



## **General Terms & Conditions**

The terms and conditions set forth below shall govern the accompanying purchase order (“Purchase Order”) issued by Iron Mountain (UK) Limited, (“Iron Mountain”) to the vendor or supplier identified thereon (“Supplier”) unless there exists a separate written agreement between Iron Mountain and the Supplier (collectively, the “Parties”) that specifies that it governs Iron Mountain’s procurement of the Goods and/or Services ordered from Supplier under the Purchase Order.

### **1. Interpretation**

1.1 For the purposes of these General terms and Conditions the following definitions and interpretations shall apply:

- 1.1.1. Data Subject: has the meaning ascribed to it by the Data Protection Act 1998 (as amended), including but not limited to a natural person who can be identified by or is the subject of Personal Data, including, without limitation, Iron Mountain’s employees, contractors, or other associates of Iron Mountain, or of a Customer of Iron Mountain, or the dependents of such persons.
- 1.1.2. Deliverables: any Documents, products and materials developed by the Supplier or its agents, subcontractors, consultants and employees in relation to the Services in any form, including computer programs, data, reports and specifications (including drafts).
- 1.1.3. Document: includes, in addition to any document in writing, any drawing, map, plan, diagram, design, picture or other image, tape, disk or other device or record embodying information in any form.
- 1.1.4. In-put Material: any Documents, information and materials provided by Iron Mountain relating to the Services, including computer programs, data, reports and specifications.
- 1.1.5. Intellectual Property Rights: all patents, rights to inventions, utility models, copyright and related rights, trademarks, service marks, trade, business and domain names, rights in trade dress or get-up, rights in goodwill or to sue for passing off, unfair competition rights, rights in designs, rights in computer software, database right, topography rights, rights in confidential information (including know-how and trade secrets) and any other intellectual property rights, in each case whether registered or unregistered and including all applications for, and renewals or extensions of, such rights, and all similar or equivalent rights or forms of protection in any part of the world.
- 1.1.6. Iron Mountain’s Equipment: any equipment, systems, cabling or facilities provided by Iron Mountain and used directly or indirectly in the supply of the Services.
- 1.1.7. VAT: value added tax chargeable under English law for the time being and any similar, additional tax.
- 1.1.8. Representative – the persons nominated by Iron Mountain and the Supplier to receive notices under the Agreement as stated in the Purchase Order or otherwise notified in writing to the other party from time to time. In the absence of a nominated person notices should be sent to that parties registered offices marked for the attention of the Directors.

### **2. Acceptance**

2.1 The agreement by Supplier to furnish the Goods and/or Services (as defined below) or as set out in a Purchase Order or otherwise in a Statement of Works, statement of requirements, specification or schedule referred to in the Purchase Order or attached to it to, or otherwise, or its furnishing such Goods and/or Services, in whole or in part, shall constitute acceptance by Supplier of these General Terms and Conditions. By accepting the Iron Mountain Purchase Order, Supplier acknowledges receipt of and agrees to comply with these General Terms and Conditions. Iron Mountain shall not be bound to any prices or delivery to which it has not expressly agreed in writing. Any terms or conditions proposed by Supplier or which are implied by trade or custom practice or course of dealing which are inconsistent with or in addition to these General Terms and Conditions shall be void and of no effect unless expressly agreed to by Iron Mountain in writing. These General Terms and Conditions, together with the Purchase Order and any statement of work applicable to Services (“Statement of Work”), any modifications to any of the aforementioned documents which are accepted in writing by Iron Mountain and any information relating to price and/ or delivery which is expressly accepted in writing shall constitute the entire agreement between the parties (collectively the “Agreement”).

### **3. General**

- 3.1 Supplier shall provide the goods and/or services in accordance with specifications, delivery dates and prices set forth in the Agreement, included, as the case may be, the Purchase Order or a Statement of Works, statement of requirements, specification or schedule or otherwise, (“Goods” and “Services”). Iron Mountain shall pay Supplier the fees and charges specified in accordance with the terms stated in the Agreement.

### **4. Taxes and Other Charges**

- 4.1 All applicable sales taxes, including where appropriate VAT and other charges such as duties, customs, tariffs, imposts and government-imposed surcharges (but excluding those charges set out at clause 6 below “Shipping”) shall be stated separately on Supplier’s invoice, and Iron Mountain agrees to reimburse Supplier for all such applicable taxes or other charges occasioned by the purchase of the Goods or the delivery of Services by Supplier provided that all charges are accurately stated on the Supplier’s invoice which is properly due and submitted to it by Supplier in accordance with the Invoicing/ Payment provisions set out herein and with the Statement of Work (if any).

### **5. Title and Risk of Loss**

- 5.1 Supplier shall bear the risk of loss of Goods until they have been delivered (and, if required in writing by Iron Mountain, until assembly of such Goods at Iron Mountain’s facility) and in any event until the Goods have been accepted in writing by Iron Mountain. Full legal and equitable title in the Goods shall automatically vest in Iron Mountain upon written acceptance of the Goods by Iron Mountain.

### **6. Shipping**

- 6.1 The price set forth by Iron Mountain in its Purchase Order or Statement of Work includes all shipping, handling and transportation costs to deliver the Goods to the designated Iron Mountain location (estimated if so indicated) and the cost of installing the Goods in Iron Mountain’s facility (if so specified) at the indicated location. Goods will be deemed delivered to Iron Mountain when assembled in accordance with specifications and accepted in writing by Iron Mountain .

### **7. Inspection**

- 7.1 Notwithstanding any prior inspection or test, Goods are subject to final inspection, test, and acceptance by Iron Mountain at the destination specified by Iron Mountain. If the Goods are of a type that require performance testing, Iron Mountain shall perform such testing promptly after the Goods have been delivered and, if applicable, following Supplier’s installation. Iron Mountain shall promptly notify Supplier in writing if the Goods do not meet performance specifications set out in the Agreement, and Supplier shall promptly perform corrective action to cause the Goods to meet such specifications or promptly replace the Goods with conforming Goods (and subject to written acceptance of such conformity by Iron Mountain following further inspection, testing and requiring further Supplier remedial action if necessary), at no additional cost to Iron Mountain. Iron Mountain’s permitting Supplier to perform installation shall not constitute acceptance.

### **8. Warranties**

- 8.1 Supplier represents and warrants that: (i) upon delivery of the Goods by Iron Mountain, Iron Mountain will have full title guarantee free from all third party rights in the Goods, (ii) the Goods will conform with their description (including all performance specifications established by Iron Mountain and/or set forth in Supplier’s product literature for the Goods or on the Purchase Order), and (where relevant) such Goods have been designed and manufactured so as to conform to the specifications, (iii) the Goods will be of satisfactory quality (within the meaning of the Sale of Goods Act 1979) and fit for any purpose held out by the Supplier or made known to the Supplier by the Customer, expressly or by implication, and in this respect Iron Mountain relies on the Supplier’s skill and judgment , (iv) where applicable , be free from defects in design, materials and workmanship and remain so for 12 months following acceptance unless otherwise set out in the Agreement, (v) comply with all applicable statutory and regulatory requirements relating to the manufacture, labelling, packaging, storage, handling and delivery of the Goods, (vi) Iron Mountain shall have the right to inspect and test the Goods at any time before delivery, (vii) no part of the Goods or Services, or Iron Mountain’s use thereof, will breach or

infringe any Intellectual Property Rights of any third party, (viii) Supplier has the right and authority to provide Iron Mountain with the Goods or Services and its entering into this Agreement shall not conflict with any contractual or other relationships to which Supplier is bound (ix) in the case of Services, the Services shall be performed with all due care and skill,(x) Services will at all times be performed in accordance with prevailing industry or professional standards by personnel that are familiar with Iron Mountain's requirements and have appropriate skill, training, and background to perform such Services in a compliant manner and in accordance with prevailing commercial practices and standards in the industry for similar services, (xi) in addition, Supplier is responsible for obtaining and maintaining all necessary licenses, permits and other operating authorisations required to furnish the Goods or for the performance of Services, (xii) the Services will conform with all descriptions and specifications provided to Iron Mountain by the Supplier and with the Statement of Work, (xiii) the Services and Deliverables will be provided in accordance with all applicable legislation from time to time in force, and the Supplier will inform Iron Mountain as soon as it becomes aware of any changes in that legislation.

- 8.2 Iron Mountain's rights under the Agreement are in addition to the statutory terms implied in favour of Iron Mountain by the Supply of Goods and Services Act 1982 and any other applicable statute. The provisions of this clause 8 shall survive any performance, acceptance or payment pursuant to the Agreement and shall extend to any substituted or remedial services provided by the Supplier.
- 8.3 If the Goods or Services include software, with respect to such software, Supplier represents and warrants that: (i) the software will be free of defects in materials and workmanship, (ii) the software will materially conform to Supplier's then-current documentation and specification for such software, and (iii) the software does not contain any virus, Trojan horse, trap door, back door, timer, clock, counter or other limiting routine, instruction or design that would erase or transport data or programming or otherwise cause any software or hardware to become inoperable, unsecure or incapable of being used in the full manner for which it was designed and created, or provides Supplier or any third party with access to or the ability to alter data or programming code. In the event the software does contain any such third party technology, Supplier warrants that: (1) Supplier has the right to use all such third party technology in the manner necessary to fulfil its obligations under this Agreement, (2) Supplier has the right to grant Iron Mountain use of such third party technology under this Agreement, (3) Supplier is in compliance with all restrictions and requirements associated with such third party technology, and (4) Iron Mountain's use of such third party technology pursuant to this Agreement will not restrict, alter or otherwise encumber Iron Mountain's rights or interests in any technology or Intellectual Property Rights owned or independently licensed by Iron Mountain.
- 8.4 The warranty period shall be one year from the date of acceptance of the Goods or Services by Iron Mountain.
- 8.5 In the event of the breach of the foregoing warranties, Supplier shall, at no cost to Iron Mountain, promptly repair, replace, modify or re-perform the Goods or Services so as to correct such warranty breach. Supplier makes no warranty with respect to items manufactured and/or installed by others, except that, to the extent of its ability to do so, Supplier hereby assigns to Iron Mountain the benefit of any warranty provided by to it by any third party .
- 8.6 The warranty entitlements set forth in this clause 8 cover both Iron Mountain and any customers of Iron Mountain to whom Iron Mountain re-sells the Goods.
- 8.7 Iron Mountain agrees to furnish Supplier with prompt notice of all defects of which it becomes aware, either orally or by written notice. Iron Mountain may effect repair or replacement of defective Goods if Supplier fails to or refuses to do so promptly, in which event Supplier shall on demand fully indemnify and keep Iron Mountain fully indemnified Iron Mountain in respect of all costs and expenses thereof. Iron Mountain's action to correct defects shall not relieve Supplier of any obligations or liability hereunder.

## **9. Invoicing; Payment**

- 9.1 Supplier's invoices shall be submitted to the address specified by Iron Mountain on the Purchase Order or Statement of Work. Unless otherwise specified in a Purchase Order or Statement of Work, Iron Mountain agrees to pay invoices within forty-five (45) days of the date of Iron Mountain's receipt of a properly submitted (in accordance with the provisions of this clause 9) and undisputed invoice from Supplier (but in no event prior to acceptance), provided that such invoice contains an accurate description of the Goods or Services furnished which matches those Goods or Services specified in the

Purchase Order and provided further that any taxes (VAT or otherwise) or other charges are set forth on a separate line item in a manner that provides reasonable detail to Iron Mountain. Invoices that fail to meet the foregoing requirements shall be returned to Supplier and the payment period will not commence until Iron Mountain receives an accurate and complete invoice. Supplier shall be responsible for its own expenses unless otherwise previously agreed in writing or specified in advance in the Statement of Work, and any previously agreed upon travel expenses shall be in accordance with Iron Mountain's travel policy for Suppliers and in any event only if accompanied by the relevant receipts. The Supplier shall maintain complete and accurate records of the time spent and materials used by the Supplier in providing the Goods and Services in such form as Iron Mountain shall approve and Supplier shall allow Iron Mountain to inspect such records at all reasonable times on request. If Iron Mountain fails to pay any amount payable by it under the Agreement, the Supplier may charge Iron Mountain interest on the overdue amount from the due date up to the date of actual payment, after as well as before judgment, at the rate of 2% per annum above the base lending rate for the time being of the Bank of England. Such interest shall accrue on a daily basis and be compounded quarterly and Iron Mountain shall pay the interest immediately on demand.

## **10. Progress Schedule**

- 10.1 If the Purchase Order or Statement of Work provides for payment based on completion dates and/or delivery schedules, then Supplier shall promptly notify Iron Mountain of any changes in such completion dates and/or delivery schedules. If requested by Iron Mountain, within five (5) business days of receipt of any work ordering document issued hereunder, Supplier shall prepare and submit for Iron Mountain's approval a more detailed schedule for the delivery of the Goods or performance of the Services. Such schedule shall indicate the dates for the starting and completion of the various stages of delivery and installation, and shall be revised during the course of performance as required by the conditions of the work. No extension beyond the completion date or delivery schedules shall be made unless Iron Mountain approves such extension in writing.

## **11. Changes**

- 11.1 Iron Mountain, from time to time, may authorise changes in the Goods or Services, provided however, that Supplier shall not proceed with any change (including, but not limited to any change in cost, quantity, delivery or completion schedule) without prior written authorisation from Iron Mountain. Iron Mountain shall confirm all changes in the Goods or Services by giving Supplier a written confirmation of the change. Supplier shall, within five (5) business days of any requested change, furnish to Iron Mountain a written Change Document, signed by the Parties, setting forth in detail the effect of any such changes, including adjustments to the cost, quantity, delivery or completion schedule, if any, for the Goods and/or Services.
- 11.2 If Iron Mountain requests a change to the Purchase Order or to the scope or execution of the Statement of Work, the Supplier shall, within a reasonable time (and unless otherwise agreed between the parties not more than ten working days after receipt of Iron Mountain's request), provide a written estimate to Iron Mountain of:
- 11.2.1. the likely time required to implement the change;
  - 11.2.2. any necessary variations to the Supplier's charges arising from the change;
  - 11.2.3. the likely effect of the change on the Statement of Work; and
  - 11.2.4. any other impact of the change on the Agreement.
- 11.3 Unless both parties consent to a proposed change, there shall be no change to the Agreement. No variation of the Agreement or of any of the documents referred to in it shall be valid unless it is in writing and signed by, or on behalf of, each of the parties.
- 11.4 If both parties consent in writing to a proposed change, the change shall be made, only after agreement of the necessary variations to the Supplier's charges, the Statement of Work and any other relevant terms of the Agreement to take account of the change that has been agreed.
- 11.5 If the Supplier requests a change to the scope or execution of the Services or Good to be supplied, in order to comply with any applicable safety or statutory requirements, and such changes do not materially affect the nature, scope of, or charges

for the Goods and /or Services, Iron Mountain shall not unreasonably withhold or delay consent to it. Neither the Supplier's charges, the Statement of Work or any other terms of the Agreement shall vary as a result of such change.

## **12. Installation**

- 12.1 If applicable, Supplier shall select, arrange, schedule and accomplish installation of the Goods, including but not limited to, arranging and effecting delivery of all required materials. Supplier shall begin installation of Goods no later than two (2) business days after delivery of the Goods at Iron Mountain's facility, unless the Parties mutually agree in writing to an alternate installation schedule. It is Supplier's responsibility to visit delivery or installation sites to verify local conditions and to determine that no unusual conditions will be met in the work of installation. Supplier shall only be paid for any reasonable expenses incident to additional work caused by unusual latent conditions that may develop and/or be encountered during installation if such conditions would not have been reasonably anticipated by an experienced installer of the Goods and could not have been discovered until installation had commenced, and provided that Supplier notifies Iron Mountain of the existence of such conditions before performing such additional work.
- 12.2 Supplier shall ensure that the conduct of the installation crew is professional and non-disruptive to Iron Mountain's business operations and shall comply with all reasonable instructions of Iron Mountain including but not limited to compliance with Iron Mountain's on-site safety and security policies. Supplier shall be responsible for all onsite material handling, including unloading of Goods.

## **13. Insurance**

- 13.1 Prior to furnishing the Goods and/or Services, Supplier shall obtain and continuously maintain with a reputable insurer during the term of the Agreement and for 6 years thereafter, adequate insurance (or insurance in such amounts as notified to Supplier by Iron Mountain from time to time) for the furnishing of the Goods and/or Services contemplated hereunder including but not limited to employers liability insurance, public liability insurance and professional indemnity insurance acceptable to Iron Mountain. Upon request by Iron Mountain, but at least annually and upon any renewal or decrease in insurance coverage amounts and/or limits, Supplier shall provide Iron Mountain with certificates of insurance, and, if required by Iron Mountain, shall name Iron Mountain as an additional insured with respect to any general liability insurance.

## **14. Limitation of Liability and Indemnities**

- 14.1 Consequential Loss. Except for a party's breach of its warranties or indemnification obligations hereunder, in no event shall either party be liable for any loss of profit or revenue by the other party, or for any other consequential, incidental, indirect or economic damages incurred or suffered by such other party arising as a result of or related to the Agreement, whether in contract, tort, or otherwise, even if such party has been advised of the possibility of such loss or damages.
- 14.2 Death/ Personal Injury. Nothing in this Agreement shall operate so as to in any way restrict either party's liability for fraud, fraudulent misrepresentation, death or personal injury resulting from that party's negligence, or any other matter for which it would be unlawful for such party to exclude or limit, or attempt to exclude or limit, its liability.
- 14.3 Iron Mountain's maximum aggregate liability to Supplier in any calendar year (excluding any liability to pay the charges or interest thereon) shall not exceed an amount equal to the total sum payable by Iron Mountain to the Supplier under the Agreement in respect of that year.
- 14.4 The Supplier shall indemnify and hold Iron Mountain harmless from all claims and all direct, indirect or consequential liabilities (including loss of profits, loss of business, depletion of goodwill and similar losses), costs, proceedings, damages and expenses (including legal and other professional fees and expenses) awarded against, or incurred or paid by, Iron Mountain as a result of or in connection with any claim made against Iron Mountain in respect of any liability, loss, damage, injury, cost or expense sustained by Iron Mountain's employees or agents or by any customer or third party to the extent that such liability, loss, damage, injury, cost or expense was caused by, relates to or arises from the provision of the Goods, Services or the Deliverables as a consequence of a breach or negligent performance or failure or delay in performance of this agreement by Supplier.

## **15. Intellectual Property Indemnification**

15.1 The Supplier shall indemnify and hold Iron Mountain harmless from all claims and all direct, indirect or consequential liabilities (including loss of profits, loss of business, depletion of goodwill and similar losses), costs, proceedings, damages and expenses (including legal and other professional fees and expenses) awarded against, or incurred or paid by, Iron Mountain as a result of or in connection with any alleged or actual infringement, whether or not under English law, of any third party's Intellectual Property Rights or other rights arising out of the use or supply of the products of the Services (including the Deliverables).

## **16. Ownership of Work Product**

16.1 "Work Product" shall mean all Deliverables, inventions, innovations, improvements, or other products of the Services that Supplier (or its subcontractors) may conceive or develop in the course of performing the Services, whether or not the Work Product is eligible for patent, copyright, trademark, trade secret or other legal protection. Supplier agrees that all such Work Product will immediately upon creation vest in Iron Mountain as its sole exclusive property. If for any reason Iron Mountain does not have sole and exclusive ownership of such Work Product, Supplier hereby assigns, transfers and conveys to Iron Mountain with full title guarantee and free from all third party rights all right, title and interest in the Work Product, including, without limitation, all related Intellectual Property Rights of whatever kind or nature. Supplier agrees to execute such further documents and to perform such further acts, at Iron Mountain's expense, as may be necessary to perfect the foregoing assignment and to protect Iron Mountain's rights in the Work Product. Supplier shall obtain a waiver of all and any moral rights in the products of the Services (including the Deliverables) to which any individual is now or may be at any future time entitled under Chapter IV of Part I of the Copyright Designs and Patents Act 1988 or any similar provisions of law in any jurisdiction.

## **17. Confidential Information**

17.1 Supplier shall keep in strict confidence all In-put Material and all technical or commercial know-how, specifications, inventions, processes or initiatives which are of a confidential nature and have been disclosed to the Supplier by Iron Mountain, its employees, agents, consultants or subcontractors, and any other confidential information concerning Iron Mountain's business or its products which the Supplier may obtain (together, the "Confidential Information"). The Supplier shall restrict disclosure of such Confidential Information to such of its own team performing the obligations under the Agreement and such of its other employees, agents, consultants or subcontractors as need to know it solely for the purpose of discharging the Supplier's obligations to Iron Mountain, and shall ensure that all of the above including employees, agents or subcontractors are subject to obligations of confidentiality corresponding to those which bind the Supplier hereunder.

17.2 All In-put Materials, Confidential Information, Iron Mountain Equipment and all other materials, equipment and tools, drawings, specifications and data supplied by Iron Mountain to the Supplier shall, at all times, be and remain the exclusive property of Iron Mountain, but shall be held by the Supplier in safe custody at its own risk and maintained and kept in good condition by the Supplier until returned to Iron Mountain. They shall not be disposed of or used other than in accordance with Iron Mountain's written instructions or authorisation.

17.3 Unless as may be otherwise required by applicable law or regulation, these obligations of confidentiality shall, with respect to each disclosure of Confidential Information, extend for a period of three (3) years from the date of this Agreement, but Confidential Information shall not include information that the Supplier can demonstrate by reasonably sufficient evidence (a) was known to the Supplier before receipt thereof under this Agreement, (b) is disclosed to the Supplier by a third party who has a right to make such disclosure without any obligation of confidentiality to Iron Mountain, (c) is or becomes generally known to the public or in the trade without violation of either this Agreement by the Supplier or any confidentiality obligation owed to Iron Mountain by any third party, (d) is furnished by Iron Mountain to a third party without restriction on subsequent disclosure or (e) is independently developed by the Supplier or its employees or subcontractors.

## **18. Safety and Security**

18.1 If Supplier is performing Services within an Iron Mountain facility or on its premises, then Supplier agrees to comply with Iron Mountain's policies and procedures relating to safety and security.

## **19. Data Protection**

19.1 Supplier recognises that due to the nature of Iron Mountain's storage business, a high level of security is required to be maintained for the protection of sensitive Personal Data. "Personal Data" is defined as any data related to or associated with an identified or identifiable natural person, including, but not limited to, any Iron Mountain employee information, or Iron Mountain customer information. If it is foreseeable that Supplier and/or Supplier's personnel may have access to any Personal Data at any time in connection with the Agreement, regardless of where the Personal Data resides, Supplier agrees to implement and maintain adequate technical, physical and organizational controls, consistent with prevailing industry standards, as appropriate to meet its obligations under the Data Protection Act 1998 (as amended).

19.2 In relation to Personal Data, the Supplier warrants and represents that it shall:

- 19.2.1. not retain, access, use, disclose, or otherwise Process any Personal Data for any purpose other than the provision of the Services, and only to the extent necessary to provide the Services;
- 19.2.2. not disclose or transfer any Personal Data to any third party except (i) with the express prior written consent from Iron Mountain, and in the case of any such permitted transfer, Supplier shall ensure that the third party enters into a written agreement acceptable to Iron Mountain obligating that third party to comply with the standards and requirements set forth in the Agreement or (ii) pursuant to law;
- 19.2.3. upon reasonable request and without material disruption of the Supplier's business, permit Iron Mountain or its authorised representatives, upon providing not less than twenty-four hours' advance notice, to examine any Personal Data in the Supplier's possession or custody. If a Data Subject wishes to examine any Personal Data in the Supplier's possession, the Supplier shall retrieve the Personal Data and promptly return it to Iron Mountain so that Iron Mountain may, in turn, meet its obligations with respect to the examination of any such Personal Data. Upon termination of any request by Iron Mountain, the Supplier shall return specified Personal Data to Iron Mountain, or at the direction of Iron Mountain, correct, delete, update or otherwise modify the Personal Data;
- 19.2.4. ensure compliance by its employees and representatives with the Agreement;
- 19.2.5. promptly following commencement of the execution of the Agreement, and at least annually thereafter during the term of this Agreement, conduct appropriate privacy and data protection training ("Privacy Training") for those of its employees who are given access to Personal Data; Iron Mountain shall have the right, from time to time, to request evidence of such training representing compliance with the terms of this provision;
- 19.2.6. implement and maintain adequate technical, physical, and organisational controls, consistent with professional industry standards, as appropriate to meet its obligations under the Agreement, including, if applicable, maintaining a comprehensive written information security and data protection program;
- 19.2.7. periodically review its information security and data protection programs and procedures to ensure that they are adequate and appropriate to meet its obligations under the Agreement;
- 19.2.8. document and immediately report to Iron Mountain any access, acquisition, use or disclosure of Personal Data not authorised in the Agreement; and
- 19.2.9. mitigate, to the extent practicable, any harmful effect that is known to the Supplier of a use or disclosure of Personal Data by the Supplier in violation of the requirements of the Agreement.

19.3 The Supplier understands and agrees that the Agreement does not convey to the Supplier any ownership or other interest in or to the Personal Data. Without limiting any other similar requirements that may be applicable, the Supplier shall comply with all reasonable policies and requirements (including, without limitation, execution of agreements) reasonably requested by Iron Mountain from time to time to protect Personal Data, including policies and requirements imposed in response to Iron Mountain's Customer requirements and/or applicable laws and regulations, as the same may be amended from time to time. However, if the Supplier is not able to comply with any such requirements without material expense or material risk, and Iron Mountain nevertheless insists upon compliance, then Iron Mountain may terminate this Agreement upon notice.

19.4 The Supplier agrees to make its internal practices, books and records relating to the use and disclosure of Personal Data received from, or created or received by the Supplier on behalf of Iron Mountain or one of its Customers, available to Iron Mountain, or at the request of Iron Mountain, by any governmental agency having jurisdiction with respect to the Personal Data.

- 19.5 In addition to and not in lieu of any other indemnification obligations set forth in this Agreement, the Supplier agrees to indemnify, defend and hold harmless Iron Mountain, its subsidiaries, affiliates, shareholders, directors, officers, employees and agents, from any claim, demand, liability, expense, or loss, including reasonable legal fees, made by any third party due to or arising out of, or in any way connected with the Supplier's Processing of or access to the Personal Data, the Supplier's breach of this Agreement, or the Supplier's failure to adhere to any law applicable to the Processing and security of the Personal Data
- 19.6 Upon termination of this Agreement for any reason, Supplier shall return, or, at the written request of Iron Mountain, destroy, and retain no copies of, all Personal Data created or received by Supplier on behalf of Iron Mountain or its customers, and Supplier shall cause its own third party service Suppliers to do the same.

## **20. Term and Termination**

- 20.1 Unless terminated as provided herein, the Agreement shall not terminate until completion of the work to Iron Mountain's reasonable satisfaction (notified in writing to the Supplier) has occurred, in accordance with the requirements specified in the Statement of Work or Purchase Order (or, as the case may be, a statement of requirements, specification or schedule), if any, or otherwise, and is notified to Supplier in writing by Iron Mountain.
- 20.2 Iron Mountain may at any time terminate the Agreement without cause, by giving Supplier thirty (30) days advance written notice. In the event of termination without cause by Iron Mountain, Iron Mountain agrees to pay Supplier for all of the Goods or Services delivered up to and including the date of termination, based upon the actual Goods delivered or hours worked by Supplier (but not to exceed the fixed price amount if a fixed price has been agreed upon under the Statement of Work or Purchase Order), provided Supplier delivers to Iron Mountain all such Goods or Services in a satisfactory manner up to the effective date of termination, including, but not limited to, notes, reports, and analyses and other stated deliverables, whether completed or in progress, which shall be compiled in an organized and understandable format.
- 20.3 Without prejudice to any other rights or remedies which the parties may have under the Agreement or otherwise, either party may terminate this agreement immediately on giving written notice to the other if:
- 20.3.1. the other party commits a material breach of any of the terms of the Agreement and (if such a breach is remediable) fails to remedy that breach within 30 days of that party being notified in writing of the breach; or
  - 20.3.2. the other party repeatedly breaches any of the terms of the Agreement in such a manner as to reasonably justify the opinion that its conduct is inconsistent with it having the intention or ability to give effect to the terms of the Agreement; or
  - 20.3.3. the other party has a petition for winding up or for an administration order presented against it or passes a resolution for winding up or calls any meeting of its creditors or has an administrative or other receiver or an administrator of all of or any part of its undertaking or assets appointed or (being an individual or partnership) has a bankruptcy petition presented against him/them.
- 20.4 On termination of the Agreement (however arising) the accrued rights and liabilities of the parties as at termination, and the following clauses, shall survive and continue in full force and effect:
- 20.4.1. Clause 14 (Limitation of Liability);
  - 20.4.2. Clause 16 (Ownership of Work product);
  - 20.4.3. Clause 17 (Confidential Information);
  - 20.4.4. Clause 19 (Data Protection);
  - 20.4.5. Clause 20 (Termination); and
  - 20.4.6. Clause 25.11 (Governing Law).

## **21. Notices**

- 21.1 A notice or other communication given to a party under or in connection with the Agreement shall be sent to the Iron Mountain Representative or the Supplier Representative by post or delivered by person.



- 21.2 Any such notice shall be deemed to have been served if:
  - 21.2.1. Given by post, 48 hours after the same was posted; and
  - 21.2.2. If by personal delivery, the date of delivery.

## **22. Relationship of the Parties**

22.1 Nothing in the Agreement is intended to, or shall operate to, create a partnership between the parties, or to authorise either party to act as agent for the other, and neither party shall have authority to act in the name or on behalf of or otherwise to bind the other in any way (including the making of any representation or warranty, the assumption of any obligation or liability and the exercise of any right or power).

## **23. Non-Transfer of Employees**

23.1 Neither the Supplier nor Iron Mountain anticipates that any employees of the Supplier or any third party will transfer to Iron Mountain, whether by virtue of the Transfer of Undertakings (Protection of Employment) Regulations 2006 (“TUPE”) or otherwise, as a result of the termination of the provision of the Services.

23.2 However, if the contract of employment of any individual(s) employed by the Supplier, or any third party, is found or alleged to have effect as if originally made with Iron Mountain as a consequence of the Services provided under the Agreement (whether as a result of TUPE or otherwise), the provisions of (this) clause 23.3 to 23.4 inclusive will apply.

23.3 The Supplier shall on demand fully indemnify and keep Iron Mountain fully indemnified against all expenses (including legal fees), claims, losses, damages and liabilities which Iron Mountain incurs in connection with the transfer or alleged transfer of any individual(s) from the Supplier, or any third party, to Iron Mountain.

23.4 The Supplier also undertakes to on demand indemnify Iron Mountain in full against any action or claim by or on behalf of any individual(s) arising out of the Supplier’s, or any third party’s failure to comply with its or their obligation to inform and consult under Regulation 13 of TUPE.

23.5 Iron Mountain may in its discretion terminate the employment of the individual(s) concerned and the Supplier undertakes to on demand indemnify Iron Mountain in full against all liabilities whatsoever which it incurs in connection with the employment of such individual(s) from the date on which their employment is deemed to transfer to Iron Mountain until their termination and all liabilities in connection with such termination.

## **24. Anti-Bribery**

24.1 The Supplier shall:

24.1.1. comply with all applicable laws, statutes, regulations relating to anti-bribery and anti-corruption including but not limited to the Bribery Act 2010 (Relevant Requirements);

24.1.2. not engage in any activity, practice or conduct which would constitute an offence under sections 1, 2 or 6 of the Bribery Act 2010 if such activity, practice or conduct had been carried out in the UK;

24.1.3. comply with Iron Mountain’s Anti-bribery Policy (available on request), as Iron Mountain may update them from time to time (Relevant Policy);

24.1.4. have and shall maintain in place throughout the term of this agreement its own policies and procedures, including adequate procedures under the Bribery Act 2010, to ensure compliance with the Relevant Requirements, the Relevant Policy and clause 24.1.2, and will enforce them where appropriate;

24.1.5. promptly report to Iron Mountain any request or demand for any undue financial or other advantage of any kind received by the Supplier in connection with the performance of this agreement;

24.1.6. immediately notify Iron Mountain in writing if a foreign public official becomes an officer or employee of the Supplier or acquires a direct or indirect interest in the Supplier, and the Supplier warrants that it has no foreign public officials as officers, employees or direct or indirect owners at the date of this agreement;

24.1.7. within three months of the date of the Agreement, and annually thereafter, certify to Iron Mountain in writing signed by an officer of the Supplier, compliance with this Anti –bribery clause by the Supplier and all persons associated with it under clause 24.2. The Supplier shall provide such supporting evidence of compliance as Iron Mountain may reasonably request.

- 24.2 The Supplier shall ensure that any person associated with the Supplier who is performing services or providing goods in connection with this agreement does so only on the basis of a written contract which imposes on and secures from such person terms equivalent to those imposed on the Supplier in this clause 24 (“Relevant Terms”). The Supplier shall be responsible for the observance and performance by such persons of the Relevant Terms, and shall be directly liable to Iron Mountain for any breach by such persons of any of the Relevant Terms.
- 24.3 For the purpose of this clause 24, the meaning of adequate procedures and foreign public official and whether a person is associated with another person shall be determined in accordance with section 7(2) of the Bribery Act 2010 (and any guidance issued under section 9 of that Act), sections 6(5) and 6(6) of that Act and section 8 of that Act respectively. For the purpose of this clause 24, a person associated with the Supplier includes but is not limited to any subcontractor of the Supplier.

## **25. Miscellaneous**

- 25.1 Time is of the Essence. Time for delivery of the Goods and/or performance of Services is of the essence in this Agreement.
- 25.2 Survival. The terms, provisions, representations and warranties herein shall survive the delivery of the Goods and Services and payment of the fees and charges.
- 25.3 Amendment. No amendment or modification of this Agreement shall be effective unless it is in writing and signed by a duly authorised representative of the party against whom enforcement is sought.
- 25.4 Entirety. This Agreement constitutes the entire agreement between the parties with respect to the subject matter hereof, and supersedes all prior agreements, representations and undertakings with respect to the subject matter.
- 25.5 Waiver. No term or provision hereof shall be waived except in writing, and specific waiver in any one breach or default shall not constitute a waiver of any other breach or default.
- 25.6 Force Majeure. Neither party shall be liable for any delay or non-performance of its obligations under the Agreement due to causes beyond the delayed party’s reasonable control (“Force Majeure Event”) subject to the affected party promptly notifying the other party in writing the nature and occurrence of a Force Majeure Event and its likely duration, the performance of the affected parties obligations, to the extent affected by the Force Majeure Event, shall be suspended during the period that the Force Majeure Event persists, provided that if performance is not resumes within 30 days after that notice the other party may, by notice in writing, terminate the Agreement.
- 25.7 Assignment. Supplier may not assign or subcontract this Agreement, in whole or in part, without Iron Mountain’s prior written consent. Iron Mountain may assign this Agreement to an affiliate, in whole or in part.
- 25.8 Release of Liens. All Goods delivered and Services performed under this Agreement shall be free of liens and encumbrances. Supplier shall obtain releases of liens executed by Supplier and Supplier’s subcontractors prior to final payment.
- 25.9 Severability. If any provision of the Agreement (or any part of it) is found by any court of competent jurisdiction to be invalid, illegal or unenforceable, that provision (or part thereof) shall to the extent required be deemed not to form part of the Agreement and the validity and enforceability of the other provisions of the Agreement shall not be affected. The provision or part thereof shall be modified to the minimum extent necessary to make it enforceable, and the remainder of the Agreement will remain in full force and effect.
- 25.10 Rights of Third Parties. A person who is not a party to the Agreement shall not have any rights under or in connection with it.
- 25.11 Governing Law. The Agreement, and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims), shall be governed by, and construed in accordance with, the law of England and Wales. The parties irrevocably agree that the courts of England and Wales shall have exclusive jurisdiction

to settle any dispute or claim that arises out of or in connection with this agreement or its subject matter or formation (including non-contractual disputes or claims).

- 25.12 **Dispute Resolution.** If any dispute arises in connection with the Agreement, the Supplier's account manager for the purposes of providing the Goods and/or Services and Iron Mountain's manager shall, within 10 days of a written request from one party to the other which shall include details of the nature of the dispute in question, meet in a good faith effort to resolve the dispute.
- 25.13 If the dispute is not resolved at that meeting, the parties will attempt to settle it by mediation in accordance with the CEDR Model Mediation Procedure. Unless otherwise agreed between the parties, the mediator shall be nominated by CEDR. To initiate the mediation, a party must give notice in writing (ADR notice) to the other party requesting a mediation. A copy of the request shall be sent to CEDR Solve. The mediation shall start not later than 28 days after the date of the ADR notice.
- 25.14 No party may commence any court proceedings in relation to any dispute arising out of the Agreement until it has attempted to settle the dispute by mediation, and either the mediation has terminated or the other party has failed to participate in the mediation, provided that the right to issue proceedings is not prejudiced by a delay.
- 25.15 **Entire Agreement.** The Agreement and any documents referred to in it constitutes the entire agreement between the parties and supersedes and extinguishes all previous drafts, arrangements, understandings or agreements between them, whether written or oral, relating to the subject matter of the Agreement.
- 25.16 Nothing in this clause shall limit or exclude any liability for fraud.
- 25.17 **Publicity.** Supplier agrees not to use Iron Mountain's name, trademark or logo in any way on its web site or in any of its advertising or other written material provided to third parties, shall not create a link, either directly or indirectly between Supplier's web site and Iron Mountain's web sites, and shall not insert a reference or attribution to the Supplier, without the prior written consent of Iron Mountain. Supplier agrees to seek prior written approval from Iron Mountain to issue any news release or public communication in which Iron Mountain or its activities, including without limitation the existence or nature of the Agreement, with the Supplier are mentioned.