (**Contract Terms**); accordingly, a Contract for the supply and purchase of those Products in accordance with the Contract Terms shall be established on the earlier of: (1) the execution of the Offer Document by the parties; and (2) Opal's commencement or execution of work pursuant to the Offer Document.
- 1.3 For the avoidance of doubt, where the relevant Offer Document or agreement has not been signed by either (or both) of the Customer and Opal, the Contract Terms will nevertheless apply to the Contract provided that the Customer has had prior notice of them (regardless of whether the Customer has indicated its acceptance in writing). By instructing Opal to supply any Products and/or by paying any Charge(s) or invoice(s) of Opal, whether set out in the Contract or otherwise, the Customer indicates its acceptance of the Contract Terms.
- 1.4 The supply of certain Products by Opal are subject to Supplemental Terms which will (where applicable) form part of the Contract and will supplement and (unless expressly stated otherwise in the relevant Supplemental Terms) incorporate these Terms and Conditions. In the case of a conflict or ambiguity between: (i) the Offer Document; (ii) any Project Plan comprised within an Offer Document; (iii) any applicable Supplemental Terms; and (v) the Terms and Conditions, then a term contained in a document higher in the list (starting at (i)) shall have priority over one contained lower in the list (ending at (v)).

2. Specification and Change Control

- 2.1 Any Products to be supplied by Opal shall be supplied by the means and in accordance with the timetable set out in the Offer Document. Where no means are specified, the relevant Products shall be supplied by such means as Opal determines appropriate and where no timetable is specified, the relevant Products shall be supplied within a reasonable time. Whilst Opal will use its reasonable endeavours to provide or (as the case may be) deliver the relevant Products by any date or within any period agreed upon, such dates and periods are estimates only, given in good faith, and Opal will not be liable for any failure to deliver by or within such a period nor shall delays in the delivery of a Contract entitle the Customer to refuse to take delivery or otherwise accept any Products. Time for delivery shall not be of the essence of the Contract.
- 2.2 The description of any Product contained in any order form, invoice, descriptive matter, specifications, catalogue or advertising material published or issued by Opal is for identification only and the use of such description will not constitute a sale by description. Any typographical or other error or omission in any such literature or any other document issued or provided by Opal may be corrected by Opal without any liability on the part of Opal.
- 2.3 Opal reserves the right to supply Equipment or Software which differs from the specifications agreed between the parties and/or to modify any specifications in respect of Services, provided that this does not materially affect the performance of the relevant Equipment or Services.
- 2.4 If at any time after the acceptance of a Contract pursuant to clause 1.2, the scope of a Product changes or if either party wishes to change the scope of the same, it shall submit details of the change or the requested change to the other in writing. If either party identifies or requests a change to the scope or execution of a Product, Opal shall, within a reasonable time, provide a written estimate to the Customer of:
 - 2.4.1 the likely time required to implement the change;

- 2.4.2 any variations to the Charges arising from the change;
 - 2.4.3 the likely effect of the change on the Project Plan; and
 - 2.4.4 any other impact of the change on the terms of the Contract.
- 2.5 If Opal identifies or requests a change to the scope of a Product, the Customer shall not unreasonably withhold or delay consent to it. Any request by the Customer for the cancellation or reduction of the scope of a Product to be supplied by Opal to the Customer will only be accepted at the discretion of Opal and in any case on the condition that any costs or expenses incurred by Opal up to the date of such cancellation or variation (and all loss or damage resulting to Opal by reason of such cancellation or variation and including, for the avoidance of doubt, the payment identified in clause 14.6) will be paid by the Customer to Opal forthwith. Acceptance of such cancellation or variation will only be binding on Opal if in writing and signed by a director of Opal.
- 2.6 If the Customer wishes Opal to proceed with the change, Opal has no obligation to do so unless and until the parties have agreed in writing on the necessary variations to the Charges, the Project Plan and any other relevant terms of the Contract to take account of the change.

3. Prices

- 3.1 Unless otherwise stated in writing, quotations are valid for 30 days from the date of issue and are exclusive of:
- 3.1.1 VAT and any other relevant taxes which Opal shall add to its invoices at the appropriate rate from time to time; and
 - 3.1.2 any chargeable expenses and disbursements which are incurred by Opal personnel on behalf of the Customer including but not limited to hotels, subsistence, travelling, mileage at 45p per mile, supplies and the cost of any materials or services reasonably and properly provided by third parties required by Opal for the supply of any Products. Such expenses, materials and third party services shall be invoiced by Opal.
- 3.2 Subject to 14.2.2, Opal may:
- 3.2.1 where the Offer Document relates to Services for the support of equipment or software (including any Equipment and Software) ("**Support Services**"), at any time by giving the Customer fourteen (14) days written notice, increase its prices to take account of any matter or matters that Opal consider to be a significant change in the scope, complexity or scale of the Support Services and such increased prices ruling at the date Opal notifies the Customer of the change in the scope of the Support Services shall be substituted for the previous Contract price; and/or
 - 3.2.2 where the Offer Document relates to Support Services and includes an Initial Term, at any time after the first anniversary of the Commencement Date, Opal may increase the Charges by giving the Customer not less than 30 days' prior written notice provided that the increases shall be no more frequent than once in any 12-month period; and/or
 - 3.2.3 at any time by giving the Customer fourteen (14) days' written notice, increase its prices to take account of any increase in the direct cost to Opal of supplying the Products (including, but not limited to, any change in telecommunication provider rates or Third Party Software Vendor licence fees or other third party costs) and such increased prices ruling at the date of supply of the relevant Products by Opal shall be substituted for the previous Contract price.

4. Payment

- 4.1 The Customer shall pay the Charges to Opal in accordance with the Contract Terms and:
- 4.1.1 Clause 4.2 shall apply if Services are to be provided on a time-and-materials basis; and

- 4.1.2 Clause 4.3 shall apply if Products are to be provided for a fixed price.
- 4.1.3 The remainder of this clause 4 shall apply in either case.
- 4.2 Where the Services are provided on a time-and-materials basis:
- 4.2.1 the Charges payable for the Services shall be calculated in accordance with Opal's agreed daily fee rates (as amended from time to time);
- 4.2.2 Opal's agreed daily fee rates are calculated on the basis of Normal Working Hours;
- 4.2.3 Opal shall be entitled to charge at an overtime rate for part days and for time worked by members of the project team outside of Normal Working Hours on a pro-rata basis. Overtime will be calculated by multiplying Opal's agreed time-based overtime charging rates (as set out in the Offer Document and/or notified by Opal to the Customer from time to time) by the time spent by Opal's personnel performing the Services; and
- 4.2.4 Opal shall invoice the Customer monthly in arrears for its Charges for time and materials, subject to any cap where the Services have been agreed in writing by the parties to be provided on a capped time-and-materials basis (together with expenses and VAT where appropriate) for the month concerned.
- 4.3 Where Products are provided for a fixed price, the price for the Products shall be the amount set out in the Offer Document or in Opal's quotation. Where the price envisages deposit payments, payment in instalments (which Opal may refer to as a "payment plan") and/or at Project Milestones, the Charges shall (unless otherwise agreed in writing) be paid to Opal in advance, in the instalments as set out in the Offer Document or on it achieving the corresponding Project Milestone as applicable. On achieving a Project Milestone, Opal shall invoice the Customer for the Charges that are then payable, together with expenses and the costs of materials (and VAT, where appropriate).
- 4.4 The Customer shall pay each invoice submitted to it by Opal in full, and in cleared funds:
- 4.4.1 within fifteen (15) days of receipt; or
- 4.4.2 in accordance with such other payment terms as may be specified in the Offer Document.
- 4.5 Time for payment shall be of the essence of the Contract.
- 4.6 Without prejudice to any other right or remedy that Opal may have, if the Customer fails to pay Opal on the due date Opal may charge interest on such sum from the due date for payment at the annual rate of 3% above the base lending rate from time to time of Lloyds Bank plc (or at a rate of 3% in the event that the base rate of that bank is less than zero), accruing on a daily basis and being compounded quarterly until payment is made, whether before or after any judgment.
- 4.7 All payments payable to Opal under the Contract shall become due immediately on termination of the Contract, despite any other provision. This condition is without prejudice to any right to claim for interest under the law, or any such right under a Contract.
- 4.8 All amounts due under a Contract shall be paid by the Customer to Opal in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law). Opal may, without prejudice to any other rights it may have, set off any liability of the Customer to Opal against any liability of Opal to the Customer, whether such liability is present or future, liquidated or unliquidated, and whether or not either such arises under the Contract, another agreement between the parties, or otherwise.
- 5. Third Party Contracts**
- 5.1 If any payments due to Opal in respect of a Product is to be paid by a third party then the Customer agrees that immediately on delivery of the Product in question the Customer will sign the acceptance note for the

leasing company or other third party and will generally take all steps as may be necessary to ensure that payment is made to Opal for the relevant Products in accordance with the Contract Terms.

5.2 It is agreed and acknowledged by Opal and the Customer that:

- 5.2.1 in providing the Services and/or supplying Equipment to the Customer, Opal may enter into binding contractual commitments (“**Third Party Contracts**”) on the Customer’s behalf with hardware and other manufacturers, telecommunication providers and other third parties (“**Third Party Providers**”);
- 5.2.2 the Customer acknowledges that Third Party Contracts create rights and obligations between Opal and Third Party Providers; and
- 5.2.3 notwithstanding that the Customer is not a party to the Third Party Contracts, the Customer is and shall be at all times responsible and held liable for any and all call and data charges, termination fees and any other charges and fees that may be charged by the Third Party Provider to Opal in respect of Equipment or Services provided to the Customer pursuant to the Third Party Contracts (“**Third Party Charges**”) and the Customer undertakes to pay such sums on demand and on an indemnity basis and to defend, indemnify, keep indemnified and hold Opal harmless against any and all third party claims, actions, and proceedings, and all losses (including loss of profit), damages, expenses and costs (including without limitation legal and other professional costs) associated with such Third Party Charges.

6. Software supply

- 6.1 Where Software supplied is Third Party Software, Opal shall supply or otherwise make available to the Customer a copy of the Third Party Software Licence on request from the Customer, whether by means of the Third Party Software Vendor’s website or otherwise. In supplying any such Third Party Software Licence, Opal shall be permitted to redact such information contained in the Third Party Software Licence as it deems reasonably necessary to protect its Confidential Information. The Customer shall be responsible for ensuring that the Customer’s use of the Third Party Software is properly licensed.
- 6.2 The parties acknowledge that the Third Party Software Licence will (in addition and without prejudice to any terms relating to the Third Party Software set out in the Offer Document) stipulate the Customer’s rights to use the Third Party Software, and the restrictions on the Customer’s use of the Third Party Software.
- 6.3 The Customer must abide by the terms of the Third Party Software Licence and any terms relating to the Third Party Software set out in the Offer Document and ensure that all persons using the Third Party Software supplied (or otherwise made available) by Opal to the Customer abide by such terms.
- 6.4 The parties acknowledge that the Third Party Software Licence creates rights and obligations between the Customer and the Third Party Software Vendor, and that Opal is not a party to the Third Party Software Licence.
- 6.5 Opal shall as far as it is able pass on to the Customer the benefits of any Third Party Software Vendor warranties in relation to any Third Party Software. Opal gives no warranties or guarantees and makes no representations concerning the Software, and all such warranties, guarantees, representations, and all conditions and any other terms whatsoever implied by statute or otherwise, are hereby excluded from the Contract between Opal and the Customer to the fullest extent permitted by applicable law.

7. Commissioning and Acceptance Testing

- 7.1 Where acceptance testing is expressly envisaged as being applicable in the Offer Document (but not otherwise) then, prior to launch of a Product, Opal shall undertake such acceptance tests in relation to the relevant Product as it deems fit, and as may be reasonably required by the Customer. The acceptance criteria for such tests shall be objective. The Customer shall promptly provide such assistance as Opal may

reasonably require in order to complete such acceptance tests. In the event that any acceptance tests are not successfully completed, Opal shall be given the opportunity to retest such elements which were not successfully completed and/or (with the consent of the Customer, not to be unreasonably withheld or delayed) to modify the acceptance tests or acceptance criteria. Opal shall notify the Customer once all acceptance tests have been successfully completed (a “**Commissioning Notification**”) and shall provide reasonable evidence of such completion on request. If, within 10 Business Days of receipt of a Commissioning Notification the Customer has not provided Opal with a confirmation as to whether or not the tests have been successfully completed, then a confirmation of the successful completion of the relevant acceptance tests shall be deemed to have been served on Opal by the Customer.

7.2 Acceptance of a Product shall be deemed to have occurred on whichever is the earliest of: (i) the date that the Customer notifies (or pursuant to clause 7.1 is deemed to have notified) Opal that the relevant acceptance tests have been successfully completed; or (ii) the date that the relevant Product is put into commercial or operational use.

8. Customer’s Obligations

8.1 The Customer shall:

- 8.1.1 co-operate with Opal in all matters relating to the Contract and appoint an authorised representative of the Customer who has the authority to bind the Customer contractually on matters relating to the Contract;
- 8.1.2 provide in a timely manner such access to the Customer’s premises, systems and data (including, where agreed in the Contract, providing Opal with access to the Customer’s systems by use of remote desktop support software) and such office accommodation and other facilities, as is requested by Opal;
- 8.1.3 provide in a timely manner such information as Opal may request, and ensure that such information is accurate in all material respects;
- 8.1.4 comply with any Mandatory Policies that are notified to it from time to time;
- 8.1.5 take all steps to ensure the welfare and safety of any Opal Personnel at any premises of the Customer and ensure that its premises and all plant and equipment which is used by Opal’s Personnel or with which they may come into contact or to which they may be exposed complies with the Health and Safety at Work Act 1974, all relevant statutory provisions (as defined in that Act) and all other obligations imposed by statute and common law relating to health and safety; and
- 8.1.6 be responsible (at its own cost) for the performing or procuring the performance of the Customer Responsibilities including preparing the relevant premises for the supply of Products.

8.2 If Opal’s performance of its obligations under the Contract is prevented or delayed by any act or omission of the Customer or the Customer’s Personnel (including any failure to perform or procure the performance of the Customer Responsibilities or any delays or postponements by the Customer of any installation dates specified by Opal, of dates for scheduled service visits or otherwise) then:

- 8.2.1 Opal shall be granted relief from any failure of it to carry out the Services, deliver the Products concerned or otherwise comply with its obligations under the Contract; and
- 8.2.2 the Customer shall be liable to pay to Opal on demand all reasonable costs, charges or losses sustained or incurred by it (including, without limitation, any direct, indirect or consequential losses, loss of profit and loss of opportunity to deploy resources elsewhere), subject to Opal confirming such costs, charges and losses to the Customer in writing.

9. Limitation of Liability

- 9.1 The Customer agrees and acknowledges that the level of the Charges takes fully into account the limits of Opal's entire financial liability (set out below) for the applicable Products supplied or to be supplied to the Customer, the Customer's use of them, and for anything else in connection with any Contract.
- 9.2 Nothing in these Terms and Conditions or in any Contract Terms shall limit or exclude the liability of Opal in respect of: (i) death or personal injury caused by negligence; or (ii) fraud; or (iii) any other liability which cannot by law be limited or excluded.
- 9.3 Subject to Clause 9.2, Opal shall not be liable to the Customer whether in contract, tort (including for negligence or breach of statutory duty), or for negligent or innocent misrepresentation, or otherwise, for any of the following types of loss or damage, even if Opal has been advised of the possibility of such loss or damage:
- 9.3.1 loss or depletion of goodwill or reputation; or
 - 9.3.2 loss of profits, or revenue, or contracts or anticipated savings; or
 - 9.3.3 loss or damage arising from loss, or damage or corruption of data or information; or
 - 9.3.4 loss of use; or
 - 9.3.5 any special, indirect, consequential or pure economic loss, costs, damages, charges or expenses.
- 9.4 Subject to Clauses 9.2 and 9.3, if the Customer: (1) incurs any loss arising in connection with the performance or contemplated performance of these Terms and Conditions or any Contract (whether in contract, tort (including without limitation negligence or breach of statutory duty howsoever arising), misrepresentation (whether innocent or negligent), restitution or otherwise and whether or not such claim arises pursuant to an express or implied term of the relevant Contract Terms; and (2) liability for any such loss is established (a "**Opal Default**"), then the total aggregate liability of Opal to the Customer under the relevant Contract or otherwise shall in no circumstances exceed:
- 9.4.1 where the Opal Default relates to Equipment or Software supplied by Opal, the sum of the amount paid by the Customer to Opal for the Equipment or Software that is directly affected by the Opal Default; and
 - 9.4.2 where the Opal Default relates to a Service supplied by Opal, the sum of the amount paid by the Customer to Opal for the service element(s) of the Service(s) that are directly affected by the Opal Default (the "**Affected Services**") during the preceding twelve months immediately prior to the act or omission giving rise to the loss (or if the event giving rise to the loss occurs during the first twelve (12) months of the Contract, the amount paid by the Customer for the Affected Services during that period).

10. Opal Warranties

10.1 Opal warrants to the Customer that:

- 10.1.1 it has the legal right and authority to enter into Contracts and otherwise to perform its obligations under the Contract Terms; and
- 10.1.2 it shall comply with all applicable laws in relation to its performance of Contracts.

11. Customer Warranties and Indemnity

11.1 The Customer warrants to Opal that:

- 11.1.1 the Customer has the legal right and authority to enter into Contracts and otherwise to perform its obligations under these Terms and Conditions and the Contract Terms;
- 11.1.2 none of the information, documents, drawings, software, images, content or sounds (together with any database made up of any of these) and other materials owned or controlled by the Customer, embodied

in any medium, which are supplied or made available by or on behalf of the Customer to Opal in connection with a Contract infringe any Intellectual Property Rights or any right of confidence, right of privacy or right under Data Protection Law of any person;

11.1.3 in relation to its use of the Equipment and Software, neither it nor any of its employees or associated parties will attempt to or permit any person to reverse engineer, decompile, monitor or in any way replicate the coding, software or functionality of any Equipment or Software;

11.1.4 it has, and shall maintain throughout the term, the full capacity, authority and any necessary licences and approvals under applicable laws to enter into and perform its obligations contained in any Contract; and

11.1.5 it shall comply with all applicable laws in relation to its performance of all Contracts.

11.2 It is acknowledged and agreed by the Customer that:

11.2.1 in respect of Products supplied by Opal, whilst Opal will endeavour to use its experience and expertise to advise the Customer, Opal acts as a supplier to the Customer only. The Customer assumes sole responsibility for ensuring that the Products supplied by Opal meet its requirements and for results obtained from the use of the same by the Customer and for conclusions drawn from such use;

11.2.2 Opal shall not have any obligation or duty, and shall not bear any liability or responsibility, in relation to any of those matters which the Customer expressly undertakes, warrants, or bears responsibility for in the applicable Contract; and

11.2.3 except as expressly set out in the Contract Terms, Opal gives no warranties or guarantees and makes no representations concerning the supply of any Product, and all such warranties, guarantees, representations, and all conditions and any other terms whatsoever implied by statute or otherwise, are hereby excluded from all Contracts between Opal and the Customer to the fullest extent permitted by applicable law.

11.3 The Customer undertakes to defend, indemnify, keep indemnified and hold Opal harmless against any and all third party claims, actions, and proceedings, and all losses, damages, expenses and costs (including without limitation legal costs) associated therewith, where any of the same arise out of or in connection with either the Customer's use of or access to any Product including those arising out of: (1) the failure of the Customer to observe fully or perform any of its obligations contained in a Contract; or (2) any loss, damage or injury to property or persons caused or contributed to by any act or omission of the Customer or its Personnel; or (3) any breach by the Customer of any warranty, undertaking or other terms or conditions of any Contract.

12. Retention of Title and Risk in the Equipment

12.1 Save in the case of any circumstances where the parties expressly agree in writing to adopt Incoterms in an International Supply Contract, and subject to any agreement in writing by Opal, the risk in Equipment shall pass to the Customer on delivery.

12.2 The following provisions shall, subject to clause 12.3, apply to all Equipment supplied by Opal to the Customer:

12.2.1 upon delivery of the Equipment the Customer shall hold the Equipment solely as bailee for Opal and the Equipment shall remain the property of Opal until such time as the Customer shall have paid to Opal and Opal shall have cleared funds for the full purchase price of all Equipment, whether under the Contract or otherwise. Until this time Opal shall be entitled to recover the Equipment or any part thereof and, for the purpose of exercising such rights, the Customer hereby grants a licence to Opal, its employees and agents (together with appropriate transport) to enter upon the Customer's premises and any other location where the Equipment is situated and to remove the Equipment;

- 12.2.2** the Customer is hereby licensed to agree to sell on the Equipment on condition that the Customer shall inform its customer of the provisions of clause 12.2.1. The Customer acts as Opal's bailee in respect of any such sale and shall immediately upon receipt of the proceeds of sale, and whether or not payment has become due under clause 4, remit to Opal the full purchase price of the Equipment sold on less any part thereof which has already been paid and until such amount has been so remitted shall hold such amount as trustee and agent for Opal;
- 12.2.3** the Customer shall maintain an appropriate insurance in respect of the Equipment from the date or dates on which the risk therein passes to the Customer. In the event of any loss or damage occurring while the Equipment remains the property of Opal, the Customer shall immediately on receipt of the insurance monies remit to Opal the full purchase price of the Equipment lost or damaged, less any part thereof which has already been paid, and until such amount has been so remitted, shall hold such amount as trustee and agent for Opal.
- 12.2.4** the licences granted under this clause 12.2 shall be terminable forthwith at any time upon notice by Opal to the Customer.
- 12.3** Where the parties expressly agree in writing to adopt incoterms for an International Supply Contract, property in the Equipment shall pass to the Customer in accordance with the provision of the relevant incoterm

13. Confidentiality

- 13.1** Each party may be given access to Confidential Information from the other party whether in order to exercise its rights or perform its obligations under a Contract, these Terms and Conditions, or otherwise. Confidential Information shall not include information that:
- 13.1.1** is or becomes publicly known, other than through any act or omission of the receiving party;
 - 13.1.2** was in the other party's lawful possession before the disclosure;
 - 13.1.3** is lawfully disclosed to the receiving party by a third party without restriction on disclosure;
 - 13.1.4** is independently developed by the receiving party, which independent development can be shown by written evidence; or
 - 13.1.5** is required to be disclosed by law, for the purpose of legal or regulatory proceedings, by any court of competent jurisdiction or by any regulatory or administrative body or the disclosing Party's insurers (provided that before any such disclosure, the disclosing Party shall, to the extent legally permissible, give the other party reasonable notice of the proposed disclosure).
- 13.2** Each party shall hold the other's Confidential Information in confidence for the Term and for a period of five (5) years thereafter.
- 13.3** Opal shall be entitled to disclose any Confidential Information to its employees, agents and advisors for the purposes of providing Products in accordance with a Contract, or in contemplation of providing such Products, prior to formation of the relevant Contract.
- 13.4** Each party shall take all reasonable steps to ensure that anyone to whom it provides (or makes available) the Confidential Information of the other party as permitted by these Terms and Conditions complies with the confidentiality provisions of these Terms and Conditions as if they were directly obliged to.
- 13.5** Opal shall be entitled to make a public announcement concerning the existence, subject matter or terms of any Contract, the wider transactions contemplated by it, or the relationship between the parties, provided that Opal shall make reasonable attempts to agree the contents of the announcement before making it. Nothing in this clause 13.5 shall be construed as limiting either party's obligations under this clause 12.

14. Duration and Termination

- 14.1** Each Contract shall commence on the Commencement Date applicable to it. Where the Offer Document includes an Initial Term then unless terminated earlier in accordance with this clause 14, the relevant Contract shall continue for the Initial Term and shall automatically extend for 12 months ("**Renewal Term**") at the end

of the Initial Term and at the end of each Renewal Term thereafter. Either party may give written notice to the other party, not later than sixty (60) days before the end of the Initial Term or the relevant Renewal Term, to terminate this Contract at the end of the Initial Term or (as the case may be) the relevant Renewal Term. Where the Offer Document does not contain an Initial Term, the Contract shall continue until Opal completes the relevant supply of Products, upon which the Contract shall terminate automatically, subject to earlier termination in accordance with this Clause 14.

14.2 Without affecting any other right or remedy available to it, either party may give notice in writing to the other party terminating a Contract:

14.2.1 immediately, if the other party suffers an Insolvency Event; or

14.2.2 on thirty (30) days' written notice, if the Customer does not accept any amendments to a Contract pursuant to clause 3.2; or

14.2.3 on thirty (30) days' notice, if the party has not for a continuous period of one (1) month been able to perform its obligations as a result of a Force Majeure Event; or

14.2.4 immediately, if the other party commits a breach of any material term of the Contract and (if such breach is remediable) fails to remedy that breach within a period of thirty (30) Business Days of being notified in writing that it is required to do so.

14.3 Without affecting any other right or remedy available to it, Opal may give notice in writing to the Customer terminating the whole (or part) of the Contract immediately if:

14.3.1 the Customer fails to pay any amount due under the Contract or any other contract between Opal and the Customer on the due date for payment and remains in default not less than ten (10) Business Days after being notified in writing that it is required to make such payment;

14.3.2 the Customer commits a repeated breach of the Customer's obligations under a Contract. A repeated breach shall be deemed to be two or more breaches of the same or any three breaches of different obligations of the Customer under one or more Contract(s) within a twelve month period, where each of those breaches have been notified in writing by Opal to the Customer; or

14.3.3 the Customer commits any act or omission which could or might in the sole opinion of Opal bring Opal into disrepute or damage the reputation of Opal; or

14.3.4 the Customer breaches clauses 8, 11, 12, 15 or 16 (or otherwise challenges the Intellectual Property Rights of Opal).

14.4 Without limiting its other rights or remedies, Opal may suspend performance of all or any part of its obligations under a Contract or any other contract between the Customer and Opal if the Customer becomes subject to any of the events listed in clauses 14.2 or 14.3.1 to 14.3.4 (inclusive) or Opal reasonably believes that the Customer is about to become subject to any of them. Opal shall have no liability to the Customer for any losses, damages, expenses or costs that the Customer may incur by reason of such suspension.

14.5 On termination of the Contract for any reason:

14.5.1 save for the licence granted at clause 16.2, all other rights and licences of the Customer under the Contract shall terminate upon termination of the Contract;

14.5.2 the Customer shall, as soon as reasonably practicable, return or destroy (as directed in writing by Opal) any documents, handbooks or other information provided to it by Opal or data for the purposes of this Contract, including all documents and materials (and any copies) containing, reflecting, incorporating or based upon Opal's Confidential Information.

- 14.5.3** the Customer shall at its own cost, as soon as reasonably practicable, return all of the equipment and materials owned by Opal or any third party, failing which, Opal may enter the relevant premises and take possession of them and the Customer shall pay all reasonable expenses incurred by Opal in taking possession of such equipment and materials. Until these are returned or repossessed, the Customer shall be solely responsible for their safe-keeping;
- 14.5.4** Opal may destroy or otherwise dispose of any of the Customer's, storage media, software, equipment or other items in its possession unless Opal receives, no later than ten (10) days after the effective date of the termination of this Contract, a written request for their delivery to the Customer. Opal will use its reasonable endeavours to deliver the same to the Customer within thirty (30) days of its receipt of such a written request, provided that the Customer has, at that time, paid all fees and charges outstanding at and resulting from termination (whether or not due at the date of termination) and provided that the Customer meets any charges that Opal may charge for providing such assistance. The Customer shall pay all reasonable expenses incurred by Opal in returning or disposing of them;
- 14.5.5** the Customer shall immediately pay to Opal all of Opal's outstanding unpaid invoices (together with any accrued interest if such invoices are outside their payment terms) and, in respect of Products supplied but for which no invoice has been submitted, Opal may submit an invoice, which (notwithstanding anything to the contrary in the Contract or these Terms and Conditions) shall be payable immediately on receipt of invoice.
- 14.6** If prior to the expiry of the Initial Term or any Renewal Term, the Customer terminates this Contract for any reason other than as set out in clause 14.2, then in addition to any outstanding amounts payable in respect of clause 14.5.5, the Customer shall be obliged to pay to Opal by way of compensation, the balance of the Charges the Customer would have paid over a period equal to the unexpired residue of the Initial Term or (as the case may be) the Renewal Term immediately prior to the date of termination of this Contract, less such discount as Opal shall reasonably apply to such balance in its discretion to reflect any savings in overheads. Any such payment shall become due within three (3) Business Days of receipt of invoice. Opal and the Customer confirm that any sums calculable and payable pursuant to this clause 14.6 represent a genuine pre-estimate of Opal's loss
- 14.7** Termination or expiry of this Contract shall not affect any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination or expiry and shall not affect the continuation after termination or expiry of any provision expressly stated to survive or implicitly surviving termination (including for the avoidance of doubt, clauses 9, 12, 18.13, 18.14 or 19).

15. Data Protection

- 15.1** For the purposes of this clause 15, "**controller**", "**processor**", "**data subject**", "**personal data**", "**process**" and "**processing**" shall have the meanings given to them in the Data Protection Law.
- 15.2** Each party warrants to the other that it will process personal data in compliance with Data Protection Law. This clause 15.2 is in addition to, and does not relieve, remove or replace a party's obligation under the Data Protection Law.
- 15.3** The parties acknowledge that for the purposes of Data Protection Law, the Customer shall be the controller and Opal shall be a processor from the point any such personal data is transferred to (or otherwise shared) by the Customer to Opal ("**Customer Data**").
- 15.4** Without prejudice to the generality of clause 15.2, the Customer warrants to Opal that it has the legal right (including all necessary appropriate consents and notices) to disclose all personal data that it does in fact disclose to Opal under or in connection with these Terms and Conditions or any Contract, and that the processing of that personal data by Opal for the purpose of providing any Products, fulfilling any of its

obligations under the Contract, and complying with any of its legal and regulatory obligations in accordance with these Terms and Conditions (“**Permitted Purpose**”) will not breach any Data Protection Law.

15.5 If, notwithstanding the intentions of the parties set out at clause 15.3, Opal processes personal data as a controller, it shall comply with the provisions of the Data Protection Law imposed on a controller.

15.6 Opal shall, in relation to any personal data processed for the Customer in connection with a Contract or pursuant to these Terms and Conditions:

15.6.1 process that personal data only for the Permitted Purpose and otherwise in accordance with the lawful, reasonable and documented instructions of the Customer, unless Opal is required by the laws of any member of the European Union or by the laws of the European Union applicable to Opal to process personal data, in which case Opal shall, to the extent permitted by such law, inform the Customer of that legal requirement before processing that personal data;

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

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

15.6.4 ensure that it will not transfer personal data provided to it by the Customer outside of the European Economic Area (“**EEA**”) unless such transfer is undertaken in accordance with applicable Data Protection Law;

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

15.6.6 notify the Customer without undue delay on becoming aware of a personal data breach.

15.7 In relation to any person (including any third party but excluding an employee of Opal) appointed by or on behalf of Opal to process personal data on behalf of the Customer in connection with a Contract or these Terms and Conditions (each a “**Sub-processor**”):

15.7.1 Customer acknowledges and hereby authorises Opal to engage in connection with the performance of any Contract those Sub-processors set out in Schedule 1 (“**Approved Sub-processors**”) to these Terms and Conditions, which includes the identities of those Sub-processors and their country of location;

15.7.2 Opal may amend and update the Approved Sub-processors list by providing written notice to the Customer of any proposed new Sub-processor. The Customer may notify Opal promptly in writing within ten (10) Business Days after receipt of Opal’s notice if the Customer has a reasonable basis for objecting to a new Sub-processor. Opal shall not appoint (or disclose any Customer Data to) that proposed Sub-processor until reasonable steps have been taken to address the objections raised by the Customer and the Customer has been provided with a reasonable written explanation of the steps taken;

- 15.7.3** prior to giving any Sub-processor access to any personal data in respect of which the Customer is controller (“**Customer Data**”), Opal shall ensure that such Sub-processor has entered into a written agreement with Opal including terms in the contract between Opal and the Sub-processor which are substantially the same as those set out in this clause 15 and the requirements of article 28(3) of the GDPR; and Opal shall remain fully liable to the Customer for any failure by a Sub-processor to fulfil its obligations in relation to the processing of any Customer Data under the relevant Contract; and
- 15.7.4** to the extent that such sub-processing does not occur in the EEA, or in circumstances or a country that is the subject of a valid adequacy decision by the European Commission (“**Restricted Country**”), Opal may only authorise a Sub-processor to process Customer Data in a Restricted Country if, the Standard Contractual Clauses are at all relevant times incorporated into the agreement between on the one hand Opal and on the other hand the Sub-processor, or if requested by the Customer and required by Data Protection Law, procure that the Customer shall enter into (or procure that any relevant third party enters into) a data controller to data processor data transfer agreement, incorporating Standard Contractual Clauses.
- 15.8** The Customer acknowledges that Opal is reliant on the Customer as controller for direction as to the extent to which Opal is entitled to use and process Customer Data. Consequently, Opal will not be liable for any unauthorised or non-compliant use, loss, access or other processing of Customer Data (or any other personal data) or any claim brought by a data subject arising from any act or omission by Opal, to the extent that such action or omission resulted directly from the Customer’s instructions and/or the Customer’s failure to provide instructions. The Customer shall indemnify and hold Opal harmless against all losses, liabilities, costs (including reasonable legal costs), fees, expenses, actions, procedures, claims, demands and damages (including the amount of damages awarded by a court of competent jurisdiction or any penalties and fines levied by any governmental, regulatory or other competent authority that regulates and/or supervises any of Opal, the Customer and/or either of their activities (including activities of Customer using the Products)) that Opal suffers or incurs as a result of the Customer’s instructions, and/or the Customer’s failure to provide instructions (whether as a result of a claim by a data subject or otherwise).

16. Intellectual Property Rights

- 16.1** Nothing in these Terms and Conditions or any Contract shall operate to assign or transfer any Intellectual Property Rights from Opal to the Customer, or from the Customer to Opal. Notwithstanding the foregoing, Opal shall be entitled to use, develop and share knowledge, experience and skills of general application gained through performing the Services.
- 16.2** Opal shall, on payment in cleared funds of every part of the Charges relating to the Services, grant to the Customer to the extent that it is lawfully able to do so a non-exclusive, non-assignable, non-sub-licensable, perpetual, royalty free licence to use the Intellectual Property Rights in any product of the Services (the “**Licensed Rights**”) for the commercial business purposes identified in the Offer Document. The Licensed Rights shall not be used for any other purpose without the prior written consent of Opal and the grant of the licence shall not restrict or prevent Opal from using or licensing any of the Licensed rights (or any other Intellectual Property Rights of Opal) for any purpose whatsoever at any time.

17. Non-Solicitation of Personnel and Employment Liabilities

- 17.1** The Customer must not, without the prior written consent of Opal, either during the relevant Term or within the period of twelve (12) months following the end of the relevant Term, engage, employ or solicit for engagement or employment any Personnel of Opal who have been involved in any way in the negotiation or performance of a Contract.
- 17.2** The Customer agrees that if they breach the provisions of clause 17.1 by successfully soliciting, interfering with, procuring or enticing away any employee or contractor of Opal, they shall pay Opal promptly upon the

written demand of Opal a sum equivalent to half the annual salary or fees paid by Opal to the person so solicited immediately before that person leaves Opal's employment or ceases to be engaged by Opal.

- 17.3**The Customer agrees that the amount referred to in clause 17.2 represents a reasonable pre-estimate of the loss and damage which Opal would suffer in the event of the circumstances described in clause 17.2 arising.
- 17.4**The provisions of this clause 17 are without prejudice to the right of Opal to seek interim remedies through the court or otherwise in respect of the matters contemplated by it.
- 17.5**The parties agree that on the expiry or termination of a Contract, there will be no "relevant transfer" (as defined in the Transfer of Undertakings (Protection of Employment) Regulations 2006 ("**TUPE**")) and as a result, none of the Customer's employees, contractors or any other individuals ("**Customer Personnel**") shall transfer their employment to Opal, nor will any of Opal's employees, contractors or any other individuals ("**Opal Personnel**") transfer to the Customer. The Customer indemnifies Opal for all losses, liabilities, costs (including reasonable legal costs), fees, expenses, actions, procedures, claims, demands and damages (including the amount of damages awarded by a court of competent jurisdiction) incurred by Opal (including all salary, redundancy, pension, recruitment and other costs) if, pursuant to TUPE upon the termination or expiry of a Contract (and notwithstanding the provisions of this clause 17.5), either: (1) any Customer Personnel or other individuals do transfer to Opal; and/or (2) any Opal Personnel or other individuals do transfer to the Customer and/or to a new provider of services which are the same as, or similar to, the services provided by Opal under the relevant Contract.

18. General

- 18.1**The Contracts may not be transferred, assigned, subcontracted, licensed, charged or otherwise dealt with or disposed of (whether in whole or in part) by either party without the prior written consent of the other party (such consent not to be unreasonably withheld, conditioned or delayed), save that Opal may, after having given prior written notice to the Customer, assign and transfer all of its rights and obligations under a Contract: (i) for the sole purpose of a scheme for a solvent amalgamation; or (ii) to any person to which it transfers all of its business.
- 18.2**Any notice given under the Contract must be in writing and must be delivered personally or sent by recorded delivery or by email to the party to whom it is being given at the address, and marked for the attention of the person, specified in the Offer Document or to such other address, or marked for the attention of such other person, as the applicable party may from time to time notify to the other party in accordance with this clause 18.2. A notice delivered or sent in accordance with this clause 18.2 will be deemed to have been given, if delivered personally or by recorded delivery, at the time of delivery or, if sent by email, at the time of transmission and in proving the giving of a notice, it shall be sufficient to show that delivery was made or that the email was properly addressed and transmitted, as the case may be, save that email notices do not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.
- 18.3**Opal will not be liable to the Customer for any failure to perform or for any delay in performance under this Contract to the extent such non-performance or delay is caused by a Force Majeure Event, provided that if any period of failure or delay continues for more than 60 days the Customer will be entitled to terminate the Contract by notice in writing to Opal, in which case neither party shall have any further liability to the other (save for any rights and liabilities accrued prior to such termination).
- 18.4**No delay in exercising, or failure to exercise, any right, power or remedy provided by law or under this Contract shall be construed as a waiver of any such right, power or remedy.
- 18.5**Nothing in the Contract is intended to or shall operate to create a partnership between the parties, or authorise either party to act as agent for the other, and neither party shall have the authority to act in the name or on behalf of or otherwise to bind the other in any way (including, but not limited to, the making of

any representation or warranty, the assumption of any obligation or liability and the exercise of any right or power).

- 18.6** These Terms and Conditions and any Contract created under them represent the whole agreement and understanding between the parties relating to the Products and replaces all other arrangements, agreements, understandings, statements, representations, warranties, undertakings or promises (whether in writing or not) made between the parties on the subject (“**pre-contractual statements**”) including any heads of agreement related to the subject matter of these Terms and Conditions and/or the relevant Contract.
- 18.7** Without prejudice to Clause 18.6, each party warrants to the other that, in entering into a Contract, it has not relied on and shall have no remedy in respect of any pre-contractual statements. Nothing in clauses 18.6, 18.7, or otherwise in these Terms and Conditions or in any Contract, is intended to limit either party’s liability for fraud (including fraudulent misrepresentation).
- 18.8** The Customer acknowledges and confirms that they have had an opportunity to carry out a thorough due diligence exercise in relation to the supply of the Products, including asking questions they consider are relevant and making their own respective enquiries to satisfy themselves as to the accuracy and completeness of any information received including the completeness and accuracy of the Offer Document, and has raised all relevant due diligence questions with Opal before the relevant Commencement Date and has entered into the relevant Contract in reliance on its own due diligence.
- 18.9** If at any time any provision of these Terms and Conditions or any Contract is or becomes illegal, invalid or unenforceable, that shall not affect or impair the legality, validity or enforceability of any other provision of them. The parties shall use their respective reasonable endeavours to replace any illegal, invalid or unenforceable provision by a valid provision the effect of which is as close as possible to the intended effect of the invalid or unenforceable provision.
- 18.10** The Customer shall from time to time at its own cost do or procure the doing of all such acts and things, and execute or procure the execution of all such documents in a form reasonably satisfactory to Opal, which Opal may reasonably require for the purpose of giving full effect to these Terms and Conditions and any Contract created under them.
- 18.11** No person who is not a party to these Terms and Conditions or a Contract or shall have any right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of, or enjoy any benefit under, the Contract.
- 18.12** This Contract and any disputes or claims arising out of its subject matter or formation (including any non-contractual dispute or claim) shall be governed by and construed in accordance with English law.
- 18.13** Subject to clause 18.13, each party irrevocably submits to the exclusive jurisdiction of the courts of England and Wales and waives any objection which it may have now or in the future to the courts of England and Wales being nominated for the purpose of this Clause on the ground of venue or otherwise and agrees not to claim that any such court is not a convenient or appropriate forum.
- 18.14** Each party submits to the non-exclusive jurisdiction of the courts of England and Wales for the purposes of: (i) enforcing any judgment or award made by the courts of England and Wales or (ii) seeking emergency injunctive relief in any territory where the other party has disclosed or threatens or is likely to disclose any Confidential Information in breach of these Terms and Conditions or the relevant Contract Terms, in order to prevent, restrain or curtail such disclosure, or to prevent, restrain or curtail the infringement or unauthorised use of any of its Intellectual Property Rights.

19. Definitions and interpretation

- 19.1** In these Terms and Conditions, the following terms have the following meanings:

Business Day	any day other than a Saturday, Sunday or public holiday in England when banks in London are open for business;
Charges	the following amounts (as applicable): <ul style="list-style-type: none"> (a) the amounts specified in the Offer Document or Opal's quotation; and/or (b) such amounts as may be agreed in writing by the parties from time to time; and/or (c) amounts calculated by multiplying Opal's agreed time-based charging rates (as notified by Opal to the Customer from time to time) by the time spent by Opal's personnel performing the Services;
Commencement Date	the date set out in the Offer Document or, where no date is stated there, the earlier of the date that Opal executes the acknowledgement copy of the purchase order form or begins supplying the relevant Equipment, Software or Services (as applicable) to the Customer;
Confidential Information	any technical or commercial know-how, specifications, inventions, processes or initiatives, trade secrets other information which are of a confidential nature and have been disclosed by one party to the other (including the details of any Contract or Offer Document and/or these Terms and Conditions) received or obtained by a party that is proprietary or confidential information or part of the Intellectual Property Rights of the other party and: (i) is clearly labelled as such; or (ii) is otherwise clearly identified as such; or (iii) from its nature and/or the circumstances of its disclosure a reasonable person would infer that it is such;
Contract	the Customer's purchase order for any Products and the contract that is formed should Opal accept such purchase order pursuant to clause 1.2, which is subject to and incorporates the Contract Terms;
Contract Terms	has the meaning given to it at clause 1.2;
Customer	the person, who purchases Equipment, Software or Services (as applicable) from Opal;
Customer Responsibilities	any acts or activities identified in the Offer Document as being the responsibility of the Customer, together with such other acts which need to be performed by the Customer or other third parties engaged or directed by the Customer under the Contract in order for Opal to be able to carry out its obligations under these Terms and Conditions or any Contract;
Dare	until 25 May 2018, the national laws implementing the Data Protection Directive 95/46/EC and then, on and from 25 May 2018: (i) unless and until the General Data Protection Regulation (EU) 2016/679 ("GDPR") is no longer directly applicable in the UK, the GDPR and any national implementing laws, regulations and

	secondary legislation, as amended or updated from time to time in the UK and then; (ii) any successor legislation to the GDPR or the Data Protection Act 1998;
Data Protection Law	until 25 May 2018, the national laws implementing the Data Protection Directive 95/46/EC and then, on and from 25 May 2018: (i) unless and until the General Data Protection Regulation (EU) 2016/679 (“ GDPR ”) is no longer directly applicable in the UK, the GDPR and any national implementing laws, regulations and secondary legislation, as amended or updated from time to time in the UK and then; (ii) any successor legislation to the GDPR or the Data Protection Act 1998;
Equipment	the equipment agreed in the Contract to be purchased by the Customer from Opal (including without limitation any part or parts of it) as may be set out in an Offer Document;
Force Majeure Event	an event, or a series of related events, that is outside the reasonable control of the party affected (including failures of the internet or any public telecommunications network, hacker attacks, denial of service attacks, virus or other malicious software attacks or infections, power failures, industrial disputes affecting any third party, changes to the law, disasters, explosions, fires, floods, riots, terrorist attacks and wars);
Incoterms	the standard commercial terms published by the International Chamber of Commerce (ICC) relating to international commercial law;
Initial Term	the initial term of the Contract as expressly set out in the Offer Document;
International Supply Contract	means such a contract as is described in section 26(3) of the Unfair Contract Terms Act 1977;
Intellectual Property Rights	patents, rights to inventions, copyright and related rights, trademarks, trade names, domain names, rights in 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;
Insolvency Event	that a person: <ul style="list-style-type: none"> (a) is unable to pay its debts or becomes insolvent or bankrupt or ceases to trade; (b) is the subject of an order made or a resolution passed for the administration, winding-up or dissolution (otherwise than for the purpose of a solvent amalgamation or

	<p>reconstruction, which does not materially reduce that entity's assets);</p> <p>(c) has an administrative or other receiver, manager, trustee, liquidator, administrator, or similar officer appointed over all or any substantial part of its assets;</p> <p>(d) enters into or proposes any composition or arrangement with its creditors generally (otherwise than for the purpose of a financing or solvent amalgamation or reconstruction, which does not materially reduce the entities' assets); or</p> <p>(e) is the subject of any events or circumstances analogous to any of the foregoing in any applicable jurisdiction;</p>
Mandatory Policies	Opal's mandatory policies and procedures as shall be notified by Opal to the Customer in writing from time to time;
Normal Working Hours	08:30 to 17:30 GMT/BST (as applicable) on a Business Day;
Offer Document	the document(s) provided in writing by Opal to the Customer setting out the description or specification of the relevant Products that will be provided by Opal to the Customer (including any Offer Document deemed to be accepted by the Customer pursuant to clause 1.3), which may be presented by Opal in the form of a quotation, pro forma invoice, proposal or such other written format as Opal may reasonably elect to use, and which may include a Project Plan;
Opal	Opal IT Limited, a company registered in England and Wales (registration number 7079886) having its registered office at Media One, Coquet Street, Newcastle upon Tyne, NE1 2QB;
Products	means, as the context requires, any Equipment, Software or Services, or a combination of all or any of them;
Project Plan	the plan describing the Equipment, Software or Services (as applicable) and setting out the estimated timetable, responsibilities and any applicable Project Milestones for the provision of the same by Opal;
Project Milestone	the date by which a part of the Equipment, Software or Services (as applicable) are estimated to be completed, as set out in the Project Plan;
Renewal Term	any additional term of a Contract following a renewal under the provisions of clause 14;
Representative	in relation to a party, its employees, officers, representatives and advisors;
Services	the services that Opal agrees to supply to the Customer under a Contract (which may include Support Services) as may be set out in the Offer Document;

Software	software that Opal agrees to supply to the Customer under a Contract (which may comprise Third Party Software) as may be set out in the Offer Document;
Standard Contractual Clauses	the standard contractual clauses for the transfer of personal data to processors established in third countries which do not ensure an adequate level of protection as set out in Commission Decision C(2010) 593, as updated and amended;
Supplemental Terms	any supplemental terms supplied to the Customer by Opal in respect of certain Services which supplement and (unless expressly stated otherwise) incorporate these Terms and Conditions;
Support Services	has the meaning given in clause 3.2.1;
Term	the term of a Contract as set out in clause 14.1;
Third Party Software	that software the rights in which are owned in whole or in part by one or more third parties that Opal agrees to supply to the Customer under a Contract as may be set out in the Offer Document;
Third Party Software Licence	the Third Party Software Vendor's licensing terms for the Third Party Software from time to time; and
Third Party Software Vendor	a third party that has granted to Opal the right to distribute the Third Party Software and resell licences for the Third Party Software.

19.2 Unless stated otherwise, terms in any Offer Document or Supplemental Terms shall have the same meanings as are given to them in these Terms and Conditions;

19.2.1 references to clauses and schedules are to clauses of, and schedules to, these Terms and Conditions (including as the same may be incorporated into a Contract);

19.2.2 references to the singular include the plural and vice versa and references to one gender include all genders;

19.2.3 references to a "**person**" include any company, partnership or unincorporated association (whether or not having separate legal personality) and references to a "**company**" include any company, corporation or other body corporate (wherever and however incorporated or established);

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

19.2.5 subject to clause 18.2 (which specifies that service of any proceedings or other documents in any legal action may not be served by email), a reference to "writing" or "written" includes emails (but not faxes)

and each party warrants that it has the ability to open Adobe PDF files.

19.2.6 the words "include(s)" and "including" are to be construed as if followed by the words "without limitation"; and

19.2.7 references to a "month" are to a calendar month.

19.3 The schedules form part of these Terms and Conditions and shall have the same force and effect as if set out in the body of these Terms and Conditions and any reference to these Terms and Conditions shall include the schedules.

19.4 The headings in Terms and Conditions are included for convenience only and shall be ignored in interpreting the Contract.

Identity	Country of Location	Type of Data Processed
Opal's credit card payment suppliers (payments are not processed by Opal)	United Kingdom	Credit card / Direct Debit Processing
Analytics companies, including Google	United States, United Kingdom, Ireland, Netherlands	Analytics data
Third party support providers, to whom technical and other queries may need to be escalated to resolve issues and queries arising under Contracts	United Kingdom, United States, Ireland	Processing which may be necessary to provide support on products or services offered by Opal time to time in accordance with a Contract.



TALK TO US

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