

MARSTON (HOLDINGS) LIMITED STANDARD TERMS AND CONDITIONS FOR THE SUPPLY OF SERVICES

1. INTERPRETATION

1.1 In this Agreement, the following words shall have the following meanings: -

Business Day	a day (other than a Saturday, Sunday or public holiday) when banks in London are open for business.
Charges	the Charges payable by the Customer for the supply of Services in accordance with clause 7.
Commencement Date	has the meaning set out in clause 2.2
Conditions	these terms and Conditions as amended from time to time in accordance with clause 21
Contract	the Contract between the Customer and the Supplier for the supply of Services in accordance with these Conditions.
Customer	Marston (Holdings) Limited (MHL) registered in England and Wales with the company number 04305487.
Customer Materials	Has the meaning set out in clause 3.3.9.
Deliverables	all documents, products and materials developed by the Supplier or its agents, Contractors and employees as part of or in relation to the Services in any form or media, including without limitation drawings, maps, plans, diagrams, designs, pictures, computer programs, data, specifications and reports (including drafts).
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.
Order	the Customer's Order for the supply of Services, as set out in
Services	the Services, including without limitation any Deliverables, to be provided by the Supplier under the Contract as set out in the Specification.
Specification	the description or specification for the Services agreed in writing by the Customer and the Supplier.
Supplier	the person or firm from whom the Customer purchases the Services.

1.2 Construction. In these Conditions, the following rules apply:

- 1.2.1 a **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality);
- 1.2.2 a reference to a party includes its [personal representatives,] successors or permitted assigns;
- 1.2.3 a reference to a statute or statutory provision is a reference to such statute or statutory provision as amended or re-enacted. A reference to a statute or statutory provision includes any subordinate legislation made under that statute or statutory provision, as amended or re-enacted;
- 1.2.4 any phrase introduced by the terms **including, include, in particular** or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms; and
- 1.2.5 a reference to **writing** or **written** includes faxes [and e-mails].

2. BASIS OF CONTRACT

- 2.1 The Order constitutes an offer by the Customer to purchase Services in accordance with these Conditions.
- 2.2 The Order shall be deemed to be accepted on the earlier of:
 - 2.2.1 The Supplier issuing written acceptance of the Order; or
 - 2.2.2 Any act by the Supplier consistent with fulfilling the Order,

at which point and on which date the Contract shall come into existence (**Commencement Date**).

3. SUPPLY OF SERVICES

- 3.1 The Supplier shall from [the Commencement Date OR the date set in the Order] and for the duration of this Contract provide the Services to the Customer in accordance with the terms of the Contract.
- 3.2 The Supplier shall meet any performance dates for the Services specified in the Order or notified to the Supplier by the Customer.
- 3.3 In providing the Services, the Supplier shall:
 - 3.3.1 co-operate with the Customer in all matters relating to the Services, and comply with all instructions of the Customer;
 - 3.3.2 perform the Services with the best care, skill and diligence in accordance with best practice in the Supplier's industry, profession or trade;
 - 3.3.3 use personnel who are suitably skilled and experienced to perform tasks assigned to them, and in sufficient number to ensure that the Supplier's obligations are fulfilled in accordance with this Contract;
 - 3.3.4 ensure that the Services and Deliverables will conform with all descriptions and specifications set out in the Specification, and that the Deliverables shall be fit for any purpose expressly or impliedly made known to the Supplier by the Customer;
 - 3.3.5 provide all equipment, tools and vehicles and such other items as are required to provide the Services;
 - 3.3.6 use the best quality goods, materials, standards and techniques, and ensure that the Deliverables, and all goods and materials supplied and used in the Services or transferred to the Customer, will be free from defects in workmanship, installation and design;
 - 3.3.7 obtain and at all times maintain all necessary licences and consents, and comply with all applicable laws and regulations;
 - 3.3.8 observe all health and safety rules and regulations and any other security requirements that apply at any of the Customer's premises;
 - 3.3.9 hold all materials, equipment and tools, drawings, specifications and data supplied by the Customer to the Supplier (**Customer Materials**) in safe custody at its own risk, maintain the Customer Materials in good condition until returned to the Customer, and not dispose or use the Customer Materials other than in accordance with the Customer's written instructions or authorisation;
 - 3.3.10 not do or omit to do anything which may cause the Customer to lose any licence, authority, consent or permission on which it relies for the purposes of conducting its business, and the Supplier acknowledges that the Customer may rely or act on the Services.
 - 3.3.11 if the Supplier is certified to ISO27001, ISO14001, ISO9001 and/or PCI-DSS the Supplier shall immediately notify Customer if their certification is withdrawn, suspended or lapsed.

4. CUSTOMER REMEDIES

- 4.1 If the Supplier fails to perform the Services by the applicable dates, the Customer shall, without limiting its other rights or remedies, have one or more of the following rights:
 - 4.1.1 to terminate the Contract with immediate effect by giving written notice to the Supplier;
 - 4.1.2 to refuse to accept any subsequent performance of the Services which the Supplier attempts to make;
 - 4.1.3 to recover from the Supplier any costs incurred by the Customer in obtaining substitute Services from a third party;
 - 4.1.4 where the Customer has paid in advance for Services that have not been provided by the Supplier, to have such sums refunded by the Supplier; or
 - 4.1.5 to claim damages for any additional costs, loss or expenses incurred by the Customer which are in any way attributable to the Supplier's failure to meet such dates.
- 4.2 These Conditions shall extend to any substituted or remedial Services provided by the Supplier.
- 4.3 The Customer's rights under this Contract are in addition to its rights and remedies implied by statute and common law.

5. CUSTOMER OBLIGATIONS

- 5.1 The Customer Shall:
 - 5.1.1 provide the Supplier with reasonable access at reasonable times to the Customer's premises for the purpose of providing the Services;
 - 5.1.2 provide such information to the Supplier as the Supplier may reasonably request and the Customer considers reasonably necessary for the purpose of providing the Services.

6. SUPPLIER OBLIGATIONS

- 6.1 The supplier shall:
 - 6.1.1 Ensure that it implements Business Continuity Plans which will allow the Services to continue to be provided to Customer in the event of a Business interruption which affects the Services. For clarity, a Business Interruption is an event which could affect the Supplier's ability to provide the Services. Examples of which include, but not limited to, power outages, denial of access to buildings, hardware telecommunications and software failures, natural disasters, pandemics, industrial action etc. The Supplier shall be responsible for developing its own Business Continuity Plans and subjecting them to levels of testing which give the Supplier an assurance that their plans will be effective when brought into action. These plans should allow the Services to be restored in line with the provisions on this contract.
 - 6.1.2 Customer shall retain the right to request evidence of such Business Continuity planning including requesting copies of plans and test results. The Supplier shall be entitled to sanitise such plans to remove confidential data providing such sanitised copies provide Customer with a reasonable assurance that such plans are in place.
 - 6.1.3 Ensure that all staff, contractors and individuals employed by third parties that are granted access to Customer information assets to assist in delivering the Services are subject to the background checking requirements applied to Customer employees. For clarity, these requirements are: Completion of a basic Disclosure and Barring Service (DBS) check along with evidence of the right to work in the UK. Where Customer's customers require more rigorous background checks for specific services Customer reserves the right to require the same standards to be implemented by the Supplier (e.g. should and Customer's customer require all staff having access to the customer data to be Baseline Personnel Security Standard (BPSS)checked this will apply equally to the Supplier staff with such access).
 - 6.1.4 In the event of a breach of information security at the Supplier which could potentially/have exposed Customer information to unauthorised access the Supplier shall be duty bound to notify the Customer Information Security Manager and Customer Head of IT as soon as possible but in any case, within 24 hours. For clarity, a breach of information security constitutes but is not limited to a breach of Customer policy, hacking attacks, unauthorised access (internal or external), fraudulent activity, denial of service attacks, data loss (whether deliberate or accidental, data theft. Failure to report such incidents to Customer can have serious consequences for Customer and its customers and such a failure can be considered a material breach of contract.

Where the Supplier stores or processes personal data on behalf of Customer, Customer shall remain the data controller as defined in the Data Protection Laws (as defined in this Condition. The Supplier shall at all time adhere to the requirements of the Data Protection Laws. Under no circumstances shall the Supplier share, transfer or store the data with any other party unless explicitly authorised in writing by the Customer Data Protection Officer. The Supplier shall not store, transfer, process any Customer data outside of the United Kingdom unless explicitly authorised in writing by the Customer Data Protection Officer. "**Data Protection Laws**" means the Data Protection Act 1998, the General Data Protection Regulation (EU) 2016/679) which comes into force on 25 May 2018 and / or any United Kingdom equivalent other applicable laws, regulations guidance or codes in force in the United Kingdom as amended, updated or re-enacted from time to time, relating to the collecting, processing, and storing of the personal data of natural persons and setting out the responsibilities of the data controller and data processor (each as defined in the Data Protection Laws).

If the Supplier is certified to ISO 27001 and/or PCI-DSS the Supplier shall immediately notify Customer if their certification is withdrawn, suspended or lapsed.

7. CHARGES AND PAYMENT

- 7.1 The Charges for the Services shall be set out in the Order, and shall be the full and exclusive remuneration of the Supplier in respect of the performance of the Services. Unless otherwise agreed in writing by the Customer, the Charges shall include every cost and expense of the Supplier directly or indirectly incurred in connection with the performance of the Services.
- 7.2 The Supplier shall invoice the Customer on completion of the Services. Each invoice shall include such supporting information required by the Customer to verify the accuracy of the invoice, including but not limited to the relevant Purchase Order number.
- 7.3 In consideration of the supply of the Services by the Supplier, the Customer shall pay the invoiced amounts by the end of the month following the month in which the correctly referenced and undisputed invoice has been submitted to a bank account nominated in writing by the Supplier.
- 7.4 All amounts payable by the Customer under the Contract are exclusive of amounts in respect of value added tax chargeable for the time being (vat). Where any taxable supply for vat purposes is made under the Contract by the Supplier to the Customer, the Customer shall, on receipt of a valid vat invoice from the Supplier, pay to the Supplier such additional amounts in respect of vat as are chargeable on the supply of the Services at the same time as payment is due for the supply of the Services.
- 7.5 If the Customer fails to pay any amount properly due and payable by it under the Contract, the Supplier shall have the right to charge interest on the overdue amount at the rate of 1% per cent per annum above the base rate for the time being of the Bank of England accruing on a daily basis from the date due up to the date of actual payment, whether before or after judgment. This clause shall not apply to payments that the Customer disputes in good faith.
- 7.6 In relation to payments disputed in good faith, interest under this clause is payable only after the dispute is resolved, on sums found or agreed to be due, from 60 days after the dispute is resolved until payment.
- 7.7 The Supplier shall maintain complete and accurate records of the time spent and materials used by the Supplier in providing the Services, and shall allow the Customer to inspect such records at all reasonable times on request.
- 7.8 The Customer may, without limiting its other rights or remedies, set off any amount owed to it by the Supplier against any amount payable by the Customer to the Supplier under the Contract.

8. INTELLECTUAL PROPERTY RIGHTS

- 8.1 In relation to the Customer Materials:
 - 8.1.1 the Customer and its licensors shall retain ownership of all Intellectual Property Rights in the Customer Materials; and
 - 8.1.2 the Customer grants to the Supplier a fully paid-up, non-exclusive, royalty-free, non-transferable licence to copy and modify the Customer Materials for the term of this agreement for the purpose of providing the Services to the Customer.
- 8.2 In relation to the Deliverables:
 - 8.2.1 the Supplier assigns to the Customer, with full title guarantee and free from all third party rights, all Intellectual Property Rights in the Deliverables;
 - 8.2.2 the Supplier shall obtain waivers of all moral rights in 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; and
 - 8.2.3 the Supplier shall, promptly at the Customer's request, do (or procure to be done) all such further acts and things and the execution of all such other documents as the Customer may from time to time require for the purpose of securing for the Customer all right, title and interest in and to the Intellectual Property Rights assigned to the Customer in accordance with clause 8.2.
- 8.3 The Supplier:
 - 8.3.1 warrants that the receipt, use and onward supply of the Services and the Deliverables (excluding the Customer Materials) by the Customer and its permitted sub-licensees shall not infringe the rights, including any Intellectual Property Rights, of any third party; and
 - 8.3.2 shall indemnify the Customer in full against all costs, expenses, damages and losses, including any interest, fines, legal and other professional fees and expenses awarded against or incurred or paid by the Customer as a result of or in connection with any claim brought against the Customer for actual or alleged infringement of a third party's Intellectual Property Rights arising out of, or in connection with, the receipt, use of supply of the Services and the Deliverables (excluding the Customer Materials).

9. INDEMNITY

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- 9.1 The Supplier shall keep the Customer indemnified in full against all costs, expenses, damages and losses (whether direct or indirect), including any interest, fines, awards, penalties, legal and other professional fees and expenses awarded against or incurred or paid by the Customer as a result of or in connection with:
- 9.1.1 any claim made against the Customer by a third party arising out of, or in connection with, the supply of the Services, to the extent that such claim arises out of the breach, negligent performance or failure or delay in performance of the Contract by the Supplier, its employees, agents or subcontractors; and
- 9.1.2 any claim brought against the Customer for actual or alleged infringement of a third party's intellectual property rights arising out of, or in connection with, the receipt, use or supply of the Services.
- 9.2 For the duration of the Contract and for a period of 3 years thereafter, the Supplier shall maintain in force, with a reputable insurance company, professional indemnity insurance, public liability insurance, employer's liability insurance and data protection insurance to cover the liabilities that may arise under or in connection with the Contract and shall, on the Customer's request, produce both the insurance certificate giving details of cover and the receipt for the current year's premium in respect of each insurance.
- 9.3 This clause 9 shall survive termination of the Contract.

10. CONFIDENTIALITY

A party (Receiving Party) shall keep in strict confidence all technical or commercial know-how, specifications, inventions, processes or initiatives which are of a confidential nature and have been disclosed to, or otherwise obtained by, the Receiving Party by the other party (Disclosing Party), its employees, agents or subcontractors, and any other confidential information concerning the Disclosing Party's business or its products or its Services which the Receiving Party may obtain. The Receiving Party shall restrict disclosure of such confidential information to such of its employees, agents or subcontractors as need to know it for the purpose of discharging the Receiving Party's obligations under the Contract, and shall ensure that such employees, agents or subcontractors are subject to obligations of confidentiality corresponding to those which bind the Receiving Party.

11. TERMINATION

- 11.1 Without limiting its other rights or remedies, the Customer may terminate the Contract with immediate effect by giving written notice to the Supplier if:
- 11.1.1 the Supplier commits a material or persistent breach of the Contract and (if such a breach is remediable) fails to remedy that breach within 30 days of receipt of notice in writing of the breach;
- 11.1.2 the Supplier suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or (being a company) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 or (being an individual) is deemed either unable to pay its debts or as having no reasonable prospect of so doing, in either case, within the meaning of section 268 of the insolvency act 1986 or (being a partnership) has any partner to whom any of the foregoing apply;
- 11.1.3 the Supplier commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors [other than (where a company) for the sole purpose of a scheme for a solvent amalgamation of the Supplier with one or more other companies or the solvent reconstruction of the Supplier];
- 11.1.4 a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of the Supplier (being a company) other than for the sole purpose of a scheme for a solvent amalgamation of the Supplier with one or more other companies or the solvent reconstruction of the Supplier;
- 11.1.5 the Supplier (being an individual) is the subject of a bankruptcy petition order;
- 11.1.6 a creditor or encumbrancer of the Supplier attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of its assets and such attachment or process is not discharged within 14 days;
- 11.1.7 an application is made to court, or an order is made, for the appointment of an administrator or if a notice of intention to appoint an administrator is given or if an administrator is appointed over the Supplier (being a company);
- 11.1.8 a floating charge holder over the assets of the Supplier (being a company) has become entitled to appoint or has appointed an administrative receiver;
- 11.1.9 a person becomes entitled to appoint a receiver over the assets of the Supplier or a receiver is appointed over the assets of the Supplier;
- 11.1.10 any event occurs, or proceeding is taken, with respect to the Supplier in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clause 0 to clause 0 (inclusive);
- 11.1.11 the Supplier suspends or threatens to suspend, or ceases or threatens to cease to carry on, all or a substantial part of its business; or
- 11.1.12 the Supplier (being an individual) dies or, by reason of illness or incapacity (whether mental or physical), is incapable of managing his own affairs or becomes a patient under any mental health legislation.
- 11.2 Without limiting its other rights or remedies, the Customer may terminate the Contract by giving the Supplier 30 days, 1 Months' written notice.

12. CONSEQUENCES OF TERMINATION

- On termination of the Contract for any reason:
- 12.1 the Supplier shall immediately deliver to the Customer all Deliverables whether or not then complete, and return all Customer Materials. If the Supplier fails to do so, then the Customer may enter the Supplier's premises and take possession of them. Until they have been returned or delivered, the Supplier shall be solely responsible for their safe keeping and will not use them for any purpose not connected with this Contract;
- 12.2 the accrued rights, remedies, obligations and liabilities of the parties as at termination shall not be affected, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination; and
- 12.3 clauses which expressly or by implication have effect after termination shall continue in full force and effect.

13. FORCE MAJEURE

- 13.1 Neither party shall be liable to the other as a result of any delay or failure to perform its obligations under the Contract if and to the extent such delay or failure is caused by an event or circumstance which is beyond the reasonable control of that party which by its nature could not have been foreseen by such a party or if it could have been foreseen was unavoidable. If such event or circumstances prevent the Supplier from providing any of the Services for more than 1 (one) week, the Customer shall have the right, without limiting its other rights or remedies, to terminate this Contract with immediate effect by giving written notice to the Supplier.

14. ASSIGNMENT AND SUBCONTRACTING

- 14.1 The Supplier shall not assign, transfer, charge, subcontract or deal in any other manner with all or any of its rights or obligations under the Contract without the prior written consent of the Customer.
- 14.2 The Customer may at any time assign, transfer, charge, subcontract or deal in any other manner with all or any of its rights under the Contract and may subcontract or delegate in any manner any or all of its obligations under the Contract to any third party or agent.

15. NOTICES

- 15.1 Any notice or other communication required to be given to a party under or in connection with this Contract shall be in writing and shall be delivered to the other party personally or sent by prepaid first-

class post, recorded delivery or by commercial courier, at its registered office (if a company) or (in any other case) its principal place of business, or sent by fax to the other party's main fax number.

- 15.2 Any notice or communication shall be deemed to have been duly received if delivered personally, when left at the address referred to above or, if sent by prepaid first-class post or recorded delivery, at [9.00 am] on the [second] Business Day after posting, or if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed, or if sent by fax, on the next Business Day after transmission.
- 15.3 This clause 15 shall not apply to the service of any proceedings or other documents in any legal action. For the purposes of this clause, "writing" shall not include e-mails and for the avoidance of doubt notice given under this Contract shall not be validly served if sent by e-mail.

16. WAIVER AND CUMULATIVE REMEDIES

- 16.1 A waiver of any right under the Contract is only effective if it is in writing and shall not be deemed to be a waiver of any subsequent breach or default. No failure or delay by a party in exercising any right or remedy under the Contract or by law shall constitute a waiver of that or any other right or remedy, nor preclude or restrict its further exercise. No single or partial exercise of such right or remedy shall preclude or restrict the further exercise of that or any other right or remedy.
- 16.2 Unless specifically provided otherwise, rights arising under the Contract are cumulative and do not exclude rights provided by law.

17. CHANGE OF OWNERSHIP

- 17.1 Customer shall promptly and in any event within 10 working days of a public announcement notify Supplier in writing of-
- 17.2 any event that may give rise to a change of ownership or change of control of Customer limited or its ultimate holding company;
- 17.2.1 the sale of all or substantially all of the business of Customer.
- 17.3 In the event of a change of control event Customer shall have the right (without payment of any termination compensation) to terminate this agreement within 120 calendar days of the date of the notice from Customer to Supplier by serving not less than 30 days written notice on Supplier.

18. SEVERANCE

- 18.1 If a court or any other competent authority finds that any provision (or part of any provision) of the Contract is invalid, illegal or unenforceable, that provision or part-provision shall, to the extent required, be deemed deleted, and the validity and enforceability of the other provisions of the Contract shall not be affected.
- 18.2 If any invalid, unenforceable or illegal provision of the Contract would be valid, enforceable and legal if some part of it were deleted, the provision shall apply with the minimum modification necessary to make it legal, valid and enforceable.

19. NO PARTNERSHIP

- 19.1 Nothing in this agreement is intended to, or shall be deemed to, establish any partnership or joint venture between any of the parties, constitute any party the agent of another party, or authorise any party to make or enter into any commitments for or on behalf of any other party.
- 19.2 Each party confirms it is acting on its own behalf and not for the benefit of any other person.

20. THIRD PARTIES

A person who is not a party to the Contract shall not have any rights under or in connection with it.

21. VARIATION

Any variation, including any additional terms and Conditions, to the Contract shall only be binding when agreed in writing and signed by the Customer.

22. GOVERNING LAW AND JURISDICTION

The Contract, 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, English law, and the parties irrevocably submit to the exclusive jurisdiction of the courts of England and Wales.

Below is a list of all the trading entities that fall under the Marston (Holdings) Limited umbrella: -

NSL Ltd
NSL Services Group Ltd
Project Centre Ltd
Task Enforcement Ltd
Collectica Ltd
Swift Credit Services Ltd
Marston Group Ltd
Marston Resources Ltd
Rossendales Ltd
Scott and Co (Scotland) LLP
AA Hutton LLP
Moreton Smith Receivables Ltd
Burlington Credit Ltd
Marston Regulated Services Ltd