

# ACS General Terms & Conditions

## Definitions

In these general terms and conditions, unless the contrary intention appears, any capitalized reference to:

(a) **Affiliate** means with respect to any person or entity, any other person or entity directly or indirectly controlling or controlled by or under direct or indirect common control of that specified person or entity. For the purpose of this definition, "control", when used in respect of any specified person or entity means the power to direct or cause the direction of the management or policies of such person or entity, whether through ownership of voting securities or by contract or otherwise. When referring to ACS, "Affiliate" shall exclude any companies above ACS;

(b) **Agreement** means the Services Agreement, including all of its schedules and any subsequent amendments or addenda agreed upon between the Parties in writing, excluding oral presentations and/or marketing materials provided by ACS;

(c) **Applicable Law** means any law, statute, order, regulation, rule, requirement, practice and guidelines of any government, regulatory authority or self-regulating organization that applies to the Services in the jurisdiction where those Services are provided;

(d) **Authorised Recipients** means directors, officers, employees, Consultants and (ultimate) shareholders of the Party and the Party's Affiliates;

(e) **Change Request Note or CRN** is the process to document and approve amendments to the Services or the Fees;

(f) **Claim** means any and all actions, suits, claims (contractual or otherwise), demands, investigations and proceedings of any kind, including but not limited to settlements, pending or prospective claims, fines, costs and expenses (including, without limitation, reasonable legal fees and expenses), investigations or legal proceedings of any nature whatsoever related to or arising under the Agreement;

(g) **Client** means the individual, legal entity, association, trust or partnership (whether or not having separate legal personality) that is the Party receiving the Services;

(h) **Client Material** shall mean all information, books, documents, records and data in whatever form maintained, whether oral or written, documentary, computer or other electronic storage or otherwise, that the Client supplied to ACS, its Affiliate(s) and/or subcontractor engaged by ACS in relation to the provision of the Services;

(i) **Confidential Information** means all non-public information which relates to the operations or business of a Party whether disclosed by a Party, a Party's Affiliate or by a third party and which: (i) is designated or marked as confidential; or (ii) given the nature of the information or the circumstances surrounding its disclosure, should reasonably be considered as confidential, including without limitation, Client Material, ACS Products, Deliverables, information relating to a Party's Intellectual Property Rights and third-party information that a Party is under an obligation to keep confidential; or (iii) is identified as confidential at the time of disclosure and is confirmed in writing (including by electronic communications) as being confidential within fourteen (14) calendar days of disclosure;

(j) **Consultants** means a Party's bankers, accountants, auditors, (financial) advisors, attorneys and independent contractors;

(k) **Correct Invoice** means an invoice that has previously been a Disputed Invoice and which dispute has been resolved between both Parties;

(l) **Deliverables** means the output delivered to the Client as part of the Agreement in the form of documents, reports, materials or data;

(m) **Disclosing Party** means the Party disclosing Confidential Information;

(n) **Dispute Notice** means the Notice by which a dispute with respect to an invoice was communicated to the other Party in writing;

(o) **Disputed Invoice** means an invoice that is disputed in whole or in part by the Client and for which the Client has sent a Dispute Notice to ACS within the relevant Payment Term;

(p) **Early Termination Payment** means a payment which is equal to the average monthly Fees invoiced during the last three (3) months period immediately preceding such termination, or the anticipated average monthly Fees based on the annualized amount if the Agreement has been for a shorter period of time, multiplied by the number of whole or partial months of the Initial Period remaining;

(q) **Effective Date** means the date on which the Agreement shall take effect;

(r) **Exit Plan** means a plan agreed by both Parties in writing, including details or specifications on: (i) how the Services shall be transferred to the Client or Client's replacement supplier, including the documentation and Client Material transfer; (ii) the scope of the transitional assistance that may be required from ACS, including additional fees that will be payable for the provision of transitional assistance and details on how such services would be provided, if required, during the termination period; and (iii) a timetable and an identification on critical issues for carrying out the transitional assistance;

(s) **Expenses** means the expenses incurred in connection with the provision of Services, including but not limited to business travel, accommodation, transportation, couriers, chamber of commerce fees, company seal, legalisation costs, translation costs, audit fees, fees arising out of registered office services, governmental fees or taxes or any other cost, either invoiced to the Client or to ACS and paid by ACS to the third-party provider, and added by ACS to the invoice for the Services to the Client plus a handling fee as set out in the Agreement;

(t) **Fees** means any fees relating to the Services under the Agreement;

(u) **Force Majeure** Event means an event which is beyond the reasonable control of the affected Party, including but not limited to the loss, failure or malfunction of utilities, computers (hardware or software) or systems failure, failure of equipment, failure or malfunction of communications media, interruption of power supplies, accidents and/or labour disputes and unrest, strike, lock-out, civil or military action, acts of terrorism, war (whether declared or not), riot, insurrection, sabotage, acts of God, natural disasters and events, epidemic or pandemic, disease, quarantine and governmental actions;

(v) **General Setup Fee** means the total or balance of Fees associated with the Transition Period;

(w) **Go-Live Date** means the Effective Date or the date as of which the Service(s) will be rendered as expressly set out in Schedules;

(x) **Grace Period** means the period of three (3) months from the Go-Live Date, wherein a Late Start Payment is not applicable;

(y) **Implementation Services** means when applicable, the Services described in the separate agreement for Implementation Services;

(z) **Inflation Index** means the index and other applicable indices as set out in the Agreement;

(aa) **Initial Period** means the initial duration of the Agreement;

(bb) **Instructions** means reasonable written directions and similar requests or orders;

(cc) **Intellectual Property Rights** means any and all: (i) copyrights, trademarks, trade names, domain names, goodwill associated with trademarks and trade names, designs and patents; (ii) rights relating to innovations, know-how, trade secrets, moral rights; and (iii) any other industrial, proprietary and intellectual property related rights anywhere in the world and all renewals and extensions thereof, that exist or thereafter come into existence regardless of whether or not such rights have been registered;

(dd) **Know Your Client File or KYC File** means any information relating to the Client, the nature of its business, the ultimate beneficial owner(s), the origins of the funds used within the relevant structure of which they are part, and more generally any other information ACS may hold and is or may be required by Applicable Law to collect, update or may be required to maintain for the KYC File;

(ee) **Late Start** means a delay in the commencement of the Services, wherein the Go-Live Date(s) are not met due to a delay on the part of the Client or inability of the Client to receive the Services;

(ff) **Late Start Payment** means the payment that shall be made by the Client due to a Late Start, wherein such sum is a genuine pre-estimate of loss likely to be suffered or incurred by ACS, provided that the minimum sum shall comprise the costs of sale (engagement of sales lead, solution architects and legal advice), the engaged setup resources within ACS and the costs of engaging ACS suppliers, which is estimated to an amount equal to eighty percent (80%) of the General Setup Fee and the Fees for the recurring Services for the period of the Late Start which are to be paid monthly from the expiration of the Grace Period until the Services commence, and provided that the Late Start Payment will not exceed an amount equal to twelve (12) months of Fees agreed by both Parties;

(gg) **Loss** means losses, costs, damages, expenses (including reasonable legal fees), taxes, penalties, charges, fines, liabilities, and/or amounts paid in settlement, directly incurred under the Agreement;

(hh) **No-Go Live** means the event in which the Services do not commence on the Go-Live Date;

(ii) **No-Go Live Payment** means the fees payable pursuant to clause 5.3 of the Terms;

(jj) **Notices** means any and all written notices, requests, Claims and other communications required to be made under the Agreement;

(kk) **Onboarding** means activities performed to onboard the Client with ACS;

(ll) **Out-of-Scope Work** means services which are not included in the scope of Services under the Agreement;

(mm) **Party** means each signing party to the Agreement, collectively referred to as the Parties;

(nn) **Payment Term** means the payment term set out in the Agreement. Unless the Agreement states otherwise, the payment term shall be 14 (fourteen) calendar days from the date of the invoice;

(oo) **Receiving Party** means the Party receiving Confidential Information;

(pp) **Services** means the services as described in the Agreement;

(qq) **Set Up** means the configuration of all the data required to meet the Go-Live Date;

(rr) **Terms** means these general terms and conditions;

(ss) ACS means the ACS legal entity that is the Party to the Agreement;

(tt) **ACS Group** means ACS and its Affiliates;

(u) **ACS Products** means all software, licenses, tools, processes, portals, concepts, ideas, architecture, methodology, models, presentations, matrix, templates, checklists, techniques, user interfaces, designs, product or services specifications, reports, documentation and any other information and/or materials, used or created by ACS, its Affiliate(s) and/or subcontractor engaged by ACS to render the Services;

(vv) **Transition** means the transfer of Services from the Client or Client's current provider to ACS; and

(ww) **Transition Period** means the period from the Effective Date to the Go-Live Date, if applicable.

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### 1.1 Client's Rights and Duties

1.1 Upon request, the Client shall promptly provide the information which ACS is required by Applicable Law to collect, update and maintain for compliance purposes as part of the KYC File. The Client warrants that any information provided for this purpose is true, complete, accurate, not misleading and up-to-date and acknowledges that ACS enters into the Agreement in reliance upon the accuracy of the information provided. The Client undertakes to promptly notify ACS of any change of situation leading to such information no longer being true, accurate or up-to-date. ACS have the right to distribute information from the KYC File within ACS Group for the sole purpose of fulfilling compliance obligations required by Applicable Law.

1.2 ACS shall act in accordance with the Client's Instructions, unless such Instructions are considered or suspected to be Instructions that (a) are contrary to Applicable Law; or (b) may lead to sanctions from a regulator, police, juridical, taxation, governmental or administrative body; or (c) may cause personal liability, loss or damage. ACS will not be obligated to enter into any legal transaction document, unless it is satisfied that all regulatory requirements or internal policies and procedures have been fulfilled.

1.3 The Client shall provide, in a timely manner, all data and assistance that ACS may reasonably request to provide the Services.

1.4 The Client shall ensure that all data is true, complete, accurate, not misleading and in compliance with Applicable Law. The Client shall notify ACS of any subsequent changes to such data.

1.5 The Client shall provide and deliver all data, as applicable, in a mutually agreed format and location for data exchange and storage. The Client's request to implement data not delivered in the agreed format and/or at the location for data exchange and storage, as well as ancillary work will be considered as Out-of-Scope Work. In no event shall any of the Services be considered or taken as legal or tax advice.

### 2. Remuneration principles

2.1 All Fees and Expenses are exclusive of VAT, sales tax or the equivalent thereof.

2.2 The Client shall pay all Fees and Expenses without set-off or counterclaim, without deduction or withholding on account of any taxes, levies, imports, duties or charges of whatever nature.

2.3 The Client shall pay any amounts invoiced by ACS within the Payment Term. If such amounts are not paid within the Payment Term, the Client shall automatically be in default. In such event, ACS shall be entitled, without prejudice to any other rights or remedies available at law, to charge late payment interest as permitted by Applicable Law as of the first day on which the payment is overdue and charge any costs incurred during the collection of outstanding invoices to the Client.

2.4 Except for rightfully Disputed Invoices, failure of the Client to meet its payment obligations shall be considered as a material breach. The Client's payment default will entitle ACS to suspend the Services until all non-disputed invoices have been paid. Following receipt of the Correct Invoice, the Client shall pay the amount of the Correct Invoice within the Payment Term.

2.5 ACS will adjust the Fees once per year in line with the Inflation Index. Such adjustments shall be effective as of the first day of each calendar year.

2.6 The Client's request for Out-of-Scope Work will be charged at the prevailing rate. ACS shall notify the Client thereof as soon as practicably possible.

### 3. Liability

3.1 Nothing in the Agreement shall exclude or limit: either Party's liability for direct Loss arising out of fraud or fraudulent misrepresentation; and (b) the Client's obligation to pay Fees and Expenses.

3.2 Subject to clause 3.1, no Party shall be liable for any loss of goodwill, business, revenues or profits (whether or not deemed

to constitute direct losses) or any consequential, special, indirect, incidental, punitive or exemplary loss, damages or expense.

3.3 Any liability of a Party will be reduced to take into account any contributory negligence on the part of the other Party and the extent to which the other Party has caused or contributed to the relevant Loss or liability.

3.4 Subject to clause 3.1, the maximum liability of ACS shall in aggregate per calendar year, whether with respect to an indemnity or whether in contract, tort (including negligence), breach of statutory duty or otherwise, not exceed the total amount of Fees paid or payable for the Services over the period of 12 (twelve) months immediately preceding the Claim, or the pro-rated amount if the engagement has been for a shorter period of time.

3.5 Each Party shall use reasonable efforts to mitigate any and all losses that it may suffer or incur in whole or in part attributable to the other Party.

3.6 Subject to clause 3.1, the Client may not make a Claim against ACS 18 (eighteen) months after the date on which the Client was aware or could reasonably have been aware of the event that led to the Claim.

### 4. Confidentiality

4.1 Confidential Information will be kept secret and confidential, and no disclosure of any Confidential Information will be made or solicited by any of the Parties or on behalf of

any Party without the prior written consent of the other Party, unless such disclosure is required by Applicable Law or by any judicial, governmental, supervisory or regulatory body to which such Party is subject, provided that each Party shall first, to the extent reasonably practicable and permitted, consult with the other Party regarding the proposed circumstances, purpose, nature, manner, timing and content of the disclosure.

4.2 The Receiving Party will restrict the possession, knowledge and use of the Confidential Information to its Authorised Recipients. The Receiving Party will use reasonable endeavours to procure that each Authorised Recipient shall adhere to these Terms as if such Authorised Recipient were a party to the Agreement. The Receiving Party shall be responsible for any breach of any term of the Agreement by an Authorised Recipient as if the Receiving Party was the one that had breached such term of the Agreement.

4.3 Confidential Information shall not include information that: (a) is or becomes a part of the public domain through no act of omission of the Receiving Party; or (b) was in the lawful possession of the Receiving Party prior to the disclosure to it by the Disclosing Party and had not been obtained by the Receiving Party either directly or indirectly from the Disclosing Party; or (c) is independently developed by the Receiving Party without access to, use or reliance on the Confidential Information of the Disclosing Party; or d) is lawfully disclosed to the Receiving Party by a third party without restriction on disclosure; or (e) the Disclosing Party has agreed in writing to permit the Receiving Party to disclose such Confidential Information.

4.4 The Receiving Party will, in as far as reasonably possible and upon written request by the Disclosing Party at the completion or termination of the Agreement: (a) destroy all Confidential Information (and all and any copies thereof or of any part thereof); and (b) expunge all Confidential Information from any computer, word processor or other similar device into which it was programmed, provided that these obligations will not extend to any notes, analyses, memoranda, minutes or other internal corporate documents, prepared by the Receiving Party or on behalf of the Receiving Party or by any of the Authorised Recipients, which are based on, derived from, contain or otherwise make reference to the Confidential Information to the extent required by any Applicable Law or by any judicial, government, supervisory or regulatory body or stock exchange, including the rules of a professional body or bona fide internal compliance or audit policies and procedures, and provided, further, that the Parties shall be entitled to retain copies of any computer records and files containing any Confidential

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Information which have been created pursuant to automatic electronic archiving and backup procedures and which is not immediately retrievable as part of day-to-day-business. Any Confidential Information not destroyed or expunged but retained shall be kept in accordance with the confidentiality obligations, unless otherwise specified in the Agreement. All Confidential Information will remain the exclusive property of the Disclosing Party confidentiality obligations, unless otherwise specified in the Agreement.

4.5 All Confidential Information will remain the exclusive property of the Disclosing Party

### **5. No-Go Live and Termination**

5.1 Each Party may terminate the Agreement by giving prior written Notice as set out in the Agreement.

5.2 In the event the Client does not comply with all or part of the obligations during the Transition Period and this results in a Late Start, the Client agrees to pay, by means of liquidated damages, the Late Start Payment.

5.3 If the Client terminates all or part of the Services in the Agreement for convenience prior to the Go-Live Date or does not complete the Transition within the twelve (12) calendar months following the end of the Grace Period, the Client shall be deemed to have terminated the Services and shall pay, by means of liquidated damages, a No-Go Live Payment, which shall be equal to one hundred percent (100%) of the General Set Up Fee plus the Fees for the Services for the first twelve (12) months under the Agreement. In the event a Late Start Payment has been paid by the Client and the Late Start becomes a No-Go Live, the amount of the Late Start Payment will be deducted from the No-Go Live Payment.

5.4 In the event of a breach of an obligation of the Agreement, the breaching Party shall be entitled to remedy such breach within 30 (thirty) calendar days after receipt of a written Notice from the non-breaching Party specifying the particulars of the breach.

5.5 To the extent possible under Applicable Law, each Party may terminate the Agreement for cause at any time, by way of written Notice and with immediate effect in the event of:

(a) any moratorium, arrangement or composition with its creditors (including any voluntary arrangement) is being obtained or entered into by or in relation to the other Party; or  
(b) a petition being presented at court or a resolution being passed for the winding-up, bankruptcy or dissolution of the other Party or the other Party is being subject to any winding up (whether provisional or final), judicial management, dissolution or business rescue arrangements; or (c) a receiver, administrative receiver, tax authority or by way of court order or any other similar official officer, authority or institution taking possession of or any execution, attachment or other process being enforced against or in respect of the whole or part of the assets, rights or revenues of the other Party; or (d) any event suffered by a Party analogous to the events set out in points (a) to (c) above in any other jurisdiction; or reasonable suspicion of fraudulent or criminal activities of the other Party or any of its Affiliates; or the other Party fails to perform, or otherwise is in default or breach of any one or more of its material obligations under the Agreement, and the breaching Party fails to remedy such failure in accordance with clause 5.4; or  
(g) the other Party being affected by a Force Majeure Event which continues for a period of more than 30 (thirty) calendar days and which prevents the other Party from performing all, or a material part of its obligations under the Agreement.

5.6 ACS may terminate the Agreement at any time without any liability in the event that: (a) ACS is unable to comply with its regulatory duties; or (b) a material change of control occurs at the Client or (c) reputational or integrity risks occur or might occur that are detrimental to ACS.

5.7 If the Client terminated all or part of the Services for convenience after the Go-Live Date and prior to the expiration of the Initial Period, such event shall result in an Early Termination Payment. However, no Early Termination Payment

shall be due if the Client terminates the Agreement for cause in accordance with clause 5.5 of the Terms.

5.8 In the event the Agreement is terminated during the course of the calendar year, any annual fixed Fees paid upfront for that year, will not be reimbursed.

5.9 In the event of termination of the Agreement and upon request by the Client, ACS shall cooperate with the Client to produce an Exit Plan. Any exit and transition assistance, rendered by or procured through ACS, will be considered as Out-of-Scope Work and is subject to additional fees.

5.10 The Client may request continuity in the Services after the termination or expiry of the Agreement. Subject to ACS agreeing in writing, ACS shall continue to supply such Services in accordance with the terms and conditions of the Agreement, and both Parties agree to be bound by the terms and conditions of the Agreement as if the same had not terminated or expired.

5.11 If ACS renders domiciliation Services to the Client, the Client shall change its business address as soon as practically possible upon receiving notice of termination from ACS or the Client in accordance with the Terms. The Client hereby authorises ACS to take an appropriate measure to change the client domicile in the event of termination of the Agreement if the Client fails to do so as soon as practically possible.

### **6.1 Data Protection**

6.1.1 Parties acknowledge and agree that the Services provided by ACS involve the Processing of Personal Data of Data Subjects on behalf of the Client and that, with respect to such Personal Data, ACS will be acting as Processor and the Client will be acting as Controller for such Personal Data.

6.1.2 Such Processing is subject to the Personal Data Protection Policy of ACS Group which is published on the ACS Group website (<https://www.adept-cs.com/privacy-statement>) and is hereby incorporated by reference into the Agreement.

6.1.3 This clause 5 including the reference to the Personal Data Protection Policy of ACS Group shall qualify as a Data Processing Agreement.

6.1.4 Capitalised references in this clause 6 will have the meanings ascribed to such terms in the Personal Data Protection Policy or as elsewhere defined in these Terms.

### **7 Non-solicitation**

7.1 Notwithstanding clause 1.2, neither Party shall during the term of the Agreement and for a period of 12 (twelve) months thereafter, solicit or employ any employee of the other Party who has been actively involved in the relationship between the Parties other than by first obtaining the other Party's prior written consent. Any Party acting in breach of this clause shall, without prejudice to any other rights or remedies of the other Party, pay by way of liquidated damages a sum equal to 6 (six) months' salary of such employee plus the recruitment costs incurred by the other Party in replacing such person, for each event and each employee employed in breach of this clause.

7.2 The Agreement will not prohibit any Party from employing any person through the use of an independent employment agency (as long as not specifically directed to solicit the foregoing persons) or through advertisements in publications or other general solicitations for employment not directed at the foregoing persons.

### **8. Intellectual Property Rights**

8.1 All Intellectual Property Rights of a Party existing prior to the Effective Date shall remain the exclusive property of that Party. Neither the Agreement nor any disclosure made under the Agreement grants any rights to the other Party in respect of such as existing Intellectual Property Rights.

8.2 The Client retains all Intellectual Property Rights in relation to the Client Material. The Client grants ACS a non-exclusive, royalty-free, non-transferable and non-sublicensable right to use the Client Material during the term of the Agreement for the sole purpose of performing the Services. The Client shall indemnify, defend and hold ACS and ACS Affiliates harmless against any claims from third parties based on the assertion that the Client Material infringe third party Intellectual Property Rights.

8.3 All Intellectual Property Rights in the ACS Products shall remain exclusively vested in ACS, the relevant ACS Affiliate or their licensor(s). ACS grants the Client a non-exclusive, royalty-free, non-transferable and non-sublicensable right to use ACS Products during the term of the Agreement. ACS shall indemnify, defend and hold the Client and the Client Affiliates harmless against any claims from third parties based on the assertion that the Services or ACS Products infringe third party Intellectual Property Rights.

8.4 Subject to clauses 8.1 and 8.3, all right, title and interest in the Deliverables shall exclusively be vested in the Client or the Client Affiliate. ACS shall indemnify, defend and hold the Client and Client Affiliates harmless against any claims from third parties based on the assertion that the Deliverables infringe on Intellectual Property Right of the third party in question.

8.5 The Client hereby grants ACS the non-exclusive, royalty-free right to use the client's name and logo for the purpose of advertising and promoting the services provided to the client. This usage may include, but is not limited to, inclusion in marketing materials, case studies, and online promotions.

### **9 Force Majeure**

9.1 No Party to the Agreement shall be liable for any delays or non-performance directly or indirectly resulting from a Force Majeure Event.

9.2 The affected Party shall promptly notify the other Party in writing of the occurrence of a Force Majeure Event, including but not limited to the reasonable details and estimated duration.

9.3 The affected Party shall use reasonable endeavours to mitigate the effect of the Force Majeure Event, including the performance of the affected obligations under the Agreement and shall keep the other Party informed about its progress and ongoing impact of the Force Majeure Event.

### **10. Business ethics & anti-corruption**

10.1 All ACS Group employees are bound by the Code of Conduct of ACS which includes details in respect of anti-corruption and anti-bribery. A copy of the Code of Conduct of ACS is available on the ACS website <https://www.adept-cs.com/code-of-conduct>. The Parties have a responsibility to respect human rights, which means that the Parties must act with due diligence to avoid infringing on the rights of others and to address any negative impacts. The Parties acknowledge compliance with The UN Guiding Principles on Business and human Rights 2011.

### **11. Subcontracting**

11.1 ACS shall be entitled to retain any subcontractor to perform all or part of the Services on its behalf. The use of a subcontractor shall not relieve ACS of its obligations under the Agreement. When engaging subcontractors, ACS shall ensure they are bound by terms not less onerous than those set out in these Terms.

### **12. Assignment**

12.1 The Client may not assign, transfer, sublicense or otherwise dispose of any of its rights under the Agreement without the prior written consent of ACS, provided that such consent shall not be unreasonably withheld or delayed.

12.2 ACS is entitled to transfer or assign its receivables resulting from the Agreement, inter alia, for collection, factoring or security purposes.

### **13. Amendments**

13.1 No modification, amendments or supplements to the Agreement shall be effective for any purpose unless in writing or made by a CRN and signed by the authorized representatives of the Parties.

### **14. Miscellaneous**

**14.1 Third party rights.** The Agreement shall be binding on and shall apply for the benefit of the Parties, the Parties representatives and successors in title and permitted assignees only. Nothing expressed or implied in the Agreement is intended to give, or shall be construed to give, any person or entity, other than the Parties and their permitted successors and assignees hereunder, any benefit or legal or equitable right, remedy or claim under or by virtue of the Agreement or under or by virtue

of any provision herein (third party rights), unless explicitly agreed otherwise.

**14.2 Entire Agreement.** The Agreement, its schedules and documents referenced herein constitute the entire agreement between the parties and supersede all prior agreements made between the Parties whether written or oral, relating to the same subject matter.

**14.3 Severability** If any provision of the Agreement is held by the competent court or other competent authority to be illegal, unlawful, invalid, void or unenforceable in whole or in part, or if the law changes so it becomes illegal, unlawful, invalid, void or unenforceable to any extent, such provision in whole or part shall be deemed not to form part of the Agreement, and the validity of the other provisions of the Agreement and the remainder of the provision in question will not be affected. The Parties agree to replace such part of the Agreement with a legal, lawful, valid and enforceable provision and such provision will approach and reflect the original intentions of the Parties as closely as possible.

**14.4 Remedies and Waivers.** The failure or delay of a Party to assert any of its right, power or privilege under the Agreement shall not be deemed to constitute a waiver of that Party's right to enforce each and every provision of the Agreement in accordance with its terms. nor shall any simple or partial exercise of any such right, power or privilege preclude any other or further exercise.

**14.5 Survival.** Any section and/or clause of the Terms that expressly or impliedly has an effect after the termination, rescission or expiration of the Agreement will continue to be enforceable notwithstanding termination, rescission or expiration. This applies in any event to clause 3, 4, 6, 7 11 and clause 13.5 of the Terms.

**14.6 English Language Prevails.** All correspondence, communication (including without limitation, training and technology assistance) and all documentation provided by ACS to the Client will be in the English language, unless agreed otherwise in writing between the Parties. In the event of any dispute associated with the Agreement or any other ancillary document or communication associated with the Services, the English language version will prevail.

### **15. Dispute resolution and Governing law**

15.1 If a dispute arises out of or in connection with the Agreement, the Parties shall attempt to resolve such dispute through amicable negotiation and settlement which shall take place within 30 (thirty) calendar days from the date of the Dispute Notice.

15.2 The Agreement and any disputes or claims arising out of or relating to it or its subject matter or formation (including non-contractual disputes and claims) are exclusively governed and construed in accordance with the laws established in the Agreement excluding its conflict of law provisions.

15.3 If, and only to the extent that a dispute cannot be or has not been resolved through amicable negotiation and settlement under clause 15.1, either Party may initiate proceedings against the other Party. The competent court established in the Agreement has exclusive jurisdiction to settle any dispute or claim which may arise out of or in connection with the Agreement, subject matter or formation (including non-contractual disputes or claims), The Parties irrevocably submit to the exclusive ground that the proceedings have been brought in an inconvenient forum.