

## UPDATED JANUARY 2020

### 1. QUOTATION

- 1.1 OWA will provide the Customer with a Quotation setting out the Services to be provided which will constitute a valid offer to the Customer for a period of 30 Business Days from its date of issue, after which it shall not longer constitute a valid offer.
- 1.2 The Quotation is deemed to be accepted when the Customer accepts the Quotation in writing.
- 1.3 In the event some but not all of the Services set out in the Quotation are accepted by the Customer, OWA shall only be obliged to provide those Services agreed as being provided.
- 1.4 The definitions that apply to this agreement and the Quotation are set out in Schedule 1.

### 2. PERFORMANCE OF THE SERVICES

- 2.1 OWA will provide the Services to the Customer in accordance with this Agreement and the specific terms relevant to the Services being provided as set out in the Quotation.
- 2.2 The Services may be performed by instalments. Any delay or defect in an instalment will not entitle the Customer to cancel any other instalment.
- 2.3 Time is not of the essence unless specifically agreed in the Quotation. OWA will use its reasonable endeavours to meet such dates but they are approximate only.
- 2.4 OWA will not be liable for any delay in or failure to provide the Services caused by:
  - (a) the Customer's failure to provide OWA with adequate instructions for performance, delivery or otherwise relating to the Services; or
  - (b) Force Majeure Event.

### 3. CUSTOMER'S OBLIGATIONS

The Customer:

- 3.1 will co-operate with OWA in all matters relating to the Services;
- 3.2 will provide OWA with such information and materials as OWA requires in order to supply the Services, and warrants that such information and all information it discloses to OWA is accurate and complete in all respects and that it is entitled to disclose the same to OWA and further that OWA is lawfully entitled to use the same in providing the Services;
- 3.3 will obtain and maintain all necessary licences, permissions and consents which may be required before the date on which the Services are to start;
- 3.4 acknowledges that OWA will not be required to publish or use any material which in its opinion is or may be illegal or illegal to publish or use, defamatory or infringe any third party's proprietary or other rights and the Customer warrants and undertakes that it will not provide any material of that nature to OWA; and
- 3.5 will indemnify and keep indemnified OWA against all losses and liabilities of whatever nature resulting from a breach of this clause 3.

### 4. WARRANTY

- 4.1 OWA warrants that:

- (a) it has the right, power and authority to enter into this Agreement and grant to the Customer the rights contemplated in this Agreement and to supply the Services;
  - (b) the Service will be supplied with reasonable care and skill; and
  - (c) the Deliverables will be of satisfactory quality within the meaning of the Sale of Goods Act 1979.
- 4.2 OWA does not warrant or represent that the Services or Deliverables will be free from errors or interruption.
- 4.3 The warranties in this clause are subject to the Customer giving notice to OWA as soon as it is reasonably able upon becoming aware of the breach of warranty. When notifying OWA of a breach the Customer will use its reasonable endeavours to provide OWA with such documented information, details and assistance as OWA may reasonably request.
- 4.4 OWA will not be liable under this clause or be required to remedy any problem arising from or caused by the Customer's use of the Service in a manner other than as directed by OWA.
- 4.5 The Customer acknowledges and agrees that:
  - (a) OWA is not and cannot be aware of the extent of any potential loss resulting from any failure by OWA to discharge its obligations under this Agreement;
  - (b) it is the Customer's responsibility to ensure the facilities and functions of the Service meet the Customer's requirements and will not cause any error or interruption in the Customer's own software or systems.

## **5. FAILURE OR DELAY IN PERFORMANCE**

- 5.1 If OWA is prevented or delayed in performing the Services by any cause attributable to the Customer, OWA (without prejudice to its other rights):
  - (a) may suspend performance of the Services until the Customer remedies its default;
  - (b) will not be liable for any costs or losses sustained by the Customer as a result of such suspension; and
  - (c) may charge the Customer (and the Customer will pay under this Agreement) costs or losses incurred by OWA arising from the Customer's default, subject to clause 9.

## **6. ACCEPTANCE**

- 6.1 OWA will perform the Acceptance Tests of the Application and/or Equipment as set out in the Quotation (if any).
- 6.2 If the Application or Equipment being tested perform the agreed testing criteria for the Acceptance Tests, it will be deemed to have passed the Acceptance Tests. Where no Acceptance Tests have been agreed, the Customer will be deemed to have accepted the Application or the Equipment (as the case may be) within 30 days after OWA first delivers it or makes it available to the Customer
- 6.3 If the Application or Equipment fails to pass the Acceptance Tests, the Customer will cooperate with OWA in identifying in what respects it failed to conform to the Quotation or otherwise failed to pass the Acceptance Tests. The Application will not be deemed to have failed the Acceptance Tests by reason of any failure to provide any facility or function not specified in the Quotation or other agreed test standards.
- 6.4 If the Application or the Equipment fails to pass the Acceptance Tests, OWA will be given a reasonable opportunity to correct Defects or to replace it and to carry out repeat tests. This process will be repeated

as often as is necessary until OWA confirms to the Customer that the Application or the Equipment (as the case may be) has passed the Acceptance Tests.

- 6.5 Customer's Acceptance of the Application or Equipment will occur at the earliest of:
- (a) the Application passing the Acceptance Tests in accordance with this clause; and
  - (b) the Application being used in a live environment or in commercial use.

## **7. PRICE**

- 7.1 The Prices payable by the Customer in respect of any Quotation are contained in the Quotation and may be increased by OWA under clauses 7.3 and 7.4.
- 7.2 All amounts in this Agreement are exclusive of VAT which will be added to all invoices at the applicable rate.
- 7.3 OWA will increase prices annually in line with the Consumer Price Index (CPI) for Services provided on a recurring basis but may also increase the Prices at any time by giving the Customer not less than 30 days' notice in writing.
- 7.4 Notwithstanding clause 7.3, OWA may increase the Prices with immediate effect by written notice to the Customer where there is an increase in the direct cost to OWA of supplying the relevant Services and which is due to any factor beyond the control of OWA.
- 7.5 The Customer will reimburse OWA all disbursements and expenses which OWA properly incur in relation to performing the Services. Prices quoted are exclusive of travel expenses. Public transport, parking, congestion charge and toll expenses will be charged at cost. Car mileage is charged at 50p per mile.

## **8. PAYMENT**

- 8.1 OWA will issue an invoice in respect of Services relating to project development, when the project has been released to the Customer for review. The invoice will be for the total project amount, or for items which have been completed and released to the Customer for review.
- 8.2 Invoices in respect of Services relating to hosting and support are issued annually in advance and are payable prior to the commencement of the Services.
- 8.3 For Customers who do not have a trading history with OWA, OWA reserve the right to request payment in full for Services relating to hardware and software provision and 20% of the overall project development costs for Services relating to project development at the time the order is placed.
- 8.4 The Customer will pay all invoices:
- (a) in full in cleared funds within 30 days of the date of each invoice; and
  - (b) to the bank account nominated in writing by OWA.
- 8.5 Time of payment is of the essence. Where sums due hereunder are not paid in full by the due date:
- (a) OWA may, without limiting its other rights, charge interest on such sums at 4% per annum above HSBC's base rate from time to time; and
  - (b) interest will accrue on a daily basis, and apply from the due date for payment until actual payment in full, whether before or after judgment; and
  - (c) OWA reserves the right to suspend or withdraw Services.

## 9. LIMITATION OF LIABILITY

- 9.1 Nothing in this Agreement will limit or exclude OWA's liability for:
- (a) death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors;
  - (b) fraud or fraudulent misrepresentation; or
  - (c) any other losses which cannot be excluded or limited by applicable law.
- 9.2 Subject to clause 9.1, OWA will not be liable to the Customer, whether in contract, tort (including negligence), for breach of statutory duty, or otherwise, arising under or in connection with this Agreement for: loss of profits, sales or business, opportunity, anticipated savings, software, data or information, damage to goodwill or any indirect or consequential loss.
- 9.3 Subject to clause 9.1, OWA's total liability to the Customer whether in contract, tort (including negligence), breach of statutory duty, or otherwise, under or in connection with the Agreement will be limited to the higher of: (i) the Price paid by the Customer under that Quotation; or (ii) £100,000.
- 9.4 The terms implied by sections 3 to 5 of the Supply of Goods and Services Act 1982 are, to the fullest extent permitted by law, excluded from this Agreement.

## 10. TERM

- 10.1 This Agreement will commence from the date that a Quotation is first issued to the Customer (**Commencement Date**)
- 10.2 The term of this Agreement will be set out in the Quotation, unless terminated earlier in accordance with clause 11.1 (**Term**).
- 10.3 Where the Services are noted in the Quotation as annual Services, the Term will automatically renew after the initial term for a 12 month period unless either party provides written notice to the other party at least 90 days prior to the expiry of the Term or this Agreement is terminated earlier in accordance with clause 11.1.

## 11. TERMINATION OR SUSPENSION

- 11.1 OWA may suspend the performance of its obligations or terminate this Agreement at any time if:
- (a) the Customer fails to pay any amount due to OWA under this Agreement or otherwise on the due date and such amount remains unpaid 5 Business Days after the Customer has received a written notification from OWA that the payment is overdue.
  - (b) the Customer commits a material breach of this Agreement and such breach is not remediable;
  - (c) the Customer commits a material breach of this Agreement which is not remedied within 14 days of receiving written notice of such breach;
  - (d) the Customer suffers an Act of Insolvency.
- 11.2 On termination of this Agreement for any reason:
- (a) the Customer will immediately pay all outstanding invoices to OWA;
  - (b) OWA will promptly invoice the Customer for all Services performed but not yet invoiced and payment for such invoices will be due immediately on receipt by the Customer;

- (c) the Customer will within 5 Business Days return: (i) any materials of OWA then in its possession or control; (ii) any licences granted will be terminated; and (iii) any Deliverables the Customer has not yet paid in full; if it fails to do so, OWA may enter any premises owned by or under the control of the Customer and take possession of them;
- (d) the Customer will erase all copies of the Deliverables from any computer system in its possession or control, and the Customer will certify to OWA that this has been complied with; and
- (e) the accrued rights and liabilities of OWA (including any rights in relation to breaches of contract) will not be affected.

11.3 The following clauses of this Agreement will survive termination, howsoever caused:

- (a) clause 9 (limitation of liability);
- (b) clause 11.2 (termination);
- (c) clause 12 (confidential information);
- (d) clause 17 (dispute resolution);
- (e) clause 19 (notices);
- (f) clause 29 (third party rights); and
- (g) clauses 30 (governing law and jurisdiction)

together with any other provision of this Agreement which expressly or by implication is intended to survive termination.

## 12. CONFIDENTIAL INFORMATION

- 12.1 If either party (**Disclosing Party**) makes Confidential Information available to the other party (**Receiving Party**), the Receiving Party will maintain the confidentiality of such information, and will not disclose it to any third party.
- 12.2 If required to make a disclosure by law, regulation or order of a court of competent jurisdiction, the Receiving Party will immediately notify the Disclosing Party in writing of any request or requirement for disclosure and of all relevant surrounding circumstances. If the Receiving Party is unable so to notify the Disclosing Party before such disclosure is required, it will notify the Disclosing Party immediately after the disclosure has been made. The Receiving Party will use all reasonable endeavours to resist any requirement for disclosure (and to assist the Disclosing Party in resisting the requirement for disclosure) and to maintain the confidentiality of the Confidential Information.
- 12.3 The Customer will not make any public announcement or issue any press release relating to the Services without OWA's written consent.

## 13. INTELLECTUAL PROPERTY RIGHTS

- 13.1 All Intellectual Property Rights in any part of the Service belong to and will remain vested in OWA. To the extent that the Customer acquires any Intellectual Property Rights in any part of the Service, the Customer will assign or procure the assignment of such Intellectual Property Rights with full title guarantee (including by way of present assignment of future Intellectual Property Rights) to OWA. The Customer will execute all such documents and do such things as OWA may consider necessary to give effect to this clause.

- 13.2 OWA will indemnify the Customer from and against all losses which are suffered by the Customer in the event that its use of the Service infringes the Intellectual Property Rights of any third party (**OWA IPR Claim**) provided that OWA will have no such liability if the Customer:
- (a) has caused or contributed in any material way to the OWA IPR Claim by not using the Service in accordance with this Agreement;
  - (b) does not notify OWA in writing setting out full details of any OWA IPR Claim of which it has notice as soon as is reasonably possible;
  - (c) makes any admission of liability or agrees any settlement or compromise of the relevant OWA IPR Claim without the prior written consent of OWA;
  - (d) does not let OWA at its request and own expense have the conduct of or settle all negotiations and litigation arising from the relevant OWA IPR Claim; or
  - (e) does not, at OWA's request and own expense, give OWA all reasonable assistance in the circumstances described above.
- 13.3 If any OWA IPR Claim is made or is reasonably likely to be made against the Customer, OWA will promptly and at its own expense either:
- (a) procure for the Customer the right to continue using the Service; or
  - (b) modify or replace the infringing part of the Service, and without adversely affecting the functionality of the Service as set out in this Agreement so as to avoid the infringement or alleged infringement. Together with the indemnity given above, this will be the Customer's sole and exclusive remedy in respect of the Service infringing Intellectual Property Rights.
- 13.4 The Customer will indemnify and keep indemnified, and hold harmless, OWA against all claims, losses damages, costs and expenses incurred by OWA as a result of or in connection with any action, demand or claim that infringes the Intellectual Property Rights of any third party.

## 14. COMPLIANCE WITH LAWS

- 14.1 Both parties will comply with the provisions of the Bribery Act 2010, including ensuring that each party:
- (a) does not make or receive any bribe or other improper payment, or allow any to be made on its behalf;
  - (b) has in place adequate procedures to prevent bribery and corruption and ensure compliance with the Bribery Act 2010; and
  - (c) takes reasonable steps to ensure that its personnel, sub-contractors and all others associated with that Party comply with such policies and/or procedures.

For the purposes of this clause 14.1, the expressions "bribery", "adequate procedures" and "associated" will be construed in accordance with the Bribery Act 2010 and all documents published under it.

- 14.2 Both parties will:
- (a) insofar as they are data controllers of personal data for the purposes of the Data Protection Act 1998 or General Data Protection Regulations (**DP Laws**), comply with their obligations under the DP Laws;
  - (b) to the extent that either party is a data processor under the DP Laws, process any personal data:

- (i) solely as instructed by the applicable data controller so as to perform its obligations under this Agreement; and
- (ii) in accordance with the data protection principles set out in the DP Laws;
- (c) provide such reasonable assistance to the other in respect of any subject access request or request for information from a regulatory body or other competent authority;
- (d) take such steps as are standard in the industry to protect the personal data received under this Agreement;
- (e) ensure that all personal data is accurately recorded and promptly amended if inaccurate;
- (f) not transfer any personal data to any third party (apart from companies within the same group as either of the Parties); and
- (g) at the option of the applicable data controller, delete or destroy the personal data in its possession on termination of this Agreement.

For the purposes of this clause 14.2, the expressions “data controller”, “personal data”, “data processor” and “data protection principles” will be construed in accordance with the DP Laws.

## **15. NON-SOLICITATION**

- 15.1 The Customer agrees that for the period when OWA is providing any Services to the Customer and ending 6 months after the termination of this Agreement, it will not itself or through any other person, firm or company directly or indirectly and whether on its own behalf or for on behalf of any other person, firm or company solicit or otherwise attempt to entice away from the employment of OWA’s employees engaged or involved in the provision of Services under this Agreement provided that this clause will not apply to employees of OWA with whom the Customer has had no contact during the 12 months prior to any such solicitation or attempt.
- 15.2 Any employment resulting from an unsolicited response by an employee of OWA to a public advertisement by the customer will not be regarded as solicitation for the purposes of clause 15.1.
- 15.3 If the Customer breaches clause 15.1, it will pay an amount equal to 33% of the annual cost of remuneration of such employee by way of liquidated damages and the parties hereby confirm their agreement that the amount due under this clause 15.3 is a reasonable pre-estimate of the loss which OWA would sustain as a result of the Customer’s breach of clause 15.1 but does not prevent a claim from greater than that amount being made by OWA.

## **16. CHANGE NOTICE**

- 16.1 Changes to the Services will take place in accordance with the following Change Procedure. Either party may submit at any time a request for Change to the other party.
- 16.2 Where OWA originates a Change, it will provide the Customer with the Change request and a Change Notice.
- 16.3 Where the Customer originates a proposed Change, it will provide OWA with such information (as is within Customer’s reasonable possession or control) which OWA reasonably considers is relevant to such Change or may assist OWA in the preparation of a Change Notice. OWA will provide Customer within 14 days of receiving the request for a Change (or such other period as may be agreed between the parties) with a Change Notice.

- 16.4 If the Change is either required by law or is due to any factor beyond the control of OWA, OWA will make the Change without the Customer
- 16.5 The recipient of a Change request will act reasonably and in good faith in deciding whether to accept or decline it in its sole discretion, but in any event do so within 4 weeks of receipt of the Change request (or such later time as may be agreed) indicating acceptance of the change, or setting out in full its reasons for declining.
- 16.6 Where the Customer and OWA agree to implement a Change, the costs of implementing a Change will be paid in addition to the amounts due for providing the Services, relevant deliverables or allocation of resources associated with the Change (if any) as set out in the Change Notice.
- 16.7 The parties will have no obligations in respect of a Change Notice unless they expressly agree to do so by them both executing the Change Notice or otherwise agree to do so in writing.

## **17. DISPUTE RESOLUTION**

- 17.1 Any dispute arising between the parties out of or in connection with this Agreement will be dealt with in accordance with the provisions of this clause 17.
- 17.2 The dispute resolution process may be initiated at any time by either party serving a notice in writing on the other party that a dispute has arisen. The notice will include reasonable information as to the nature of the dispute.
- 17.3 The parties will use all reasonable endeavours to reach a negotiated resolution through the following procedures:
  - (a) Within 10 days of service of the notice, the contract managers of the parties will meet to discuss the dispute and attempt to resolve it.
  - (b) If the dispute has not been resolved within 10 days of the first meeting, then the matter will be referred to the Chief Executives (or persons of equivalent seniority). They will meet within 10 days to discuss the dispute and attempt to resolve it.
- 17.4 The specific format for the resolution of the dispute under clause 17.3 (a) and, if necessary, clause 17.3 (b) will be left to the reasonable discretion of the parties, but may include the preparation and submission of statements of fact or of position.
- 17.5 Until the parties have completed the steps referred to in clause 17.3, and have failed to resolve the dispute, neither party will commence formal legal proceedings or arbitration except that either party may at any time seek urgent interim relief from the courts or emergency arbitrator relief.

## **18. ENTIRE AGREEMENT**

- 18.1 This Agreement contains the entire agreement between the parties relating to its subject matter and supersedes any prior agreements, representations or understandings between them unless expressly incorporated by reference in this Agreement.
- 18.2 Each party acknowledges that it places no reliance on, and will have no remedy in respect of, any representation (whether innocent or negligent) made but not expressly embodied in this Agreement.
- 18.3 Nothing in this Agreement limits or excludes any liability for fraud or fraudulent misrepresentation.



## **19. NOTICES**

19.1 Notices under this Agreement will be in writing, addressed to that party at its registered address or such other address as that party may have specified to the other in writing. They may be given, and will be deemed received:

- (a) by first class post: two Business Days after posting;
- (b) by hand: on delivery; and
- (c) by email: on receipt, provided it is sent to a number/address that has been previously notified to the sending Party between the hours of 0800 and 1800 on a Business Day and is clearly marked as containing a notice under this Agreement.

19.2 In proving the giving of a notice it will be sufficient to prove that the notice was left, or that the envelope containing the notice was properly addressed and posted, or that the applicable means of telecommunication was addressed and despatched and despatch of the transmission was confirmed and/or acknowledged as the case may be.

## **20. FORCE MAJEURE**

20.1 A party will not be liable if delayed in or prevented from performing its obligations due to a Force Majeure Event provided that it promptly notifies the other party of the Force Majeure Event (and its expected duration) and uses all reasonable endeavours to minimise the effects of such an event.

20.2 If, due to a Force Majeure Event, a party is, or will be, unable to perform a material obligation under this Agreement, or is delayed in such performance for a continuous period of one month (or such other period as set out in the Quotation) the other party may give notice to terminate this Agreement immediately.

## **21. FURTHER ASSURANCE**

Each party will, at its own cost, do all acts and execute all further documents as are reasonably necessary to give full effect to this Agreement.

## **22. VARIATION**

No variation of this Agreement will be valid or effective unless it is in writing and signed by the parties.

## **23. ASSIGNMENT**

23.1 OWA may at any time assign, transfer, charge, subcontract or deal in any other manner with all or any of its rights under this Agreement and may subcontract or delegate in any manner any or all of its obligations under this Agreement to any third party or agent.

23.2 The Customer will not, without OWA's prior written consent assign, charge, subcontract, declare a trust over or deal in any other matter with its rights or obligations under this Agreement.

## **24. SET OFF**

Each party will pay all sums that it owes to the other party under this Agreement without any set-off, counterclaim, deduction or withholding of any kind, save as may be required by law.

## **25. NO PARTNERSHIP OR AGENCY**

The parties are independent businesses and not partners, principal and agent, or employer and employee, or in any relationship of trust, or in any other relationship other than the contractual relationship set out in this Agreement.

## **26. SEVERANCE**

If any provision of this Agreement is prohibited by law or judged by a court to be unlawful, void or unenforceable, the provision will, to the extent required, be severed from this Agreement and rendered ineffective as far as possible without modifying the remaining provisions of this Agreement, and will not in any way affect any other circumstances of or the validity or enforcement of this Agreement.

## **27. WAIVER**

Unless otherwise agreed in writing, no delay, act or omission by either party in exercising any right or remedy will be deemed a waiver of that, or any other right or remedy

## **28. CONFLICTS WITHIN AGREEMENT**

If there is a conflict between the terms contained in the main body of this Agreement and the terms of the schedules, appendices or annexes to this Agreement, the terms of the main body of the Agreement will prevail.

## **29. THIRD PARTY RIGHTS**

No term of this Agreement is intended to confer a benefit on a third party who is not a party to it.

## **30. GOVERNING LAW AND JURISDICTION**

This Agreement and any dispute or claim arising out of, or in connection with, it, its subject matter or formation (including non-contractual disputes or claims) will be governed by, and construed in accordance with, the laws of England and Wales and the parties agree that the courts of that jurisdiction will have exclusive jurisdiction to settle any such dispute or claim.

## SCHEDULE 1 - DEFINITIONS

### 1. DEFINITIONS AND INTERPRETATION

1.1 In this Agreement:

**Acceptance** takes place when the Application or the Equipment (as the case may be) passes the Acceptance Tests or is deemed to do so under clause 6;

**Acceptance Tests** means the agreed tests in accordance with this Agreement and Quotation to assess whether the Application conforms with the Quotation;

**Act of Insolvency** when a party:

- a) is the subject of a proposal for a voluntary arrangement;
- b) is the subject of an administration order;
- c) has an administrative or other receiver appointed over the whole or any part of its assets;
- d) passes a resolution for its winding up, is the subject of a petition presented for its winding up, or is the subject of a winding up or dissolution other than the voluntary winding up of a solvent company for the purposes of amalgamation or reconstruction;
- e) enters into any kind of composition scheme, arrangement compromise or arrangement for the benefit of its creditors;
- f) ceases, or threatens to cease, trading; or

undergoes any action that is similar to the above in any other jurisdiction;

**Agreement** the contract between OWA and the Customer for the supply of Services in accordance with this Agreement together with the Quotation;

**Application(s)** any web application, application, mobile application, website, extranets and intranets;

**Application Software** OWA's software that it incorporates in an Application which it has developed for the Customer.

**Business Day:** any day except Saturday, Sunday and public holidays in England;

**Change** a change, amendment or alteration to the Services;

**Change Notice** means a written notice which details the impact the proposed Change will have on any part of the Services;

**Change Procedure** means the procedure for agreeing Changes as set out in clause 16;

<b>Commencement Date:</b>	has the meaning set out in clause 10.1;
<b>Confidential Information:</b>	<p>all information which is by its nature confidential, whether in tangible or intangible form, and whether or not specified to be confidential, including all know-how, trade secrets, or materials, conceptions, inventions, developments, improvements, designs, techniques, technical and other data, market information, including sales, costs, prices, current or prospective customers and suppliers, forecasts, marketing and any commercial and financial, technical and business strategic plans already disclosed or to be disclosed to one party by the other, but excluding:</p> <ol style="list-style-type: none"><li>a) information which, at the time of receipt, is in the public domain;</li><li>b) information that becomes generally known to the public after disclosure through no act or omission of either party;</li><li>c) information which was already known by the receiving party prior to disclosure through no breach of duty of confidentiality; or</li><li>d) information for which permission to disclose has been given;</li></ol>
<b>Consultancy Services</b>	the consultancy, requirements analysis, system specification, system architecture, system testing, system accessibility auditing and reporting, technical writing, database design and administration, system set up and configuration, application programming, design development, training and project management services (if any) provided by OWA to the Customer;
<b>Content</b>	any and all information, data, graphics, pictures, photographs, images (moving and still), documents, text, literary or artistic work, software, designs, music, broadcasts (sound and visual), and any other material that is, from time to time, provided by the Customer to OWA, published on the Application, inputted by the Customer or any User into any system that OWA hosts for the Customer, or sent to or from any such system;
<b>Customer</b>	the organisation or person being provided the Services as set out in the Quotation;
<b>Customer's System</b>	the software, systems and infrastructure owned by the Customer or leased or licensed to the Customer and accommodated at OWA's premises;
<b>Defect</b>	a failure to comply in a material respect with the Services and "defective" is to be construed accordingly;
<b>Disaster</b>	an accident, act of God or other unexpected or unplanned event that renders the Application inaccessible or un-useable;

<b>Deliverables:</b>	means any equipment, deliverables or goods, to be supplied by OWA to the Customer;
<b>Equipment</b>	means any equipment to be supplied by OWA to the Customer;
<b>Force Majeure Event:</b>	any event, or sequence of events, that is beyond the reasonable control of a party;
<b>Harmful Element</b>	any virus, worm, time bomb, time lock, drop dead device, trap and access code or anything else that might disrupt, disable, harm or impede the operation of any information system, or that might corrupt, damage, destroy or render inaccessible any software, data or file on, or that may allow any unauthorised person to gain access to, any information system or any software, data or file on it;
<b>Hosting Services</b>	the hosting services (if any) listed in the Quotation;
<b>Intellectual Property Rights:</b>	means copyright, patents, rights in inventions, rights in confidential information, know-how, trade secrets, trade marks, service marks, trade names, design rights, rights in get-up, database rights, rights in data, semi-conductor chip topography rights, mask works, utility models, domain names, rights in computer software and all similar rights of whatever nature and, in each case: (i) whether registered or not, (ii) including any applications to protect or register such rights, (iii) including all renewals and extensions of such rights or applications, (iv) whether vested, contingent or future and (v) wherever existing;
<b>Quotation:</b>	has the meaning given to it in clause 1.2;
<b>Location</b>	the premises to which the Equipment is to be delivered;
<b>Naming Authority</b>	ICANN or any equivalent body; any registry responsible for any type of domain name; and any registry gateway provider responsible for any type of domain names;
<b>OWA:</b>	OWA Digital Ltd. is a limited company registered in England and Wales under company number 03104307 and its registered address at North Bastle, Tarsset, Hexham, NE48 1NG.
<b>Price:</b>	means the price of any of the Services determined under clause 7;
<b>Services:</b>	means, as the context permits, (i) the services listed in the Quotation (ii) any other services agreed to be supplied to the Customer by OWA pursuant to a Quotation or in writing, together with the Deliverables;
<b>Software Product</b>	any software product that OWA supplies to the Customer, excluding any Application Software;
<b>Stage</b>	a stage or time for payment as set out in the Quotation;

<b>Support Hours</b>	the number of support hours per month included as set out in the Quotation;
<b>Support Incident</b>	a request for Support Services submitted by the Customer;
<b>Support Services</b>	the support services (if any) listed in the Quotation;
<b>Support Year</b>	12 months beginning on the Commencement Date for the Support Services, or an anniversary of that date;
<b>Specification</b>	the specification for the Services agreed between the parties and set out in writing;
<b>Term</b>	has the meaning set out in clause 10.2;
<b>User</b>	any individual employed or engaged by the Customer, any individual allowed by the Customer to use any Software Product or to post any Content on the Application, and anyone who has access to any Software Product or the Application by using any of the Customer's passwords or IDs;

1.2 In this Agreement:

- (a) a reference to this Agreement includes its schedules, appendices and annexes (if any);
- (b) any words that follow 'include', 'includes', 'including', 'in particular' or any similar words and expressions will be construed as illustrative only and will not limit the sense of any word, phrase, term, definition or description preceding those words;
- (c) any clause, schedule or other headings in this Agreement are included for convenience only and will have no effect on the interpretation of this Agreement; and
- (d) a reference to legislation is a reference to that legislation as amended, extended, re-enacted or consolidated from time to time except to the extent that any such amendment, extension or re-enactment would increase or alter the liability of a party under this Agreement.