

Supplier Audit (2nd Party) (Auditee) Terms of Service

1. The Agreement will commence on the date Client signifies acceptance of the Agreement, which may be through electronic confirmation or otherwise, and shall continue until the completion of the Services unless terminated earlier in accordance with this Agreement.
2. BSI shall provide the Services in accordance with the Client's audit requirements agreed prior to execution of this Agreement ("**Requirements**"), BSI's Code of Business Ethics available on BSI's website, and in compliance with applicable laws.
3. BSI shall use reasonable endeavours to meet the dates set out in this Agreement for performing the Services ("**Performance Dates**") but any such dates shall be estimates only and time for performance by BSI shall not be of the essence of this Agreement.
4. BSI shall appoint appropriately qualified and trained personnel to perform the Services. BSI may replace any such personnel from time to time where reasonably necessary in the interests of BSI's business.
5. For the avoidance of doubt, BSI may, in its sole and absolute discretion, withhold the issuance of the Deliverables if, in BSI's reasonable opinion, the Auditee does not comply with the Requirements, the Client and/or the Auditee is in breach of the Client Terms and/or this Agreement (as the case may be) and/or where the Auditee utilises the Services in a manner that may be misleading or that may bring BSI into disrepute.
6. The Auditee shall:
 - a. cooperate with BSI in all matters relating to the Services;
 - b. appoint a manager for the Services who shall have the authority to seek approval from the Client with respect to any amendments to this Agreement.
 - c. provide BSI, its agents, subcontractors, consultants and employees, in a timely manner and at no charge, access to the Auditee's premises, office accommodation, personnel, data and other facilities as required by BSI for the performance of the Services;
 - d. provide BSI, its agents, subcontractors, consultants and employees, in a timely manner and at no charge, access to the Auditee's premises, office accommodation, personnel, data and other facilities as required by BSI for an unannounced audit if so required to comply with Clause 2;
- e. provide to BSI in a timely manner all Audit Materials reasonably required by BSI in connection with the Services and ensure that they are accurate, complete and current;
- f. provide details of all health and safety and security requirements that apply at any of the Auditee's premises two weeks before BSI is due to enter the premises;
- g. obtain and maintain all necessary licences and consents and comply with all relevant legislation as required to enable BSI to provide the Services, including in relation to the use of all Audit Materials in all cases before the date on which the Services are to start; and
- h. immediately notify BSI of any event which may adversely affect the outcome or continued provision of the Services, or which if left unattended may cause BSI to be in breach of Clause 2.
7. BSI will not investigate or confirm the truth, accuracy or completeness of any information, including Audit Materials, provided by the Auditee or the Auditee's employees or contractors, and BSI accepts no liability for any losses, costs or damages suffered or incurred by Auditee arising out of any incomplete or inaccurate information.
8. If BSI's performance of its obligations under this Agreement is prevented or delayed by any act or omission of the Client, the Auditee, the Client's and/or Auditee's agents, subcontractors, consultants or employees, then, without prejudice to any other right or remedy it may have, BSI shall be allowed an extension of time to perform its obligations equal to the delay caused by the Client and/or Auditee. In such circumstances BSI shall have no liability in respect of such delay in the provision of the Services and shall invoice Client or the Auditee (as the case may be) for any additional fees and charges incurred as a result of such delay.
9. For the avoidance of doubt, BSI shall not be in breach of its obligations in this Agreement if BSI is unable to access the Auditee's premises to conduct the Services or, if, in BSI's reasonable belief, the Client and/or Auditee has failed to abide by any health, safety and/or security requirements. In such circumstances BSI shall have no liability in respect of any delay in the provision of the Services and shall invoice Client or the Auditee (as the case may be) for any additional fees and charges incurred as a result of such delay.
10. No variation of this Agreement shall be effective unless it is in writing and signed by the authorised representatives of the Parties. If the Auditee wishes to make a change to the scope or execution of the

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Services it shall notify the Client and seek the Client's prior approval for such proposed changes, and shall procure that the Client communicates such proposed changes to BSI and provides as much detail as BSI reasonably requires of the proposed changes, including the timing of the proposed changes. For the avoidance of doubt, all proposed changes communicated to BSI shall be deemed to have been approved by the Client and BSI has no obligation to independently verify whether any changes proposed by the Auditee has been approved by the Client.

11. Notwithstanding Clause 10, the Auditee shall procure that the Client provides BSI with at least thirty (30) days' prior written notice of the Auditee's intention to change the Performance Dates, failing which the Client and/or Auditee (as the case may be) shall be liable for the Fees regardless of whether the Services are performed on the newly requested Performance Dates, as well as other costs and penalties associated with the change.
12. If BSI and the Client are unable to agree on changes pursuant to Clause 10, BSI may immediately terminate this Agreement by giving the Auditee notice in writing.
13. The fees for the Services shall be paid in accordance with the Agreement ("Fees"). Where the Agreement provides that the Auditee is responsible for paying the Fees:
 - a. The Auditee shall pay each invoice submitted to it by BSI within thirty (30) days of receipt of such invoice by way of electronic transfer to the account detailed on the invoice issued by BSI.
 - b. Without prejudice to any other right or remedy that it may have, if the Auditee fails to pay BSI any sum due under this Agreement on the due date:
 - i. the Auditee shall pay interest on the overdue sum from the due date until payment of the overdue sum, whether before or after judgment. Interest shall accrue each day at 2.5% a year above the Bank of England's base rate from time to time;
 - ii. BSI may suspend all or part of the Services until payment has been made in full; and/or
 - iii. BSI may terminate this Agreement with immediate effect by giving the Auditee written notice.
14. All sums payable to BSI under this Agreement are exclusive of any applicable taxes and surcharges, which the Auditee shall in addition pay an amount equal to any applicable taxes and surcharges; and payments shall be paid in full without any set-off, counterclaim, deduction or withholding (other than

any deduction or withholding of tax as required by law).

15. In relation to the Deliverables, BSI shall retain ownership of all Intellectual Property Rights in the Deliverables, excluding the Audit Materials. BSI grants the Auditee a limited right to disclose the Deliverables to the Client subject to the Auditee's undertaking that the Auditee will not disclose the Deliverables in a form that is amended, abridged or presented in any way other than that issued in final form by BSI. Auditee agrees to indemnify and hold harmless BSI against all costs, losses including reasonable legal fees and proceedings suffered or incurred by BSI arising out of or relating to a third party's reliance on a report disclosed by Auditee (except where such disclosure is to the Client), whether or not disclosed with BSI's prior written consent. Apart from the foregoing, BSI reserves all rights in and to the Deliverables and no other rights to use the Deliverables are granted to the Auditee pursuant to this Agreement.
16. Nothing contained in this Agreement shall restrict a party from the use of any general ideas, concepts, know-how, methodologies, processes or techniques retained in the unaided mental impression of such party's personnel relating to the Services that either party, individually or jointly, develops or discloses under this Agreement, provided that in doing so such party does not (a) breach its obligations with respect to the Confidential Information of the other party or (b) infringe the Intellectual Property Rights of the other party or third parties that have licensed or provided materials to the other party. Except for the express licence rights contained herein, neither this Agreement nor any disclosure made hereunder grants any licence of a Party's the Intellectual Property Rights to the other Party. This clause shall survive termination and expiration of this Agreement.
17. The Auditee (a) warrants that the receipt and use of the Audit Materials in the performance of this Agreement by BSI, its agents, subcontractors or consultants shall not infringe the rights, including any Intellectual Property Rights, of any third party; and (b) shall indemnify BSI in full against all liabilities, costs, expenses, damages and losses (including but not limited to any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other professional costs and expenses suffered or incurred by BSI arising out of or in connection with any claim brought against BSI, its agents, subcontractors or consultants for (i) actual or alleged infringement of a third party's Intellectual Property Rights arising out of, or in connection with, the receipt or use in the performance of this

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Agreement of the Audit Materials; and (ii) any third party's reliance on the Deliverables that are disclosed by the Auditee (whether or not disclosed with BSI's prior written consent).

18. The Auditee warrants and undertakes that:

- a. it will not, and will ensure that its affiliates and their respective officers, employees, shareholders, representatives, agents or contractors ("**Associated Parties**") will not, commit, authorize or permit any action in connection with the negotiation, conclusion or the performance of this Agreement or any related agreement which would cause BSI and/or its Associated Parties to be in violation of any applicable anti-bribery laws. This obligation applies, inter alia, to illegitimate payments including facilitation payments to public officials or their associates, families or close friends;
- b. it understands fully its own anti-bribery and anti-corruption legal obligations and shall implement adequate controls, systems and procedures to ensure its own compliance with all applicable anti-bribery laws;
- c. it has not undergone and it is not undergoing any audit, review, inspection, investigation, survey or examination by any governmental authority relating to any anti-bribery laws. The Auditee further warrant and undertake that there are no threatened claims, nor presently existing facts or circumstances that would constitute a reasonable basis for any future claims, under any anti-bribery laws against it;
- d. it shall promptly notify BSI if it becomes aware of or has any difficulties in its anti-bribery and anti-corruption obligations that would amount to a breach of this Agreement or any applicable anti-bribery laws;
- e. it is not, nor are its Associated Parties, the subject of any allegation, voluntary disclosure, prosecution or other enforcement action related to any anti-bribery laws; and
- f. it will not, nor will its Associated Parties, either offer, or give, or agree to give, to any employee, representative or third party acting on behalf of BSI, and/or any public official or accept, or agree to accept from any employee, representative or third party acting on behalf of BSI, and/or a public official, any undue gift or benefit, be it monetary or other, with regard to the negotiation, conclusion or the performance of this Agreement or any related agreement.

19. The Auditee shall promptly notify BSI if it becomes aware of or has specific suspicion of any corruption or any request or demand for undue financial advantage or other advantage of any kind, with regard to the

negotiation, conclusion or the performance of this Agreement or any related agreement.

20. In the case that the Auditee provides any undue gifts or benefits with regard to the negotiation, conclusion or the performance of this Agreement or any related agreement, in violation of Clauses 18 or 19, BSI may terminate this Agreement with immediate effect by giving notice to the Auditee.
21. As between the Parties, the Auditee shall own all right, title and interest in and to all personal data it provides to BSI ("Personal Data"). The Auditee grants BSI an irrevocable, unlimited and royalty-free licence to use the Personal Data provided to BSI for the purposes of delivering the Services.
22. From time to time during the term of this Agreement, one Party (the "Disclosing Party") may disclose Confidential Information to the other Party (the "Receiving Party"). The Receiving Party shall maintain in strict confidence all Confidential Information of the Disclosing Party identified by the Disclosing Party or where it ought reasonably to be known as Confidential Information, whether in oral, written, graphic or electronic form.
23. The Receiving Party shall not use, disclose or grant the use of such Confidential Information to any third party except for the purposes of performing its obligations under the Agreement. The Receiving Party shall ensure its and its affiliates' employees, agents or consultants to whom disclosure is to be made on a need-to-know basis, hold the Confidential Information in strict confidence and not make any use of such information for any purpose other than those expressly permitted by the Agreement. The Receiving Party shall use (and require that all its and its affiliates' employees, agents and consultants) at least use the same standard of care as the Receiving Party uses to protect its own Confidential Information of a similar nature from unauthorised use or disclosure, but in no event less than reasonable care. The Receiving Party shall promptly notify the Disclosing Party upon discovery of any unauthorised use or disclosure of the Confidential Information of the Disclosing Party.
24. The obligations contained in Clause 23 shall not apply if:
 - a. the Confidential Information was already known to the Receiving Party, other than under an obligation of confidentiality, at the time of disclosure by the Disclosing Party;
 - b. the Confidential Information was generally available to the public or otherwise part of the

- public domain at the time of its disclosure to the Receiving Party;
- c. the Confidential Information was disclosed to the Receiving Party, other than under an obligation of confidentiality, by a third party who had no obligation to the Disclosing Party not to disclose such information to others; or
- d. the disclosure or use is required by law, any regulatory body or the rules and regulations of any recognised stock exchange, provided that prior to disclosure or use of any information pursuant to this sub-Clause, the Party concerned shall use reasonable efforts to promptly notify the relevant Party of such requirement with a view to providing it/them with the opportunity to contest such disclosure or use.
25. Upon the expiration or termination of this Agreement for any reason whatsoever, BSI shall retain the Auditee's Confidential Information for a period of six (6) years and delete it thereafter and will not use or disclose the Auditee's Confidential Information exception in the following situations:
- a. for the purposes of exercising or performing its obligations under this Agreement;
- b. to the extent required by law, any governmental, regulatory or accreditation authority, or court in any jurisdiction; or
- c. to the extent required to be disclosed if, in the reasonable opinion of BSI, the health or safety of consumers may be at risk.
- For the avoidance of doubt, BSI shall not be required to delete any Auditee Confidential Information that BSI is required to retain under applicable laws.
26. Nothing in this Agreement limits any liability which cannot legally be limited, including liability for death or personal injury caused by negligence; and fraud or fraudulent misrepresentation.
27. Subject to Clause 26, BSI shall not be liable whether in tort (including for negligence or breach of statutory duty), contract, misrepresentation, restitution or otherwise for any loss of profits, loss of business, depletion of goodwill and/or similar losses or loss or corruption of data or information, or pure economic loss, or for any special, indirect or consequential loss, costs, damages, charges or expenses however arising, even if BSI has been advised of the risk of such damages.
28. To the fullest extent permitted by law, BSI's maximum aggregate liability for any and all claims or causes of action including in contract, tort (including negligence), breach of statutory duty, or otherwise, arising under or in connection with this Agreement will not exceed an amount equal to the Fees payable by the Payor. This limitation of BSI's liability will survive termination of this Agreement.
29. Either Party may terminate this Agreement at any time by giving the other Party not less than three (3) months' written notice of its intention to do so. Any Services due to be delivered in such notice period and any costs incurred (or agreed to be incurred) shall remain payable by the Payor.
30. Without affecting any other right or remedy available to it, either party to this Agreement may terminate this Agreement with immediate effect by giving written notice to the other party if:
- a. the other party commits a material breach of any term of this Agreement which breach is irremediable or (if such breach is remediable) fails to remedy that breach within a period of 30 days after being notified in writing to do so;
- b. the other party takes any step or action in connection with its entering administration, provisional liquidation, bankruptcy or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver appointed to any of its assets or ceasing to carry on business or, if the step or action is taken in another jurisdiction, in connection with any analogous procedure in the relevant jurisdiction;
- c. the other party suspends, or threatens to suspend, or ceases or threatens to cease to carry on all or a substantial part of its business;
- d. the Client challenges the validity or ownership of any BSI's Intellectual Property Rights;
- e. a party has reasonable grounds for believing that the other party is not in compliance with any applicable laws;
- f. the Client Terms has been terminated and BSI is no longer able to perform the Services;
- g. if, in the reasonable opinion of BSI, the Auditee acts in such a manner that may bring BSI into disrepute;
- h. the Payor fails to pay any amount due under the Client Terms and/or this Agreement (as the case may be) on the due date for payment; or
- i. there is a change of control of the Auditee.
31. For the purposes of this Agreement, material breach means a breach (including an anticipatory breach) that is serious in the widest sense of having a serious effect on the benefit which the terminating Party would otherwise derive from a substantial portion of this Agreement. In deciding whether any breach is material no regard shall be had to whether it occurs

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- by some accident, mishap, mistake or misunderstanding.
32. On termination or expiry of this Agreement, and where the Auditee is the Payor, the Auditee shall immediately pay to BSI all of BSI's outstanding unpaid invoices and interest and, in respect of the Services supplied but for which no invoice has been submitted, BSI may submit an invoice, which shall be payable immediately on receipt.
33. Termination or expiry of this Agreement shall not affect any rights, remedies, obligations or liabilities of the Parties that have accrued up to the date of termination or expiry, including the right to claim damages in respect of any breach of the Agreement which existed at or before the date of termination or expiry.
34. Neither Party shall be in breach of this Agreement nor liable for delay in performing, or failure to perform, any of its obligations under this Agreement if such delay or failure results from an Event of Force Majeure. If the period of delay or non-performance continues for sixty (60) days, the Party not affected may terminate this Agreement by giving fourteen (14) days' written notice to the affected Party. An "Event of Force Majeure" shall mean circumstances that are unavoidable, beyond a Party's reasonable control (whether or not reasonably anticipated), and which renders impossible the performance of any material obligation or the exercise of any material right under this Agreement by either of the Parties including without limitation, including without limitation: (a) acts of God, flood, fire, earthquake, or explosion; (b) pandemic, onset of infectious diseases, issuance of quarantine or other prohibition or restrictive orders by any governmental or public authority; (c) war, terrorism, invasion, or act of insurgency; (d) national or regional emergency; (e) strikes, labour stoppages or slowdowns or other industrial disturbances, riot or other civil unrest; (f) embargoes or blockades, or passage of a law or any action taken or regulations imposed by a governmental or public authority, including imposing an embargo, export or import restriction, quota, or other restriction or prohibition; (g) any complete or partial government shutdown; (h) national or regional shortage of adequate power or telecommunications or transportation; or (i) cyber-attacks, internet service provider failures or delays, or denial of service attacks.
35. This Agreement is personal to the Auditee and the Auditee may not assign, transfer, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any of its rights and obligations under this Agreement. BSI may at any time assign, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any or all of its rights under this Agreement.
36. This Agreement shall not be construed against any Party to this Agreement because that Party drafted or caused that Party's legal representative to draft any of its provisions, and any rule of construction that a document shall be construed against the drafting Party shall not apply to this Agreement.
37. A waiver of any right or remedy under this Agreement or by law is only effective if given in writing and shall not be deemed a waiver of any subsequent right or remedy. A failure or delay by a Party to exercise any right or remedy provided under this Agreement or by law shall not constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict any further exercise of that or any other right or remedy. No single or partial exercise of any right or remedy provided under this Agreement or by law shall prevent or restrict the further exercise of that or any other right or remedy.
38. The rights and remedies provided under this Agreement are in addition to, and not exclusive of, any rights or remedies provided by law.
39. If any provision or part-provision of this Agreement is or becomes invalid, illegal or unenforceable, it shall be deemed deleted, but that shall not affect the validity and enforceability of the rest of this Agreement. If any provision or part-provision of this Agreement is deemed deleted, the Parties shall negotiate in good faith to agree a replacement provision that, to the greatest extent possible, achieves the intended commercial result of the original provision.
40. This Agreement, including the Schedules attached hereto, constitutes the entire agreement between the Parties with respect to the subject matter hereof and supersedes all prior agreements between the Parties, whether written or oral, relating to the same subject matter. Each Party acknowledges that, in entering this Agreement, it has not relied on, and shall have no remedy in respect of, any statement, representation, warranty or understanding that is not set out in this Agreement.
41. If there is an inconsistency between any of the provisions of this Agreement and the provisions of any master services agreement, purchase proposal, the Client's standard conditions of purchase or any other document stated to be relating to the Services or the Agreement, the provisions of this Agreement shall prevail.

42. Nothing in this Agreement is intended to, or shall be deemed to, establish any partnership or joint venture between any of the Parties, constitute any Party the agent of another Party, or authorise any Party to make or enter into any commitments for or on behalf of any other Party. Each Party confirms it is acting on its own behalf and not for the benefit of any other person.
43. This Agreement shall be binding on, and enure to the benefit of, the Parties to this Agreement and their respective personal representatives, successors and permitted assigns, and references to any Party shall include that Party's personal representatives, successors and permitted assigns.
44. Any person who is not a party to this Agreement (whether or not such person shall be named, referred to, or otherwise identified, or shall form part of a class of persons so named, referred to, or identified, in this Agreement) shall have not have any rights under or in connection with it.
45. Any notices to a party in connection with the Agreement must be in writing and sent by email or delivered to the party's address set out in the Agreement.
46. This Agreement may be executed in any number of counterparts and delivered by hand, sent by registered post or shall be transmitted by facsimile or electronic mail (in PDF format) and shall be as effective as executing and delivering this Agreement in the presence of the Parties. Any Party may enter into this Agreement by executing any counterpart but this Agreement shall not be effective until each Party has executed at least one (1) counterpart. Each counterpart shall constitute an original of this Agreement but all the counterparts together constitute the same instrument.
47. The law of England governs this Agreement and the English courts have non-exclusive jurisdiction to settle any disputes or claims arising out of it.
48. Except as otherwise specified herein, the following terms shall have the following definitions:

Agreement: means these Supplier Audit (2nd Party) (Auditee) Terms of Service, Contract for Services (or Proposal), Client Details, Executive Summary of Fees (or equivalent), Important Pricing Information, Declaration, and any other terms attached thereto or incorporated by reference.

Audit Materials: means all documents, information, items and materials in any form, whether owned by

the Client or the Auditee, which are provided by the Client and/or the Auditee to BSI in connection with the Services.

Auditee: refers to the party to be audited by BSI as instructed by the Client, and as identified in the Agreement.

BSI: refers to the BSI entity identified in the Agreement.

Client: means the entity instructing BSI to perform the Services on the Auditee and as identified in the Agreement.

Client Terms: means the agreement to be entered into between BSI and the Client which sets out the terms on which BSI will be conducting the Services vis-à-vis the Client.

Confidential Information: means any and all information, data and material of a technical or business nature or relating in any way to the business, products, services, customers and personnel of either party that is expressly identified as confidential or which ought reasonably to be regarded as confidential; which may be received or obtained in connection with the operation of this Agreement.

Deliverables: means any output of the Services as specified in the Agreement.

Intellectual Property Rights: means all inventions, innovations, improvements, developments, methods, patents, rights to inventions, copyright and related rights, moral rights, trade marks and service marks, trade names and domain names, rights in industrial designs, drawings and plans, rights in computer software or source code, database rights, rights in Confidential Information (including know-how and trade secrets) and any other intellectual property rights, in each case whether registrable, registered or unregistered and including all applications (or rights to apply) for, and renewals or extensions of, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.

Service: means the audit services to be conducted by BSI on the Auditee as described in the Agreement.