

## RM Results Data Exchange Terms & Conditions (Effective September 2014)

*Notes:*

1. *The following details should be completed as applicable to the specifics of each project.*
2. *If appropriate, it is acceptable to refer out to other documents, provided that such documents have been signed by both parties and reference this Agreement.*
3. *If any fields are not relevant, please state "N/A" below.*

<b>1.</b>	<b>Name of Customer:</b>	<i>[Insert legal name of Customer]</i>	<b>(the "Customer")</b>
<b>2.</b>	<b>Address of Customer:</b>	<i>[Insert full address of Customer]</i>	
<b>3.</b>	<b>Title of Project:</b>	<i>[Insert specific project-name where relevant]</i>	
<b>4.</b>	<b>Date:</b>	<i>[Insert date of signing of this Agreement]</i>	<b>(the "Effective Date")</b>
<b>5.</b>	<b>Term:</b>	<i>[Insert the initial period of this Agreement]</i>	<b>(the "Term")</b>
<b>6.</b>	<b>Users:</b>	<i>[Insert details of the expected Users – note this could be a number of users and/or categories of users (e.g., types of establishment)]</i>	<b>(the "Users")</b>
<b>7.</b>	<b>Specification</b>	<i>[Insert details of the technical specification setting out the precise elements of the RM Results Data Exchange Service to be provided to the specific Customer]</i>	<b>(the "Specification")</b>
<b>8.</b>	<b>Support Services:</b>	<i>[Insert description of support services to be provided or set out in separate document, if not included in the Specification]</i>	<b>(the "Support Services")</b>
<b>9.</b>	<b>Training:</b>	<i>[Describe any training to be provided as part of the Service]</i>	<b>(the "Training")</b>
<b>10.</b>	<b>Table of fees and expenses, together with payment dates:</b>	<i>[Insert details of fees payable and any applicable payment criteria]</i>	<b>(the "Payments")</b>
<b>11.</b>	<b>Special Conditions:</b>	<i>[Insert any specific, tailored terms that may be relevant (i.e., where the "Standard Terms" should be varied or added to)]</i>	<b>(the "Special Conditions")</b>

<p>..... Signed for and on behalf of RM Education Ltd</p> <p>..... Name &amp; Position</p>	<p>..... Date</p>
<p>..... Signed for and on behalf of the Customer</p> <p>..... Name &amp; Position</p>	<p>..... Date</p>

**RM Results Data Exchange**  
**Standard Terms and Conditions**  
**(Effective September 2014)**

**BY USING OR ACCESSING THE SERVICE YOU AGREE TO THE FOLLOWING TERMS AND CONDITIONS GOVERNING YOUR USE OF THE SERVICE.**

**THIS AGREEMENT SHALL APPLY TO YOUR USE OF THE SERVICE, REGARDLESS OF ANY OTHER TERMS AND CONDITIONS THAT YOU MAY HAVE PROPOSED AND/OR ANY OTHER TERMS THAT MAY HAVE BEEN AGREED BETWEEN YOU AND RM RESULTS.**

**YOU WARRANT THAT YOU BUY OUR SERVICES AS A BUSINESS AND NOT AS A CONSUMER.**

**1 DEFINITIONS**

**‘Agreement’** these terms and conditions and any Purchase Order or the cover sheet to these terms and conditions, if applicable, between Customer and RM Results related to the Service.

**‘Confidential Information’** shall mean and include all information which the disclosing party reasonably regards as confidential (which in the case of RM Results shall include without limitation all of RM Results’ technical materials, software, trade secrets, documentation and pricing) but shall exclude information which:

- (a) is already in the public domain or comes into the public domain other than as a result of a breach of this Agreement;
- (b) the receiving party can demonstrate was developed independently of information received from the other party;
- (c) is required to be disclosed by statute (but not contractual obligation); and
- (d) is received from a third party who is entitled to share such information without restriction.

**‘Customer’** means the person or organisation whose name is set out on the Purchase Order or the cover sheet to these terms and conditions.

**‘Customer Data’** means any data, information or material provided or submitted by You or Your Users to the Service in the course of using the Service, including, without limitation, name and contact information for Users, other personally identifiable information about Users and employees and students of Customer, some of which may not be publicly available or may include personal health information such as allergies or disabilities.

**‘Effective Date’** means the date this Agreement is accepted. For the avoidance of doubt, You are deemed to have accepted this Agreement if you begin using the Service.

**‘Employment Liabilities’** means all and any costs, liabilities, expenses, claims (in each case direct or indirect) arising or incurred in any way in connection with the employment and/or termination of employment of an individual including (without limitation) all salary, bonus and other emoluments, all pension and pension-related benefits and all and any other contractual, statutory or other entitlements paid or payable to, or on behalf of, or in connection with the employment of, or termination of employment of, that individual.

**‘Input Material’** means any documents or other materials, and any data or other information provided by the Customer to RM relating to the Service.

**‘IPR’** means unpatented inventions, patent applications, patents, design rights, copyrights, trademarks, service marks, trade names, domain name rights, mask work rights, know-how and other trade secret rights, and all other intellectual property rights, derivatives thereof, and forms of protection of a similar nature anywhere in the world.

**‘Output Material’** means any documents or other materials, and any data or other information provided by RM to the Customer relating to the Service.

**‘Purchase Order’** means the purchase order placed on RM Results by You for the provision of the Service which shall identify the Service and modules, number of authorised users, the Term and other details relating to the Service as applicable.

**‘RM Results’** means a division of RM Education Limited, of 140 Eastern Avenue, Milton Park, Abingdon, Oxon, OX14 4SB, UK.

**‘Service’** means the “RM Results Data Exchange Service” described in the Specification (and any modules or elements thereof), developed, operated, and maintained by RM Results, to which You are being granted access under this Agreement.

**‘Specification’** means the document agreed between the parties and signed in writing which sets out the technical systems and services to be provided by RM Results to the Customer.

**‘Suppliers’** means companies that supply software, hardware or services that are required to deliver the Service.

**‘Support Service Proposal’** means the document (if applicable) agreed and signed by both parties describing the support services to be provided by RM Results to the Customer.

**‘Support Services’** means the support service to be provided by RM Results to the Customer as described in the Support Service Proposal, if applicable.

**‘Term’** means the period during which You are obliged to pay for the Service, use or access the Service as stated on the Purchase Order or the cover sheet to these terms and conditions, as appropriate.

**‘TUPE’** means:

- (a) the Transfer of Undertakings (Protection of Employment) Regulations 2006; and/or
- (b) any similar equivalent legislation or laws in any jurisdiction (whether in England and Wales or any other jurisdiction); and/or
- (c) any other law(s) and/or legal requirement as a result of which the employment of any individual is transferred to RM Results as a result of the provision by RM Results to the Customer of the Services and/or Support Services.

**‘User’** means Your employees, representatives, consultants, contractors or agents who are authorised to use the Service and have been supplied user identifications and passwords by You (or by RM Results at Your request).

**‘You’ or ‘Your’** means the name of the Customer as set out on the Purchase Order or the cover sheet to these terms and conditions, as appropriate.

**2 DURATION**

- 2.1 This Agreement shall commence on the Effective Date and continue until the end of the Term. At the end of the Term,

unless otherwise agreed, this Agreement shall automatically terminate.

- 2.2 Subject to paragraph 7, either party may terminate this Agreement by giving not less than ninety (90) days notice prior to the end of the then-current Term.

### 3 LICENSE GRANT AND SERVICES

- 3.1 Upon the entering into of this Agreement, RM Results agrees to provide You with the non-exclusive, limited, non-assignable right to access the Service. You are not authorised to allow other entities to access or use the Service and You will not charge any User for access or use of the Service unless You have first obtained RM Results' written consent.
- 3.2 This Agreement licenses the Service to be used by the Users described on the cover sheet to these terms and conditions.
- 3.3 You may produce copies of any instructions provided by RM Results and distribute such copies to Users to enable them to use the Service. This shall be without prejudice to the provisions of paragraph 6.
- 3.4 All rights not expressly granted in this Agreement are reserved to RM Results. No rights are granted by implication.
- 3.5 The Support Services to be provided by RM Results to the Customer shall be as set out in the Support Service Proposal. The descriptions set out in the Support Service Proposal shall be subject to these terms and conditions.
- 3.6 RM Results shall only be responsible for providing the Support Services explicitly stated to be its responsibility.

### 4 PAYMENT

- 4.1 Unless otherwise specified in the Special Conditions (if any), the Customer shall pay for the Service at the time of order.
- 4.2 All invoices are payable within thirty (30) days of receipt (time being of the essence). Terms of payment are within RM Results' sole discretion and unless otherwise agreed to by RM Results, payment may be received by RM Results prior to RM Results' acceptance of an order in accordance with these terms.
- 4.3 RM Results reserves the right to charge interest at the lower rate of (a) 8% per annum above the Bank of England base rate or (b) the highest rate applicable under the Governing Law, from time to time on any payment or any part payment overdue calculated from the date due and to recover its expenses including legal fees and costs of collection and to suspend delivery, performance of any warranty or (at RM Results' option) forthwith to determine the same. RM Results has no obligation to provide the Service until RM Results has received full payment for the Service that the Customer has ordered.

### 5 YOUR RESPONSIBILITIES

- 5.1 If You or Your Users disclose or share user account details with any third party or allow any third party to use the Service on Your behalf or violate the terms of this Agreement in any other way, You agree to indemnify RM Results and our Suppliers for any losses, liabilities, claims, costs and/or damages incurred by RM Results and/or our Suppliers as a result of Your actions. If RM Results reasonably believes that an account is being used in any way which is not permitted by RM Results, RM Results reserves the right to cancel access rights immediately without notice and to block access to all Users from that account. We will use reasonable efforts to notify You promptly after taking such action.
- 5.2 You are solely responsible for acquiring and maintaining all computer hardware and software, telephone and communications equipment needed for access to and use of the Service.
- 5.3 You are solely responsible for obtaining all appropriate and necessary consents and authorisations from any third party required or appropriate in order to disclose or use any Customer Data, including without limitation personally identifiable information about Your Users, to RM Results to provide or use such information in connection with the Services. You will be

responsible for Your use and access of Customer Data in a manner consistent with Your obligations to third parties.

- 5.3 You own and have sole responsibility for the accuracy, quality, integrity, legality, reliability, appropriateness, and IPR ownership or right to use of all Customer Data and RM Results shall not be responsible or liable for the deletion, correction, destruction, damage, loss of or failure to store any Customer Data. You will maintain back-up copies of such Customer Data to the extent that You require such back-up copies.

### 6 INTELLECTUAL PROPERTY

- 6.1 Title to any RM Results Confidential Information shall at all times remain vested in RM Results or its licensors. At no time shall You or any User gain any title to any such software or be entitled to receive a copy of the RM Results software You are using to provide the Service.
- 6.2 Subject always to the provisions of paragraph 6.1, RM Results hereby grants to You a limited, non-exclusive, non-transferable License to access and use the software made available to You (if any) by RM Results for use with the Service for the duration of the Term. You shall and ensure that Users shall treat the Service like any other copyrighted material (e.g. a book or musical recording).
- 6.3 You undertake not to perform (nor allow any User to perform) any of the acts referred to in this paragraph 6.3 except to the extent and only to the extent permitted by law as a lawful user of the Service and only then for the specific limited purpose permitted by law or in this Agreement. You undertake (including on behalf of all Users):
- 6.3.1 not to copy the Service (other than for normal system operation and as expressly specified in this Agreement) nor otherwise reproduce the same;
- 6.3.2 not to translate, adapt, vary, or modify the Service;
- 6.3.3 not to disassemble, decompile or reverse engineer the Service;
- 6.3.4 not to remove, obscure or modify any notice of patent, copyright, trademark or other proprietary rights notice on the Service;
- 6.3.5 not to sub-License, distribute, rent, lease, or otherwise transfer the Service or any unique access code or copy the Service other than as expressly provided in this Agreement;
- 6.3.6 not to make the Service accessible by any type of broadcast or transmission, including but not limited to broadcast or transmission by cable, Internet, television, satellite, or telephone;
- 6.3.7 not to use the Service to attract customers away from RM Results or to procure commercial advantage over RM Results or to use it in any other way which is likely to be directly or indirectly detrimental to RM Results or its business;
- 6.3.8 not to reproduce or transmit to or store in any Website any part of the Service, nor disseminate in any electronic or non-electronic form any of the pages or parts thereof, nor include any of the foregoing in any public or private electronic retrieval system or service; and
- 6.3.9 not to enable a third party to do any of the acts set out in this paragraph 6.3.
- 6.4 If notified promptly in writing of any action (and all prior claims relating to such action) brought against You, based on a claim that any User's use of the Service infringes a UK patent or copyright, RM Results will defend such action at its expense and pay the costs and damages awarded, provided that RM Results shall have sole control of the defence of any such action and all negotiations for its settlement or compromise. At any time during the course of any litigation or other dispute resolution process arising out of a claim of infringement for a

UK patent or copyright, or if in RM Results' opinion, the Service is likely to become the subject of a claim of infringement of a UK patent or copyright, RM Results will at its option and expense either procure for You and any Users the right to continue using the Service, replace or modify the same so that it becomes non-infringing, or refund the prior month's subscription fees, if applicable, for the Service and any pre-paid unused amount and terminate the license to the Service. RM Results will not have any liability to You under any provision of this paragraph if the infringement or claim thereof is based upon:

6.4.1 use of the Service in combination with other equipment or software not supplied by RM Results; or

6.4.2 the use of the Service in carrying out any patented process.

6.5 Paragraph 6.4 (above) states the entire liability of RM Results and Customer's sole remedy with respect to infringement of patents or copyrights by the service or any part thereof or by its operation. No costs or expenses will be incurred for the account of RM Results without the prior written consent of RM Results.

6.6 RM Results is not responsible for monitoring any content or information submitted by You or any of Your Users. You should implement policies and procedures to ensure all content You or Your Users submit to the Service are appropriate for the Users, meet with Your requirements, and in conformance with this Agreement. You will hold RM Results harmless against any expense, judgment, liability or loss, or infringement of any IPRs which results from (a) Your provision of the Customer Data to RM Results or the Service, (b) RM Results' compliance with Your or any User's instructions, (c) use by RM Results of any Customer Data or other materials or information provided by You or any User, (d) the violation of any law, regulation or third party right by any content, data or information provided by You or any of Your Users, or (e) Your or Your User's violation of this Agreement.

6.7 RM Results may update, modify, change features, improve or extend the Service from time to time.

6.8 Any Input Material originating from the Customer shall belong to the Customer or its licensors.

6.9 All IPR developed or created under this Agreement shall belong to RM. The Customer shall be entitled to use those IPRs in accordance with the licences granted in this Agreement.

6.10 Any Output Material shall, unless otherwise agreed in writing between the Customer and RM, belong to RM. The Customer shall be entitled to use the Output Material in accordance with the licences granted in this Agreement.

6.11 The Customer warrants that any Input Material and its use by RM for the purpose of providing the Service will not infringe the copyright or other rights of any third party and the Customer shall indemnify RM against any loss, damages costs expenses or other claims arising from any such infringement.

## 7 TERMINATION

7.1 Either party may terminate this Agreement:

7.1.1 in accordance with paragraph 2.2 (above);

7.1.2 if the other party commits any material breach of this Agreement which is not remedied within thirty (30) days of a notice requiring such breach to be remedied; or

7.1.3 immediately if the other party ceases to carry on business or substantial part thereof, commits an act of bankruptcy or is adjudicated bankrupt or enters into liquidation whether compulsory or voluntary other than for the purposes of amalgamation or reconstruction or compounds with its creditors generally or has a receiver or manager appointed over all or any part of its assets or suffers execution or distress or takes or suffers any similar action in consequence of debt or

becomes unable to pay its debts as they fall due.

7.2 RM Results may terminate this Agreement upon written notice to You (which would automatically terminate any related license(s)) if You fail to pay any sums to RM Results in respect of the Service on the due date of payment.

7.3 Following termination of this Agreement, RM Results will provide You with access to the Service for a limited period of no more than thirty (30) days from the date of termination to enable You to take copies of any Customer Data if You request this at the time of termination.

## 8 WARRANTY DISCLAIMER

RM warrants that it will use all reasonable skill and care in performing and providing the Service. Nonetheless, You accept that RM Results is acting only as a supplier and that it is Your responsibility to verify that the Service will be suitable for Your own requirements and the results You intend to achieve through use of the Service. The Service is provided "as is", "where is", and RM Results disclaims all warranties, conditions, guarantees or representations, whether express, implied or statutory, including without limitation any warranty of merchantability or fitness for a particular purpose.

## 9 DATA PROTECTION

9.1 In this Agreement, the terms data controller, data processor, personal data, sensitive personal data and processing shall be as defined in the European Data Protection Directive 95/46/EC and "Data" shall mean the personal data, Customer Data and any other sensitive personal data provided to RM Results in connection with the Service. "Data Protection Law" means applicable data protection legislation implementing the European Data Protection Directive 95/46/EC and any amendments, revisions, re-enactments or consolidations thereof.

9.2 You acknowledge that You are a data controller and that RM Results is a data processor.

9.3 RM Results shall:

9.3.1 use the Data only on Your instructions as set out or referred to in this Agreement to provide the Service;

9.3.2 provide appropriate technical and organisational measures to protect the security of the Data, in particular against unauthorised or unlawful access or processing, alteration, accidental loss or destruction of or damage to the Data; and

9.3.3 take all reasonable steps to ensure the reliability of any of its staff who have access to Data processed in connection with the Service.

9.4 The parties acknowledge that RM Results' provision of the Service may require the transfer of Data to RM Results' sub-contractors (including RM Results group entities) ("Recipients") outside the European Economic Area in countries which have not been approved by the European Commission as having adequate protections in place for the purpose of the transfer of personal data. RM Results will be permitted to transfer Data to such Recipients provided that RM Results shall have entered into an agreement with the relevant Recipient based upon standard contractual clauses approved by the European Commission for transfers of personal data to processors outside of the European Economic Area and which agreement shall include security obligations on the Recipient which are no less onerous than those contained in this Agreement.

9.5 The parties also acknowledge that RM Results may also use services and/or products from other third parties in order to provide the Service and that, in doing so, RM Results may transfer Data to such third parties. If RM Results becomes aware of any such third party wishing to transfer Data outside the European Economic Area, RM Results shall request that the third party enters into an agreement of the sort noted in clause 9.4 above.

9.6 You agree to comply with Your obligations under Data Protection Law in relation to the collection, processing and provision of Data to RM Results in connection with the Service.

9.7 You shall indemnify and keep RM Results indemnified against all costs, claims, losses, damages and expenses (including legal expenses) arising out of, or in connection with, any breach of this Clause 9 by You and/or Your employees, agents and/or sub-contractors.

9.8 You acknowledge that RM Results is reliant on You for direction as to the extent to which RM Results is entitled to use and process the Data. Consequently, RM Results will not be liable for any claim brought by You or any data subject arising from any action or omission by RM Results to the extent that such action or omission resulted from Your instructions.

9.9 RM Results may also use Your personal data in accordance with its Privacy Policy which can be found at [www.rm.com](http://www.rm.com).

## 10 CONFIDENTIALITY

10.1 The information that You provide to RM Results will be used by RM Results for the effective administration of its services and to communicate with You and Users generally.

10.2 The Customer agrees to keep RM Results' Confidential Information secure and to implement such security measures on RM Results' Confidential Information as it employs on its own Confidential Information, but in no event will You use less than reasonable measures to protect RM Results' Confidential Information. You acknowledge and agree the software used to provide the Services constitutes RM Results' Confidential Information. You agree that You will not disclose any of RM Results' Confidential Information to any third party without RM Results' prior written consent.

10.3 Any Input Material or other information provided by the Customer which is so designated by the Customer shall be kept confidential by RM.

10.4 The foregoing confidentiality obligations in this paragraph 10 shall not apply:

10.4.1 in respect of any information which is in, or comes into, the public domain otherwise than as a result of a breach of this Agreement; and

10.4.2 information which is required to be disclosed by law or regulation.

## 11 LIMITATION OF LIABILITY

11.1 The Service has been manufactured or developed by RM Results or third parties to standard specifications (save only to the extent specifically agreed in writing otherwise). You accept that RM Results is acting only as a supplier and that it is Your responsibility to verify that the Service will be suitable for Your own requirements. There are no warranties, conditions, guarantees or representations as to description, merchantability or fitness for a particular purpose or other warranties, conditions, guarantees or representations relating to the Service, whether express implied by statute or otherwise oral or in writing except as provided in this Agreement and except as to statute implied terms as to title.

11.2 You agree that RM Results will not be liable for any loss arising out of the provision of goods or services by any company, organisation or person other than RM Results or for any loss caused by Your failure to perform Your obligations under this Agreement or as referenced by the Special Conditions detailed on the cover sheet to this Agreement. In particular but without limitation to the generality of the foregoing, RM Results shall not be responsible nor liable for Your inability to access the Service or any impairment in using the Service where such inability or impairment results from any incompatibility between the Service and any hardware or software used by You, unless such items have been supplied by RM Results specifically for use with the Service.

11.3 RM Results' liability shall be unlimited in respect of (a) any

death or personal injury caused by its negligence or that of its employees, agents or contractors; (b) fraud; and (c) for any other matter in respect of which law prescribes that liability may not be excluded or limited.

11.4 Subject to clause 11.3 (above), RM Results' liability under or otherwise arising out of this Agreement in respect of loss of profit, loss or corruption of data, loss of use, loss of anticipated savings, loss of amenity, loss of business, loss of revenue, loss of capital and / or any indirect, special or consequential losses, and / or loss of goodwill of any kind shall be excluded, in each case howsoever arising, in connection with or arising out of the supply, functioning or use of the Service even if RM Results shall have been advised of the possibility of such potential loss and shall not be liable for any loss except as provided for in this Agreement.

11.5 Subject to clauses 6.4, 11.3 and 11.4 (above), the maximum aggregate liability of RM Results (whether in contract, tort, negligence, statutory duty or otherwise) for any claim, loss, cost, expense and/or damage and or any other liability of any kind whatsoever arising from or in any way connected with the Service and/or otherwise under or in connection with this Agreement shall be limited to the fees paid or payable in respect of the Service, or, in the event no fees are payable, the sum of £25,000. This limit shall also apply in the event that any exclusion or other provision contained in this Agreement is held to be invalid for any reason and RM Results becomes liable for loss or damage that could otherwise have been limited.

## 12 TUPE

12.1 It is acknowledged that TUPE may apply on commencement and termination or expiry of the Service and/or Support Services. Subject to the following provisions, each party agrees with the other to comply with all of its legal obligations under or otherwise in connection with TUPE.

12.2 The Customer acknowledges that RM Results has relied upon certain information and/or assumptions in connection with TUPE matters. As such, the Support Service Proposal shall specify the following details (together the "**TUPE Assumptions**"):

12.2.1 the number of individuals whose employment will transfer to RM Results in connection with the Services as a result of the operation of TUPE (the "**Transferring Employees**"); and

12.2.2 all emoluments and other payments, costs and/or liabilities that may be incurred by RM Results as a result of employing the Transferring Employees (the "**TUPE Employment Costs**").

12.3 Only those Transferring Employees and TUPE Employment Costs expressly stated in the Support Service Proposal shall fall within the TUPE Assumptions. For the avoidance of doubt, where a Support Service Proposal does not explicitly set out details of any Transferring Employees and/or any TUPE Employment Costs, it is acknowledged that RM Results' assumption will be that there are no Transferring Employees and/or TUPE Employment Costs.

12.4 If any of the TUPE Assumptions prove(s) incorrect in any respect, the Customer shall indemnify and keep indemnified RM Results and/or any relevant subcontractors of RM Results against any and all Employment Liabilities that RM Results and/or the relevant subcontractor(s) incurs as a direct or indirect result. This shall include without limitation any costs (including ongoing employment costs), liabilities, expenses (including legal expenses on an indemnity basis) and settlements, in each case arising out of the employment or termination (whether lawful or otherwise) of any individual whose employment transfers to RM Results in connection with the Service and/or Support Services as a result of the operation of TUPE.

12.5 Where RM Results requires fewer onsite staff to operate the Service and/or Support Services (as relevant) than those whose employment transfers to RM Results as a result of the operation

of TUPE (including without limitation where this is identified in a Support Service Proposal), RM Results may (at any time) terminate the employment of one or more of the relevant employees (the “**Relevant Employees**”). For the avoidance of doubt, this shall apply whether or not RM Results is lawfully entitled to terminate the employment of the affected persons. In those circumstances, the Customer shall indemnify and keep indemnified RM Results in respect of all Employment Liabilities that may be incurred by RM Results and/or any subcontractor of RM Results in respect of the Relevant Employees.

#### Pension-Related Benefits

- 12.6 Notwithstanding the above provisions of this paragraph 12 and/or anything stated to the contrary in any Support Service Proposal (whether explicit or implicit), RM Results assumes that the sole liability that it will have in relation to the provision of retirement related benefits (including without limitation any pension) to or otherwise in respect of any Transferring Employees shall be an ongoing employer contribution to the relevant pension scheme of a fixed percentage of the base salary of those individuals.
- 12.7 The Support Service Proposal shall state the relevant percentage and, where no such percentage is expressly stated, the employer contribution rate shall be assumed to be no greater than ten percent (10%) of the base salary of the Transferring Employees. The employer contribution assumed shall be the “**Assumed Pension Costs**”.
- 12.8 If at any time RM Results and/or any subcontractor of RM Results becomes liable for any costs of any kind (including without limitation as a result of increased employer contribution rates and/or any exit or deficit payment) in excess of the Assumed Pension Costs, the Customer shall indemnify and keep indemnified in respect of any and all such costs.

#### 13 ANTI-BRIBERY

You shall ensure that You and all of Your staff, agents, contractors and any other party performing Your obligations or exercising Your rights under or in connection with this Agreement and/or any other agreement that You may have with RM Results, complies at all times with all applicable anti-bribery and/or corruption laws, regulations and codes of conduct in all jurisdictions. You shall, whenever requested by RM Results, provide evidence of the measures, steps and processes that it takes to ensure compliance with the provisions of this clause and the relevant laws, regulations and codes of conduct.

#### 14 NOTICE

- 14.1 Any notices You may wish to serve on RM Results must be sent by first class registered post to RM Results’ registered office and marked clearly “For the attention of the Company Secretary”. Any such notice will be deemed delivered on receipt.
- 14.2 RM Results may give notice to You by means of a general notice on the Service, electronic mail to Your e-mail address on record in RM Results’ account information, or by first class mail to the address on Your record held by RM Results. Any such correctly addressed notices shall be deemed to have been given upon the expiration of 48 hours after posting (if sent by first class mail) or 12 hours after sending (if sent by email).

#### 15 ENTIRE AGREEMENT: MODIFICATIONS TO TERMS

- 15.1 These terms and conditions and any Purchase Order, Specification, Special Conditions and the cover sheet to these terms and conditions between You and RM Results related to the Service, constitute the entire agreement between RM Results and You with respect to the subject matter herein.
- 15.2 RM Results reserves the right, on reasonable notice, to change these terms and conditions. It is Your responsibility to check the terms and conditions governing the use of the Service.

- 15.3 In the event of any conflict or inconsistency between any of the following documents, the order of precedence shall be as follows (with the item at the top of the list taking highest priority):

- 15.3.1 the Special Conditions (if any);
- 15.3.2 these Terms and Conditions;
- 15.3.3 the Specification and Support Services Proposal; and
- 15.3.4 the Purchase Order (if any).

#### 16 FORCE MAJEURE

Neither party shall be liable to the other for any delay in or failure to perform its obligations under this Agreement (other than a payment of money) provided that such a failure is due to causes beyond its reasonable control. Such causes shall include but are not limited to terrorism, fire, flooding, lightning, storm, power surges and failures, failure of suppliers, telecommunications disruptions, industrial disputes and other similar action, earthquakes and acts of God.

#### 17 NON-WAIVER

Failure by either party to exercise or delay exercising any of the terms of this Agreement shall not constitute or be deemed to be a waiver of its rights under this Agreement nor prejudice its rights to take subsequent action.

#### 18 NON-ENFORCEABILITY

The invalidity or unenforceability for any reason of any part of this Agreement shall not prejudice the continuation in force of any other part of this Agreement.

#### 19 ASSIGNMENT

This Agreement may not be assigned by You without the prior written consent of RM Results (which RM Results shall be entitled to refuse at its absolute discretion). RM Results shall be entitled to assign the benefit and/or burden of this Agreement to any other subsidiary (of any level) of RM plc (Registered No 01749877) upon giving notice to You to that effect. RM Results shall also be entitled to use subcontractors at its discretion in order to provide the Service.

#### 20 CUSTOMER MORE THAN ONE PERSON

Where any order for the Service has been made by two or more legal persons jointly, the liability of such persons and their obligations to RM Results under this Agreement shall be joint and several.

#### 21 THIRD PARTY RIGHTS

Nothing in this Agreement shall confer on any third party any right or benefit under the provisions of the Contracts (Rights of Third Parties) Act 1999 or otherwise.

#### 22 GOVERNING LAW

This Agreement (and any dispute, controversy, proceedings or claim of whatever nature) shall be governed by English law. The parties hereby submit to the exclusive jurisdiction of the English courts.