



Duplia Limited – Terms and Conditions of Service

We are **Duplia Ltd** registered in England and Wales with company number 08094937 and with a registered office address at Unit 22, The Glenmore Centre, Quedgeley, Gloucestershire, GL2 2AP (**Duplia**). You are the person or firm who purchases goods and/or services from us under these Conditions (**Customer**). If you do not agree to these Conditions, please don't place an order with us.

1. Interpretation

The following definitions and rules of interpretation apply in these Conditions.

1.1 Definitions:

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

Commencement Date: has the meaning given in clause 2.2.

Conditions: these terms and conditions as amended from time to time in accordance with clause 17.8.

Contract: the contract between Duplia and the Customer for the supply of Goods and/or Services in accordance with these Conditions.

Control: has the meaning given in section 1124 of the Corporation Tax Act 2010.

Customer Data: the data provided by the Customer to Duplia for storage and backup

Data Protection Legislation: all legislation and regulatory requirements in force from time to time relating to the use of personal data and the privacy of electronic communications, including, without limitation (i) any data protection legislation from time to time in force in the UK including the Data Protection Act 2018 or any successor legislation, as well as (ii) the General Data Protection Regulation ((EU) 2016/679) and any other directly applicable European Union regulation relating to data protection and privacy (for so long as and to the extent that the law of the European Union has legal effect in the UK).

Data Storage Services: the data storage and backup services provided by Duplia to the Customer as set out in the Service Description.

Deliverables: any deliverables produced by Duplia for the Customer.

Delivery Location: has the meaning given in clause 4.1.

Force Majeure Event: has the meaning given to it in clause 16.

Goods: the goods (or any part of them) as purchased by the Customer and set out in the Order.

Goods Specification: any specification for the Goods supplied by Duplia.

Intellectual Property Rights: patents, utility models, rights to inventions, copyright and related rights, moral rights, trade marks and service marks, business names and domain names, rights in get-up, goodwill and the right to sue for passing off or unfair competition, rights in designs, rights in computer software, database rights, rights to use, and protect the confidentiality of, confidential information including know-how and trade secrets, and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, 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.

Order: the Customer's order for the supply of Goods and/or Services, as set out in the Customer's purchase order form, or the Customer's written acceptance of Duplia's quotation, or overleaf, as the case may be.

Professional Services: professional services including, but not limited to, configuration, implementation and support services, provided by Duplia to the Customer on a time and materials basis at Duplia's daily fee rates, as set out in its current price list or the Order or displayed on its website.

Services: the services, including the Professional Services, the Storage and Backup Services and/or the Deliverables supplied by Duplia to the Customer as set out in the Service Description.

Service Description: the description or specification for the Services as set out in Part 1 of Schedule 1 or provided by Duplia to the Customer in writing from time to time.

Supplier Materials: has the meaning given in clause 8.1(h).

1.2 Interpretation:

- (a) A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
- (b) A reference to a party includes its personal representatives, successors and permitted assigns.
- (c) A reference to a statute or statutory provision is a reference to it as amended or re-enacted. A reference to a statute or statutory provision includes all subordinate legislation made under that statute or statutory provision.

- (d) Any words following the terms **including, include, in particular, for example** or any similar expression will be construed as illustrative and will not limit the sense of the words, description, definition, phrase or term preceding those terms.
- (e) A reference to **writing** or **written** includes fax and email.

2. Basis of contract

- 2.1 The Order constitutes an offer by the Customer to purchase Goods and/or Services in accordance with these Conditions.
- 2.2 The Order will only be deemed to be accepted when Duplia issues written acceptance of the Order at which point and on which date the Contract will come into existence (**Commencement Date**).
- 2.3 Any samples, drawings, descriptive matter or advertising issued by Duplia and any descriptions of the Goods or descriptions of the Services contained in Duplia's catalogues, brochures or website are issued or published for the sole purpose of giving an approximate idea of the Services and/or Goods described in them. They will not form part of the Contract or have any contractual force.
- 2.4 These Conditions apply to the Contract to the exclusion of any other terms that the Customer seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.
- 2.5 Any quotation given by Duplia will not constitute an offer, and is only valid for a period of 20 Business Days from its date of issue.
- 2.6 All of these Conditions will apply to the supply of both Goods and Services except where application to one or the other is specified.

3. Goods

- 3.1 The Goods are described in Duplia's catalogue or any Goods Specification.
- 3.2 Duplia reserves the right to amend the Goods Specification if required by any applicable statutory or regulatory requirement, and Duplia will notify the Customer in any such event.

4. Delivery of Goods

- 4.1 Duplia will deliver the Goods to the location set out in the Order or such other location as the parties may agree (**Delivery Location**) at any time after Duplia notifies the Customer that the Goods are ready.

- 4.2 Delivery of the Goods will be completed on the completion of unloading of the Goods at the Delivery Location.
- 4.3 Any dates quoted for delivery of the Goods are approximate only, and the time of delivery is not of the essence. Duplia will not be liable for any delay in delivery of the Goods that is caused by a Force Majeure Event or the Customer's failure to provide Duplia with adequate delivery instructions or any other instructions that are relevant to the supply of the Goods.
- 4.4 If the Customer fails to accept delivery of the Goods within 3 Business Days of Duplia notifying the Customer that the Goods are ready, then except where such failure or delay is caused by a Force Majeure Event or by Duplia's failure to comply with its obligations under the Contract in respect of the Goods:
- (a) delivery of the Goods will be deemed to have been completed at 9.00 am on the third Business Day following the day on which Duplia notified the Customer that the Goods were ready; and
 - (b) Duplia will store the Goods until delivery takes place, and charge the Customer for all related costs and expenses (including insurance).
- 4.5 If 10 Business Days after Duplia notified the Customer that the Goods were ready for delivery the Customer has not accepted delivery of them, Duplia may resell or otherwise dispose of part or all of the Goods and, after deducting reasonable storage and selling costs, account to the Customer for any excess over the price of the Goods or charge the Customer for any shortfall below the price of the Goods.
- 4.6 Duplia may deliver the Goods by instalments, which will be invoiced and paid for separately. Each instalment will constitute a separate contract. Any delay in delivery or defect in an instalment will not entitle the Customer to cancel any other instalment.

5. Quality of Goods

- 5.1 Duplia warrants that on delivery the Goods will conform in all material respects with their description and any applicable Goods Specification.
- 5.2 Subject to clause 5.3, Duplia will, at its option, repair or replace the defective Goods, or refund the price of the defective Goods in full if:
- (a) the Customer gives notice in writing within 5 business days of delivery that some or all of the Goods do not comply with the warranty set out in clause 5.1;
 - (b) Duplia is given a reasonable opportunity of examining such Goods; and

- (c) the Customer (if asked to do so by Duplia) returns such Goods to Duplia's place of business at Duplia's cost.
- 5.3 Duplia will not be liable for the Goods' failure to comply with the warranty in clause 5.1 if:
- (a) the Customer makes any further use of such Goods after giving a notice in accordance with clause 5.2;
 - (b) the defect arises because the Customer failed to follow Duplia's oral or written instructions as to the storage, installation, commissioning, use or maintenance of the Goods or (if there are none) good trade practice;
 - (c) the Customer alters or repairs such Goods without the written consent of Duplia;
 - (d) the defect arises as a result of fair wear and tear, wilful damage, negligence, or abnormal working conditions; or
 - (e) the Goods differ from their description as a result of changes made to ensure they comply with applicable statutory or regulatory standards.
- 5.4 Duplia will use reasonable endeavours to pass on the benefit of any manufacturer's warranty to the Customer.
- 5.5 Except as provided in this clause 5, Duplia will have no liability to the Customer in respect of the Goods' failure to comply with the warranty set out in clause 5.1.
- 5.6 The terms of these Conditions will apply to any repaired or replacement Goods supplied by Duplia.
- 6. Title and risk**
- 6.1 The risk in the Goods will pass to the Customer on completion of delivery.
- 6.2 Title to the Goods will not pass to the Customer until the earlier of:
- (a) Duplia receives payment in full (in cash or cleared funds) for the Goods; and
 - (b) the Customer resells the Goods, in which case title to the Goods will pass to the Customer at the time specified in clause 6.4.
- 6.3 Until title to the Goods has passed to the Customer, the Customer will:
- (a) store the Goods separately from all other goods held by the Customer so that they remain readily identifiable as Duplia's property;
 - (b) not remove, deface or obscure any identifying mark or packaging on or relating to the Goods;

- (c) maintain the Goods in satisfactory condition and keep them insured against all risks for their full price on Duplia's behalf from the date of delivery;
 - (d) notify Duplia immediately if it becomes subject to any of the events listed in clause 14.2(b) to clause 14.2(d); and
 - (e) give Duplia such information relating to the Goods as Duplia may require from time to time.
- 6.4 Subject to clause 6.5, the Customer may resell or use the Goods in the ordinary course of its business (but not otherwise) before Duplia receives payment for the Goods. However, if the Customer resells the Goods before that time:
- (a) it does so as principal and not as Duplia's agent; and
 - (b) title to the Goods will pass from Duplia to the Customer immediately before the time at which resale by the Customer occurs.
- 6.5 If before title to the Goods passes to the Customer the Customer becomes subject to any of the events listed in clause 14.2(b) to clause 14.2(d), then, without limiting any other right or remedy Duplia may have:
- (a) the Customer's right to resell Goods or use them in the ordinary course of its business ceases immediately; and
 - (b) Duplia may at any time:
 - (i) require the Customer to deliver up all Goods in its possession which have not been resold, or irrevocably incorporated into another product; and
 - (ii) if the Customer fails to do so promptly, enter any premises of the Customer or of any third party where the Goods are stored in order to recover them.

7. Supply of Services

- 7.1 Duplia will supply the Services to the Customer:
- (a) in accordance with the Service Description in all material respects; and
 - (b) using reasonable care and skill
- 7.2 Duplia will use all reasonable endeavours to meet any performance dates for the Services, but any such dates will be estimates only and time will not be of the essence for the performance of the Services.
- 7.3 Duplia reserves the right to amend the Service Description if necessary to comply with any applicable law or regulatory requirement, or if the amendment will not materially

affect the nature or quality of the Services, and Duplia will notify the Customer in any such event.

8. Customer's obligations

8.1 The Customer will:

- (a) ensure that the terms of the Order and any information it provides in the Service Description are complete and accurate;
- (b) co-operate with Duplia in all matters relating to the Services;
- (c) provide Duplia, its employees, agents, consultants and subcontractors, with access to the Customer's premises, office accommodation and other facilities as reasonably required by Duplia to provide the Services;
- (d) provide Duplia with such information and materials as Duplia may reasonably require in order to supply the Services, and ensure that such information is complete and accurate in all material respects;
- (e) prepare the Customer's premises or, where relevant, remote access to the Customer's systems, for the supply of the Services;
- (f) obtain and maintain all necessary licences, permissions and consents which may be required for the Services before the date on which the Services are to start;
- (g) comply with all applicable laws, including health and safety laws;
- (h) keep all materials, equipment, documents and other property of Duplia (**Duplia Materials**) at the Customer's premises in safe custody at its own risk, maintain Duplia Materials in good condition until returned to Duplia, and not dispose of or use Duplia Materials other than in accordance with Duplia's written instructions or authorisation; and
- (i) comply with any additional obligations as set out in the Service Description.

8.2 If Duplia's performance of any of its obligations under the Contract is prevented or delayed by any act or omission by the Customer or failure by the Customer to perform any relevant obligation (**Customer Default**):

- (a) without limiting or affecting any other right or remedy available to it, Duplia will have the right to suspend performance of the Services until the Customer remedies the Customer Default, and to rely on the Customer Default to relieve it from the performance of any of its obligations in each case to the extent the Customer Default prevents or delays Duplia's performance of any of its obligations;
- (b) Duplia will not be liable for any costs or losses sustained or incurred by the Customer arising directly or indirectly from Duplia's failure or delay to perform any of its obligations as set out in this clause 8.2; and

- (c) the Customer will reimburse Duplia on written demand for any costs or losses sustained or incurred by Duplia arising directly or indirectly from the Customer Default.

9. Charges and payment

9.1 The price for Goods will be:

- (a) the price set out in the Order or, if no price is quoted, the price set out in Duplia's published price list for goods as at the date of the Order; and
- (b) exclusive of all costs and charges of packaging, insurance, transport of the Goods, which will be invoiced to the Customer.

9.2 The charges for the Data Storage Services will be calculated according to Part 2 of Schedule 1 (*Data Storage Services Charges*). The charges for Professional Services will be calculated on a time and materials basis.

9.3 For any charges calculated on a time and materials basis:

- (a) the charges will be calculated in accordance with Duplia's daily fee rates, as set out in its current price list or the Order or displayed on its website;
- (b) Duplia's daily fee rates for each individual person are calculated on the basis of an seven-hour day from 9.00 am to 5.00 pm worked on Business Days;
- (c) Duplia will be entitled to charge an overtime rate of 25% of the daily fee rate on a pro-rata basis for each part day or for any time worked by individuals whom it engages on the Services outside the hours referred to in clause 9.2(b); and
- (d) Duplia will be entitled to charge the Customer for any expenses reasonably incurred by the individuals whom Duplia engages in connection with the Services including travelling expenses, hotel costs, subsistence and any associated expenses, and for the cost of services provided by third parties and required by Duplia for the performance of the Services, and for the cost of any materials.

9.4 Duplia reserves the right to:

- (a) increase the charges for the Services on an annual basis with effect from each anniversary of the Commencement Date in line with the percentage increase in the Retail Prices Index in the preceding 12-month period and the first such increase will take effect on the first anniversary of the Commencement Date and will be based on the latest available figure for the percentage increase in the Retail Prices Index;

- (b) increase the price of the Goods, by giving notice to the Customer at any time before delivery, to reflect any increase in the cost of the Goods to Duplia that is due to:
 - (i) any factor beyond the control of Duplia (including foreign exchange fluctuations, increases in taxes and duties, and increases in labour, materials and other manufacturing costs);
 - (ii) any request by the Customer to change the delivery date(s), quantities or types of Goods ordered, or the Goods Specification; or
 - (iii) any delay caused by any instructions of the Customer in respect of the Goods or failure of the Customer to give Duplia adequate or accurate information or instructions in respect of the Goods.

- 9.5 In respect of Goods, Duplia will invoice the Customer at any time after it has received the Customer's Order. The invoice will include charges for any set-up services ordered by the Customer. Duplia will organise delivery of the Goods and provision of any set-up services on receipt of cleared funds from the Customer.

- 9.6 In respect of the Data Storage Services, Duplia will invoice the Customer monthly or annually in advance depending on which the billing period the Customer has opted for. Any additional charges in relation to the Data Storage Services will be invoiced as set out in Part 2 of Schedule 1 (*Data Storage Services Charges*).

- 9.7 In respect of Professional Services:
 - (a) for one-off Services, Duplia will invoice the Customer on completion of the Services; and
 - (b) for on-going Services, Duplia will invoice the Customer monthly in arrears.

- 9.8 The Customer will pay each invoice submitted by Duplia:
 - (a) within 30 days of the date of the invoice; and
 - (b) in full and in cleared funds to a bank account nominated in writing by Duplia, and time for payment will be of the essence of the Contract.

- 9.9 All amounts payable by the Customer under the Contract are exclusive of amounts in respect of value added tax chargeable from time to time (**VAT**). Where any taxable supply for VAT purposes is made under the Contract by Duplia to the Customer, the Customer will, on receipt of a valid VAT invoice from Duplia, pay to Duplia such additional amounts in respect of VAT as are chargeable on the supply of the Services or Goods at the same time as payment is due for the supply of the Services or Goods.

9.10 If the Customer fails to make a payment due to Duplia under the Contract by the due date, then, without limiting Duplia's remedies under clause 14 (*Termination*), the Customer will pay interest on the overdue sum from the due date until payment of the overdue sum, whether before or after judgment. Interest under this clause 9.108 will accrue each day at 4% a year above the Bank of England's base rate from time to time, but at 4% a year for any period when that base rate is below 0%.

9.11 All amounts due under the Contract will be paid in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law).

10. Intellectual property rights

10.1 All Intellectual Property Rights in or arising out of or in connection with the Services (other than Intellectual Property Rights in any materials provided by the Customer) will be owned by Duplia.

10.2 Duplia grants to the Customer, or will procure the direct grant to the Customer of, a fully paid-up, worldwide, non-exclusive, royalty-free, irrevocable licence to copy and modify the Deliverables (excluding materials or data provided by the Customer) for the purpose of receiving and using the Services and the Deliverables in its business.

10.3 The Customer will not sub-license, assign or otherwise transfer the rights granted by clause 10.2.

10.4 The Customer grants Duplia a fully paid-up, non-exclusive, royalty-free non-transferable licence to copy and modify any materials or data provided by the Customer to Duplia for the duration of the Contract for the purpose of providing the Services to the Customer.

11. Customer Data and Data Protection

11.1 Both parties will comply with all applicable requirements of the Data Protection Legislation. This clause 11 is in addition to, and does not relieve, remove or replace, a party's obligations under the Data Protection Legislation.

11.2 The parties acknowledge that for the purposes of the Data Protection Legislation, the Customer is the Data Controller and Duplia is the Data Processor (where Data Controller and Data Processor have the meanings as defined in the Data Protection Legislation).

11.3 Duplia's processing of Personal Data (as defined by the Data Protection Legislation) will consist of:

- (a) the Personal Data that it receives directly from the Customer for storage and backup in connection with the Data Storage Services;
 - (b) relating to the Customer, its employees, clients, contacts or potential contacts;
 - (c) which will be processed for the duration of this agreement; and
 - (d) for the purpose of providing the Services.
- 11.4 Without prejudice to the generality of clause 11.1, the Customer will ensure that it has all necessary appropriate consents and notices in place to enable lawful transfer of the Personal Data to Duplia for the duration and purposes of this agreement.
- 11.5 Without prejudice to the generality of clause 11.1, Duplia will, in relation to any Personal Data processed in connection with the performance by Duplia of its obligations under this agreement:
- (a) provide the Services in respect of that Personal Data only on the written instructions of the Customer unless Duplia is required by Applicable Laws to otherwise process that Personal Data.;
 - (b) ensure that it has in place appropriate technical and organisational measures which may be reviewed and approved by the Customer, to protect against unauthorised or unlawful processing of Personal Data and against accidental loss or destruction of, or damage to, 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, having regard to the state of technological development and the cost of implementing any measures (those measures may include, where appropriate, 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);
 - (c) ensure that all personnel who have access to and/or process Personal Data are obliged to keep the Personal Data confidential; and
 - (d) not transfer any Personal Data outside of the European Economic Area unless the prior written consent of the Customer has been obtained and the following conditions are fulfilled:
 - (i) the Customer or Duplia has provided appropriate safeguards in relation to the transfer;
 - (ii) the data subject has enforceable rights and effective legal remedies;
 - (iii) Duplia complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred; and

- (iv) Duplia complies with reasonable instructions notified to it in advance by the Customer with respect to the processing of the Personal Data;
 - (e) 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 Legislation with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators;]
 - (f) notify the Customer without undue delay on becoming aware of a Personal Data breach;
 - (g) at the written direction of the Customer, delete or return Personal Data and copies thereof to the Customer on termination of the agreement unless required by Applicable Law to store the Personal Data; and
 - (h) maintain complete and accurate records and information to demonstrate its compliance with this clause 11.
- 11.6 The Customer consents to Duplia appointing a third-party processor of Personal Data under this agreement. The Supplier confirms that it has entered or (as the case may be) will enter with the third-party processor into a written agreement substantially on that third party's standard terms of business or incorporating terms which are substantially similar to those set out in this clause 11. As between the Customer and Duplia, Duplia will remain fully liable for all acts or omissions of any third-party processor appointed by it pursuant to this clause 11.
- 11.7 Either party may, at any time on not less than 30 days' notice, revise this clause 11 by replacing it with any applicable controller to processor standard clauses or similar terms forming part of an applicable certification scheme (which will apply when replaced by attachment to this agreement).
- 11.8 In addition to the above, Duplia will process any Personal Data it receives in connection with this Contract in accordance with its Privacy Policy which can be found at <https://duplia.com/privacy>.

12. Confidentiality

- 12.1 Each party undertakes that it will not at any time during the Contract, and for a period of five years after termination of the Contract, disclose to any person any confidential information concerning the business, affairs, customers, clients or suppliers of the other party, except as permitted by clause 12.2.
- 12.2 Each party may disclose the other party's confidential information:

- (a) to its employees, officers, representatives, subcontractors or advisers who need to know such information for the purposes of carrying out the party's obligations under the Contract. Each party will ensure that its employees, officers, representatives, subcontractors or advisers to whom it discloses the other party's confidential information comply with this clause 12; and
 - (b) as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.
- 12.3 Neither party will use the other party's confidential information for any purpose other than to perform its obligations under the Contract.
- 12.4 Unless required to do so by law, or if instructed to do so by the Customer, Duplia will not share or otherwise make available any of the Customer Data with any third party. This obligation will survive the termination of any Contract between the Customer and Duplia.

13. Limitation of liability

- 13.1 Nothing in the Contract limits any liability which cannot legally be limited, including liability for:
- (a) death or personal injury caused by negligence;
 - (b) fraud or fraudulent misrepresentation; and
 - (c) breach of the terms implied by section 12 of the Sale of Goods Act 1979 or section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession).
- 13.2 Subject to clause 13.1, neither party will be liable to the other party, whether in contract, tort (including negligence), for breach of statutory duty, or otherwise, arising under or in connection with this agreement for:
- (a) loss of profits;
 - (b) loss of sales or business;
 - (c) loss of agreements or contracts;
 - (d) loss of anticipated savings;
 - (e) loss of or damage to goodwill;
 - (f) loss of use or corruption of software, data or information;
 - (g) wasted expenditure; or
 - (h) any indirect or consequential loss.
- 13.3 Subject to clauses 13.1 and 13.1, Duplia's total liability to the Customer in contract, tort (including negligence), breach of statutory duty, or otherwise, arising under or in

connection with the Contract, will not exceed the total charges paid by the Customer in connection with the relevant Order under which the default occurred.

- 13.4 Duplia has given commitments as to compliance of the Goods and Services with relevant specifications in clauses 5 and 7. In view of these commitments, the terms implied by sections 13 to 15 of the Sale of Goods Act 1979 and sections 3, 4 and 5 of the Supply of Goods and Services Act 1982 are, to the fullest extent permitted by law, excluded from this agreement.
- 13.5 Unless the Customer notifies Duplia that it intends to make a claim in respect of an event within the notice period, Duplia will have no liability for that event. The notice period for an event will start on the day on which the Customer became, or ought reasonably to have become, aware of the event having occurred and will expire 6 months from that date. The notice must be in writing and must identify the event and the grounds for the claim in reasonable detail.
- 13.6 Due to the nature of the Services being provided, Duplia will not necessarily have knowledge of the type of data it is processing and therefore, where Duplia is processing data on the Customer's instructions, the Customer will indemnify Duplia against all liabilities, costs, expenses, damages and losses suffered or incurred by Duplia arising out of or in connection with any third party claim in connection with Duplia's processing of the Customer's data.
- 13.7 This clause 13 will survive termination of the Contract.

14. Termination

- 14.1 Without affecting any other right or remedy available to it, either party may terminate the Contract by giving the other party not less than 1 month's written notice, such notice to expire at the end of the relevant billing period.
- 14.2 Without affecting any other right or remedy available to it, either party may terminate the Contract with immediate effect by giving written notice to the other party if:
- (a) the other party commits a material breach of its obligations under the Contract and (if such breach is remediable) fails to remedy that breach within 30 days after receipt of notice in writing to do so;
 - (b) the other party takes any step or action in connection with its entering administration, provisional liquidation 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; or
- (d) the other party's financial position deteriorates to such an extent that in the terminating party's opinion the other party's capability to adequately fulfil its obligations under the Contract has been placed in jeopardy.

14.3 Without affecting any other right or remedy available to it, Duplia may terminate the Contract with immediate effect by giving written notice to the Customer if:

- (a) the Customer fails to pay any amount due under the Contract on the due date for payment; or
- (b) there is a change of Control of the Customer.

14.4 Without affecting any other right or remedy available to it, Duplia may suspend the supply of Services or all further deliveries of Goods under the Contract or any other contract between the Customer and Duplia if the Customer fails to pay any amount due under the Contract on the due date for payment, the Customer becomes subject to any of the events listed in clause 14.2(b) to clause 14.2(d), or Duplia reasonably believes that the Customer is about to become subject to any of them.

15. Consequences of termination

15.1 On termination of the Contract:

- (a) the Customer will immediately pay to Duplia all of Duplia's outstanding unpaid invoices and interest and, in respect of Services and Goods supplied but for which no invoice has been submitted, Duplia will submit an invoice, which will be payable by the Customer immediately on receipt;
- (b) the Customer will return all of Duplia Materials and any Deliverables or Goods which have not been fully paid for. If the Customer fails to do so, then Duplia may enter the Customer's premises and take possession of them. Until they have been returned, the Customer will be solely responsible for their safe keeping and will not use them for any purpose not connected with this Contract.

15.2 Termination or expiry of the Contract will not affect any rights, remedies, obligations and 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 Contract which existed at or before the date of termination or expiry.

15.3 Any provision of the Contract that expressly or by implication is intended to have effect after termination or expiry will continue in full force and effect.

16. Force majeure

Neither party will be in breach of the Contract nor liable for delay in performing or failure to perform, any of its obligations under the Contract if such delay or failure result from events, circumstances or causes beyond its reasonable control.

17. General

17.1 Assignment and other dealings

- (a) Duplia 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 and obligations under the Contract.
- (b) The Customer will 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 the Contract without the prior written consent of Duplia.

17.2 Notices.

- (a) Any notice or other communication given to a party under or in connection with this agreement will be in writing and will be:
 - (i) delivered by hand or by pre-paid first-class post or other next working day delivery service at its registered office (if a company) or its principal place of business (in any other case); or
 - (ii) sent by fax to its main fax number or sent by email to the address notified by one party to the other from time to time.
- (b) Any notice or communication will be deemed to have been received:
 - (i) if delivered by hand, on signature of a delivery receipt or at the time the notice is left at the proper address;
 - (ii) if sent by pre-paid first-class post or other next working day delivery service, at 9.00 am on the second Business Day after posting or at the time recorded by the delivery service; and
 - (iii) if sent by fax or email, at the time of transmission, or, if this time falls outside business hours in the place of receipt, when business hours resume. In this clause 17.2(b)(iii), business hours means 9.00am to 5.00pm Monday to Friday on a day that is not a public holiday in the place of receipt.

- (c) This clause does 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.
- 17.3 **Severance.** If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it will be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision will be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause will not affect the validity and enforceability of the rest of the Contract.
- 17.4 **Waiver.** A waiver of any right or remedy under the Contract or by law is only effective if given in writing and will 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 the Contract or by law will not constitute a waiver of that or any other right or remedy, nor will 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 the Contract or by law will prevent or restrict the further exercise of that or any other right or remedy.
- 17.5 **No partnership or agency.** Nothing in the Contract is intended to, or will be deemed to, establish any partnership or joint venture between the parties, constitute either party the agent of the other, or authorise either party to make or enter into any commitments for or on behalf of the other party.
- 17.6 **Entire agreement.**
- (a) The Contract constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.
- (b) Each party acknowledges that in entering into the Contract it does not rely on, and will have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in the Contract. Each party agrees that it will have no claim for innocent or negligent misrepresentation based on any statement in these Conditions.
- 17.7 **Third parties rights.**
- (a) Unless it expressly states otherwise, the Contract does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Contract.
- (b) The rights of the parties to rescind or vary the Contract are not subject to the consent of any other person.

- 17.8 **Variation.** Except as set out in these Conditions, no variation of the Contract will be effective unless it is agreed in writing and signed by the parties (or their authorised representatives).
- 17.9 **Governing law.** The Contract and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation will be governed by and construed in accordance with the law of England and Wales.
- 17.10 **Jurisdiction.** Each party irrevocably agrees that the courts of England and Wales will have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with the Contract or its subject matter or formation.

Schedule 1 SERVICES

Part 1 Service Description

1. **Data Storage Services**

Duplia provides an offsite backup service for the storage of customer's data. This service is not intended to be the primary storage of data, which should be at the customer's premises, instead, it is only intended as a backup in case of failure of the primary data storage at the customer's location.

Duplia provides both an offline storage facility and an online digital storage facility as detailed below.

1.1. Offline Storage

- 1.1.1. Duplia offers secure offline physical hard drive storage for archiving and off-site backup for Customers which is also known as "Cold Storage".
- 1.1.2. Duplia will either collect a physical hard drive provided by the Customer or provide the Customer with a hard drive and download the customer's data onto that hard drive.
- 1.1.3. The hard drives will be stored in a secure facility at a Duplia site. Duplia's storage facilities are physically secure and commercial-grade fire-resistant. The hard drives will be stored in waterproof, dustproof, anti-static and anti-shock conditions.
- 1.1.4. Where the Customer provides its own hard drive(s), Duplia will not verify whether or not the hard drive(s) contains data. The service is offered on an "as is" storage-only basis.

1.2. Online Digital Storage

- 1.2.1. Duplia offer two types of digital data storage:
 - 1.2.1.1. offsite digital backup or data sync capability to Duplia's own servers located in the United Kingdom; or
 - 1.2.1.2. offsite digital backup to a separate cloud provider for increased data redundancy. The cloud provider will be UK or EU based.

2. **Professional Services**

- 2.1. Duplia provides setup, configuration and implementation services.
- 2.2. Duplia provides support or maintenance services either at the Customer's site or remotely.

Part 2 Charges for Services

1. Charges for Data Storage Services

1.1. Offline Storage Charges

1.1.1. The Customer will pay Duplia a monthly or annual charge in accordance with Duplia's current published price list for such Services. Duplia will invoice the Customer for such charges monthly or annually in advance depending on which the billing period the Customer has opted for.

1.1.2. In addition, where relevant, the Customer will pay Duplia:

1.1.2.1. on a time and materials basis for the time incurred by Duplia employees in downloading Customer Data;

1.1.2.2. any shipping or delivery costs; and/or

1.1.2.3. the cost of any hard drive supplied.

Such additional costs will be notified to the customer prior to the relevant service being performed. Duplia will invoice the Customer for the above additional costs separately following completion of the relevant part of the Service.

1.2. Online Digital Storage Charges

1.2.1. Duplia will charge the Customer per terabyte or gigabyte of storage in accordance with the prices communicated by Duplia to the Customer from time to time.

1.2.2. Where Duplia provides digital cloud storage, Duplia reserves the right to pass on any download data bandwidth costs.

1.2.3. Duplia will invoice the Customer for such charges monthly or annually in advance depending on which billing period the Customer has opted for.

2. Charges for Professional Services

Charges for Professional Services will be on a time and materials basis at Duplia's daily fee rates, as set out in its current price list or the Order or displayed on its website.