

ALD Automotives Pvt. Ltd. and LeasePlan India Pvt Ltd. shall together be referred to as “**AYVENS**”.

The Vendor/Supplier Standard Conditions (“Terms”) as mentioned herein below shall be applicable to the Vendors onboarded by ALD Automotives Pvt. Ltd. and LeasePlan India Pvt Ltd. and shall take precedence over any other terms executed between the parties separately.

Terms applicable to AYVNES onboarded Vendor’s:

## **1. General**

**1.1** These terms and conditions, together with any schedules, supplemental terms, and accompanying documents, as introduced, amended or supplemented from time to time (the “Terms”) will govern your relationship with AYVNES (hereinafter called “AYVNES” or “we” or “us” which expression shall unless repugnant to the context or meaning thereof mean and include its parent company, group company, successor, assign and its’ Principal) in terms of the Agreement entered/to be entered into by you with us.

**1.2** These Terms shall be read and construed in conjunction with Agreement entered between the parties separately and all rights, benefits and powers existing in favour of AYVNES shall be construed as continuing in its favour.

**1.3** The provisions contained in the Agreement shall stand supplemented by these Terms and shall be deemed to be and be construed as if they were incorporated therein.

**1.4** Accordingly, these Terms shall remain in force until expiry of the Agreement or termination thereof in the manner therein contained.

**1.5** All capitalized expressions contained herein shall have the meaning contained in the Agreement, unless the context in which they are used requires a different meaning.

## **2. Definitions and interpretation**

**2.1** The expressions which follow are given these meanings unless the context in which they are used requires a different meaning:

**"Accessibility Standards"** means (i) in relation to any part of the service and/or the Materials and/or the Licensed Software which incorporates software or uses web content or allows a user to access and/or use that software using any user agent (including a browser), all checkpoints of the World Wide Web Consortium's Web Content Accessibility Guidelines, together with as many checkpoints as practicable, and (ii) in relation to the Services, Materials and to any Licensed Software, the requirements of the Information Technology Act 2000, the Copyrights Act 1957, the Patents Act 1970, the PWD Act as applicable and any Indian or international standards, and any requirements regarding usability and/or accessibility which are applicable to the Service, the Materials and/or to the Licensed Software in terms of any AYVNES policy which is notified to the Supplier from time to time;

**"Agreement"** means the agreement entered into between the Supplier and AYVNES together with Annexures, if any, amended from time to time as well as the Terms;

**"Anti-Corruption Laws"** means any anti-bribery or anti-corruption related provisions in criminal and competition laws and/or anti-bribery or anti-corruption laws of the jurisdiction in which the Supplier provides the Services including the Prevention of Money Laundering Act, 2002 and the Prevention of Corruption Act, 1988, together with any amending, consolidating or successor legislation or case law which has effect from time to time in the relevant jurisdiction;

**"Applicable Laws"** means all applicable laws, statutes, regulations, rules, executive orders, supervisory requirements, directives, circulars, opinions, interpretative letters, guidelines, comments, codes of practice and other official releases by any government (whether central, federal, state, provincial, local or otherwise) or any authority, representative, department, agency or other entity or body affiliated therewith (whether or not having the force of law);

**"Business Continuity and Disaster Recovery Plan"** means the business continuity and disaster recovery plan prepared by the Supplier which will ensure the continued performance and operational resilience of the Services and/or supply of material, as amended from time to time;

**"Business Day"** means a day on which AYVNES is open for business in India other than when it is only open for a public holiday or a day on which businesses are not generally open for business in the State of Maharashtra;

**"Change of Control"** means that there has been a direct or indirect change of ownership of the Supplier resulting overall in more than 50% of the total voting rights conferred by all shares in the Supplier being held directly or indirectly by a person who did not hold 50% of the voting rights as at the date on which this Agreement was signed by AYVNES;

**"Commencement Date"** means Commencement Date as defined in the Agreement;

**"Confidential Information"** means information that is designated as 'confidential' or which by its nature is clearly confidential. Confidential Information includes (without limitation) all proprietary and sensitive information related to any aspect of the business of AYVNES and any information concerning the technology, technical processes, business processes, procedures, personal data, business affairs, financial affairs and finance of AYVNES, its customers, employees and suppliers, security procedures and the layout of AYVNES' premises. Confidential Information may take the form of:

(a) documents, technical specifications, unpublished patent specifications, data, drawings, plans, processes, photographs, databases, computer software in disk, cassette, tape or electronic form and data storage or memory in, and items of, computer hardware; or

(b) oral descriptions, demonstrations or observations.

Confidential Information includes (without limitation) information which is in transit to/from, supplied to, stored by, processed or marked for destruction by the Supplier, including its Staff;

**"Data Controller"** means a person who (either alone or jointly or in common with other persons) determines the purposes for which and the manner in which any Personal Data is, or is to be, processed;

**"Data Protection Laws"** means all Applicable Laws pertaining to privacy, confidentiality and/or the protection of Personal Data;

**"Dispute"** means any dispute, difference or question of interpretation arising out of or in connection with this Agreement, (including any dispute regarding pre-contractual negotiations, the existence, validity or termination of this Agreement or the consequences of non-existence or invalidity of this Agreement) whether contractual or non-contractual;

**"Fees"** means the fees which appear in, or which are capable of being calculated in accordance with, the terms of the Agreement and which AYVNES is to pay for the Services;

**"Good Industry Practice"** means that the Services will be performed with the standard of skill, care, knowledge, reliability, professionalism and foresight which would reasonably be expected from an experienced person engaged in providing the Services;

**"Information Security Plan"** means the information security plan prepared by the Supplier which will ensure the confidentiality and security of the Confidential Information;

**"Intellectual Property Rights"** means any of these rights, namely:

(a) patents, trademarks, rights in designs, get-up, trade, business or domain names, copyrights including rights in computer software and databases (including database rights) and topography rights (in each case whether registered or not and, where these rights can be registered, any applications to register or rights to apply for registration of any of them), and where applicable any goodwill therein;

(b) rights in inventions, know-how, trade secrets and other confidential information; and

(c) any other intellectual property rights which may exist at any time in any part of the world;

**"Licensed Software"** means where the provision of the Services requires the Supplier to supply software to AYVNES, a non-exclusive, irrevocable, world-wide and royalty free license granted by the Supplier to AYVNES to use such software for such purposes as AYVNES reasonably requires;

**"Material Adverse Effect"** means a change in condition or circumstances the effect of which is materially adverse to the assets, business, financial condition or trading prospects of the Supplier such that it could reasonably be expected to be unlikely to be able to provide the Services or otherwise perform its obligations under this Agreement;

**"Materials"** means all goods, records, reports, documents, papers, other materials and deliverables (whether in documentary, electronic or other form) produced by or on behalf of the Supplier for AYVNES as part of the Services including such Materials as are described in the Agreement. To be clear, Materials does not include any Licensed Software;

**"Personal Data"** means data which relate to a living individual who can be identified:

(a) from those data; or

(b) from those data and other information which is in the possession of, or is likely to come into the possession of, the Data Controller; and includes any expression of opinion about the individual and any indication of the intentions of the Data Controller or any other person in respect of the individual;

**"PWD Act"** means The Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995;

**"AYVNES Property"** means all items of property (including equipment) issued to the Supplier by or on behalf of AYVNES for the purpose of carrying out the Services, supply of material or both;

**"Records"** means all information retained or to be retained, in any media or format, by or on behalf of a of AYVNES as evidence of the activities of its business;

**"Regulator"** means any regulator or regulatory body to which AYVNES is subject from time to time or whose consent, approval or authority is required so that AYVNES can lawfully carry on its business;

**"Revenue Agencies"** shall mean all government entities which are responsible for the collection of revenues or taxes;

**"Annexure"** means the Schedules/annexure/appendix attached to and forming part of the Agreement and "Annexure" means any of them;

**"Security Tests"** means test procedures including (without limitation) tests of IT general controls, tests of IT application controls, penetration tests, compliance scans and vulnerability scans, and

**"Security Testing"** shall be construed accordingly;

**"Services"** means the services to be provided by the Supplier under the Agreement;

**"Specification"** means the specification for the Materials and/or Service (if any) set out in the Agreement;

**"Staff"** means those persons employed or engaged by the Supplier from time to time to provide the Services. The definition of "Staff" will also include the staff of any subcontractor appointed under this Agreement who is providing the Services from time to time;

**"Substantial Disposal"** means a sale or other disposal of the whole or a substantial part of the business or assets of the Supplier;

**"Systems"** means any systems whether at the Supplier or its subcontractors which are used in the provision of the Services and/or material to store, process or transmit any Confidential Information whether held electronically on paper or in any other form;

**"Systems and/or Data"** means any systems which are used by AYVNES to store or process any information relating to customers, employees and businesses, and any other Confidential Information and any other data of AYVNES (or its third-party licensors or associated companies), whether held electronically on paper or in any other form.

**2.2** Unless the context requires a different interpretation, the following rules shall be used to interpret this Agreement:

**2.2.1** any reference to a provision of a statute includes references to:

**2.2.1.1** that provision as amended, extended or applied by any other provision regardless of whether the other provision became law before or after execution of Agreement;

**2.2.1.2** any re-enactment of that provision (with or without change); and

**2.2.1.3** any regulation, order, code of practice or similar thing having the force of law made (before or after this Agreement) under that provision or any provision falling within (a) or (b) above;

**2.2.2** words used in the singular tense should be interpreted to include the plural tense and vice versa. Words which refer to one gender should be interpreted to include other genders;

**2.2.3** any use of the word "including" will not be limited by the words that follow; and

**2.2.4** the headings in this Agreement do not affect its interpretation.

### **3. Title and risk**

**3.1** Title to any Materials which are goods, or in any physical media on which Materials are stored, shall pass to AYVNES on the earlier of delivery to AYVNES, or payment by AYVNES for the Materials. Where AYVNES takes delivery of the Materials by instalments, title to such instalment shall pass to AYVNES on the earlier of delivery to AYVNES, or payment by AYVNES for the instalment. Where AYVNES pays for the Materials by instalments, title to such Materials shall pass to AYVNES on the earlier of delivery of the Materials or payment by AYVNES of the first instalment.

**3.2** AYVNES may reject any Materials delivered which are not in accordance with this Agreement and/or industry standard.

**3.3** The Supplier agrees that all AYVNES Property, which is held in the possession or under the control of the Supplier in terms of this Agreement, will be held at the risk and liability of the Supplier. The Supplier shall ensure all AYVNES Property is identified as AYVNES Property and, where practical, is segregated from other property held by Supplier.

### **4. Warranties and undertakings**

The Supplier warrants and undertakes to AYVNES that;

(a) where the Services require Materials to be produced/supplied, such Materials shall be of satisfactory quality, fit for the intended purpose(s) for which AYVNES will use them in accordance with any Specification, and free from material defects in design, materials, workmanship and installation;

(b) the Services and the Materials and any Licensed Software meet the Accessibility Standards applicable at the date(s) on which they are delivered to AYVNES in terms of this Agreement;

(c) the Supplier has full power and authority to enter into this Agreement and to perform its obligations hereunder and grant quiet possession of the Materials to AYVNES;

- (d) the Supplier has obtained all licenses, permits and authorizations, including the applicable tax registration required for carrying on its business or industry and the same are in full force and effect;
- (e) the Supplier is in compliance in all respects with all Applicable Laws, including environmental, taxation and labour laws and regulations affecting its assets, business and operations, and has good title to or valid leases or licenses for, or is otherwise entitled to use its assets;
- (f) neither the execution nor the delivery of the Agreement nor the consummation of the transactions contemplated thereby, conflict with or result in a breach of or default under any of the terms, conditions or provisions of any legal restriction (including, without limitation, any judgment, order, injunction, decree or ruling of any court or governmental authority, or any federal, state, local or other law, statute, rule or regulation) or any covenant or agreement or writing or instrument to which it is a party, or by which the Supplier or any property of the Supplier is bound, nor does such execution, delivery, consummation, or compliance violate or result in violation of its constitutional documents;
- (g) except to the extent disclosed to AYVNES in writing –
- (I) no litigation, arbitration, administrative or other proceedings by the Government, any Governmental Authority, official or entity are pending or threatened against the Supplier or its assets, which, if adversely determined, might have a Material Adverse Effect;
  - (II) the Supplier has not taken any action/other steps/legal proceedings started by or against it in any court of law/other authorities for its insolvency, bankruptcy, winding-up, dissolution, administration or re-organisation or for the appointment of a receiver, administrator or similar officer of the Supplier or of any of its assets;
- (h) the Supplier shall comply with all the Applicable Laws in relation to the 'Do Not Call Registry' as per the Telecom Unsolicited Commercial Communications (UCC) Regulations, 2007, framed by the Telecom Regulatory Authority of India (TRAI) and as amended from time to time;
- (i) the Supplier is not owned or controlled by any director or officer/employee of AYVNES or their relatives having the same meaning as assigned under the Companies Act, 2013 as amended from time to time;
- (j) the Supplier shall preserve/maintain the documents, data and records in relation to the Services in accordance with Applicable Laws relating to AYVNES and as per the directions of AYVNES in writing in this regard, and shall also furnish such data and records as may be required by AYVNES; and
- (k) none of the Services, the Materials nor the Licensed Software will infringe the Intellectual Property Rights or other rights of any third party.

## **5. Intellectual property rights**

**5.1** The Supplier will not obtain rights in any AYVNES Property. Upon request by AYVNES and in any event upon the expiration or termination of the Agreement, the Supplier will at its expense and as directed by AYVNES promptly return to AYVNES or destroy any AYVNES Property provided to the Supplier or its subcontractors.

**5.2** All Intellectual Property Rights in and to the Materials will be the property of AYVNES from creation and the Supplier hereby assigns its present and future right, title and interest in and to each such Intellectual Property Right with full title guarantee free from all liens, charges and encumbrances to AYVNES.

**5.3** At the request and expense of AYVNES, the Supplier will execute promptly all such documents and do promptly all such things as AYVNES may deem necessary or desirable to perfect AYVNES's title to the Intellectual Property Rights referred to in Clause 5.2.

**5.4** AYVNES will promptly tell the Supplier in writing if it becomes aware of any allegation of Intellectual Property Rights infringement to which Clause 5.4 applies and will not make any admission without first obtaining the Supplier's written consent.

**5.5** If requested to do so by the Supplier, and subject to Clauses 5.7 and 5.10, AYVNES will allow the Supplier at its own cost to conduct and/or settle all negotiations and litigation resulting from any claim to which Clause 5.4 applies. Where, however, AYVNES is being indemnified by the Supplier in terms of this Clause 5, AYVNES will be entitled (if it wishes) to elect to participate in the negotiations and/or litigation at its own cost. If AYVNES makes such an election the Supplier will liaise, consult and co-operate with AYVNES, and keep it fully informed at all stages of the negotiations and/or litigation.

**5.6** The Supplier will only be permitted to conduct and/or settle the negotiations or litigation where it first gives AYVNES full and adequate security to cover any amount which might be ascertained, agreed or estimated, as the case may be, as is the level of compensation, damages, expenses and costs for which AYVNES may become liable; and takes over the conduct of them within a reasonable time are becoming aware of the claim in question.

**5.7** If the Supplier requests, AYVNES will give reasonable assistance with any negotiations or litigation as referred to in Clause 5.6 at the Supplier's cost.

**5.8** If the use or possession of any of the Materials and/or of any Licensed Software by AYVNES is held by a court to constitute an infringement of a third party's Intellectual Property Rights or AYVNES is given advice by an appropriately qualified adviser that the use or possession of the Materials and/or of any Licensed Software is likely to constitute an infringement of a third party's Intellectual Property Rights, then the Supplier will promptly and at its own expense and to the satisfaction of AYVNES (a) obtain for AYVNES the right to continue using and possessing the Materials and/or the Licensed Software; or (b) modify or replace the Materials and/or the Licensed Software (without detracting from their overall performance, functionality and other characteristics) so as to avoid the infringement; or (c) with the written agreement of AYVNES, which will not be unreasonably withheld, if the terms of (a) or (b) above cannot be accomplished on reasonable terms, or if the claim is not avoided or resolved, remove the Materials and/or any Licensed Software (or if AYVNES elects, those parts that infringe) from any AYVNES premises and will refund to AYVNES any sums paid under this Agreement for the parts removed and AYVNES will have the right to terminate this Agreement for material breach.

**5.9** Notwithstanding Clauses 5.6 to 5.8 above, AYVNES may elect to retain control over any claim made against it in respect of an alleged infringement. In the event that AYVNES makes such an election, its remedy against the Supplier will be in damages rather than on an indemnity basis.

**5.10** The obligations in this Clause 5 will remain in full force and effect following the termination or expiry of the Agreement.

## **6. Confidentiality**

**6.1** Except to the extent set out in this Clause 6, the Supplier and AYVNES will each treat as confidential all Confidential Information obtained from the other under this Agreement, will protect such Confidential Information and will not, without the prior written consent of the other, disclose or use such Confidential Information except for the purposes of this Agreement.

**6.2** Clause 6.1 does not prohibit disclosure of Confidential Information to (a) the receiving party's own employees, agents and permitted subcontractors who need to know it; (b) the receiving party's auditors, professional advisors, governmental authorities, Revenue Agencies and any other person having a statutory or regulatory right to request and receive that information (including a Regulator); or (c) a person to whom an assignment has been permitted under the Agreement.

**6.3** Each party will ensure that any person mentioned in Clause 6.2 is made aware, prior to any disclosure of Confidential Information, that it is confidential and that such person and the receiving party owe a duty to the owner of it to keep it confidential. The receiving party shall be responsible for procuring that such person complies with the duty of confidentiality imposed by this Agreement as if they were a party to it.

**6.4** This Clause 6 does not apply to information which the receiving party can show by reference to documentary or other evidence (a) was rightfully in its possession prior to disclosure to it by the other party; (b) is already public knowledge or which becomes so at a future date (otherwise than as a result of breach of this Clause 6); (c) is received from a third party who is not under an obligation of confidentiality in relation to the information; or (d) is developed independently without access to, or use or knowledge of, the Confidential Information.

**6.5** The Supplier will not make any announcement or disclosure about this Agreement without the prior written consent of AYVNES.

**6.6** Other than as expressly permitted under this Agreement, on termination or expiry of this Agreement for whatever reason, each party shall forthwith cease to use any Confidential Information of the other and shall return on demand, or at the request of the other, destroy or permanently erase all copies of that Confidential Information in its possession or control, save that either party will be permitted to retain one copy of such part of the Confidential Information for the purposes of and for so long as required by any law or by judicial or administrative process or its legitimate internal compliance issues.

**6.7** The obligations in this Clause 6 will remain in full force and effect following the termination or expiry of this Agreement.

## **7. Data protection**

**7.1** The Supplier undertakes to AYVNES that it will take all necessary steps to ensure that it operates at all times within the requirements of Data Protection Laws and Applicable Laws and, where requested in relation to the Services, the Supplier will assist AYVNES in discharging its obligations under Data Protection Laws and Applicable Laws. The Supplier further undertakes that it will comply with Applicable Laws pertaining to Personal Data and privacy.

**7.2** Without limiting Clause 7.1, if the Supplier receives from AYVNES or processes any Personal Data belonging to AYVNES on behalf of AYVNES (including Personal Data relating to AYVNES customers or employees), the Supplier will only process the Personal Data in accordance with this Agreement and any instructions of AYVNES and will implement appropriate technical and organisational measures against unauthorized or unlawful processing of, and against accidental loss or destruction of or damage to the Personal Data and will permit AYVNES to audit those measures on reasonable prior notice.

**7.3** On termination or expiry of this Agreement for whatever reason, or upon written request at any time, the Supplier shall forthwith cease to use or process any Personal Data received from or on behalf of AYVNES under this Agreement, and shall return to AYVNES on demand, or at the request of AYVNES destroy or permanently erase, all Personal Data and copies of such Personal Data in its possession or control. The Supplier will give AYVNES a certificate signed by one of its senior managers, confirming that it has fully complied with this Clause 7.

**7.4** AYVNES understand local law, regulations and rules which may require the supplier to store the data for mandatory period which may and/or go beyond the time limit stated in clauses above.

## **8. Regulatory and requirements**

The Supplier acknowledges that AYVNES activities may be subject to regulation by the Regulators in the countries in which AYVNES operates. These requirements may include requirements relating to outsourcing where they apply to this Agreement. AYVNES needs to be able to comply with the requirements of its Regulators and all legal requirements of the countries in which it operates. The Supplier agrees that it will give AYVNES all assistance that it reasonably requires to comply with these requirements. The Supplier further agrees that it will co-operate with any Regulator in connection with the provision and any other aspect of the Services/the Materials.

## **9. Information security**

**9.1** The Supplier will ensure that at all times it has in place and is operating in accordance with the terms of the Information Security Plan. The Supplier will ensure that the Information Security Plan complies with Industry Standards required/recommended.

**9.2** The Supplier will develop and update the Information Security Plan on a regular basis and, in any event, not less than once in every 12 months period, in accordance with Good Industry Practice.

**9.3** Upon any potential or actual known breach of the Information Security Plan or any obligations or duties

owed by the Supplier to AYVNES relating to confidentiality or Confidential Information, the Supplier will promptly:

(i) notify AYVNES of the breach (and follow-up in writing); and (ii) remedy such breach and in this regard, implement any actions or remedial measures which AYVNES considers necessary as a result of the breach.

**9.4** If requested, the Supplier will explain to AYVNES how the Information Security Plan will meet the information security requirements from time to time. If AYVNES considers (on reasonable grounds) that the Information Security Plan is insufficient to ensure the confidentiality and security of Confidential Information or fails to meet the requirements of any Regulator or fails to meet industry standards relating to data or information security then AYVNES may require the Supplier to modify the Information Security Plan to cure such insufficiency or failure and the Supplier will promptly make the modifications that AYVNES requires.

**9.5** The Supplier will ensure that all Confidential Information which is no longer required is erased or destroyed and that such Confidential Information is not recoverable. The Supplier must also destroy any data processing equipment which is surplus to requirements and which has held AYVNES data. The erasure and/or destruction processes will form part of the Information Security Plan.

**9.6** Further, if AYVNES considers (acting reasonably) that information securities measures identified by it are:

(a) insufficient to ensure the confidentiality and security of Confidential Information; or

(b) fail to meet industry standards relating to data or information security;

(c) fails to meet the requirements of any Regulator or Applicable Law; then AYVNES may require the Supplier to cure such insufficiency or failure and the Supplier (at its own cost) shall, promptly, take all actions as may be required by AYVNES make those modifications required by AYVNES. Where the additional measures affect the Supplier's subcontractors, suppliers and agents, the Supplier shall procure that those measures are promptly implemented by the relevant subcontractors, suppliers and agents.

Failure by the Supplier to comply with the provisions of this Clause 9 will be a material breach of the Agreement by the Supplier which is not capable of remedy under Clause 14.2.2 thereof.

## **10. Compliance**

**10.1** Anti-corruption Each Party hereby represents and warrants to each other (which representations and warranties shall be deemed to be repeated at all times until the termination of the Agreement) that:

- (i) it is familiar with, and has adequate policies, systems procedures and controls in place (a) to comply with, a Prevention of Corruption Act, 1988., including any changes thereto and (b) designed to prevent itself, its agents or other intermediaries and any Controlled Person from committing any Corrupt Act and to ensure that any evidence or suspicion of Corrupt Acts is fully investigated, reported to the other Party and acted upon accordingly and it will provide the other Party upon demand evidence of such policies, systems, procedures and controls;

- (ii) (a) it and any person within its control (including any director, officer or employee, each a “Controlled Person”) has not committed and will not commit any Corrupt Act directly or indirectly; and (b) to the best of its knowledge, none of its agents or other intermediaries has committed any Corrupt Act directly or indirectly, in each case to or for the use or benefit of, any person or any government official (which shall include any official, employee or representative of, or any other person acting in an official capacity for or on behalf of any government of any jurisdiction, any public international organisation, any political party, or any quasi-governmental body);
- (iii) neither it nor any of its agents, intermediaries or Controlled Persons is ineligible or treated by any governmental or international authority as ineligible to tender for any contract or business with, or to be awarded any contract or business by, such authority on the basis of any actual or alleged Corrupt Act;
- (iv) it has kept adequate records of its activities, including financial records in a form and manner appropriate for a business of its size and resources.

**10.2 Anti-Money Laundering:** Each Party hereby represents and warrants to each other (which representations and warranties shall be deemed to be repeated at all times until the termination of the Agreement) that its activity and operation are and have been conducted at all times in compliance with Prevention of Money Laundering Act, 2002. Each Party has instituted, maintains and enforces processes, tools, policies and procedures designed to promote and ensure compliance with Prevention of Money Laundering Act, 2002 by itself and each of its Controlled Persons.

**10.3 Sanctions:** Neither the Parties, nor any of its Controlled Persons is currently the subject or the target of any Sanctions, nor is the Parties located, organized or resident in a country or territory that is a Sanctioned Country.

The Parties has instituted, maintains and complies with international policies, procedures and controls consistent with its business and customer profile, for the purpose of ensuring that it will not enter into any transaction: (i) with, or for the benefit of, any of the individuals or entities subject to Sanctions or (ii) related to any activity prohibited by the United Nations, the United States of America or the European Union or any of its present or future member thereof.

Note: “Sanctions” means any sanctions administered or enforced by the Indian Government, (including, without limitation, applicable International Sanctions as well).

## **11. Personnel**

**11.1** The Supplier undertakes that it will only use technically competent and properly trained and qualified experienced Staff in the provision and performance of the Services, and the Staff shall continue to be personnel of the Supplier and work under its directions and shall not become or claim any employment from AYVNES, by virtue of providing the Services. Nothing in this Agreement shall be construed as creating any contractual or other relationship between AYVNES and any Staff, nor any obligation on the part of AYVNES to pay or ensure payment of any money due to any such Staff. Further, the Supplier shall be solely responsible and liable for the acts, deeds, and things done by the Staff.

**11.2** The Supplier agrees that it will and shall ensure that all members of its Staff are made aware of and will, comply with any all relevant AYVNES policies and procedures which that are in place from time to time, including without limitation and which it is made aware of (such as health and safety policies and physical, systems and information security policies).

**11.3** If AYVNES (acting reasonably) determines that a member of the Staff should be removed from the provision of the Services, AYVNES will intimate the Supplier in writing and the Supplier will immediately remove that person from the provision of the Services and will not permit that person to be involved subsequently in the provision of the Services without the prior written consent of AYVNES.

**11.4** The Supplier shall at all times be responsible for compliance with the Applicable Laws with respect to its employees and its contract labour, if any. all laws, rules, regulations, orders, notifications, and directions applicable in respect of its personnel (including, but not limited to, the Contract Labour (Prohibition and Regulation) Act 1986, the Payment of Bonuses Act 1965, the Minimum Wages Act 1948, the Employees' Provident Fund Act 1952, and the Workmen's Compensation Act 1923, and shall maintain all proper records, including, but not limited to, accounting records required under the Applicable Laws, or any code, practice or corporate policy applicable to it from time to time.

**11.5** The Supplier will comply, and shall procure the compliance of any subcontractor, with the provisions of the Agreement in relation to pre-employment screening prior to the commencement of the Services. The Supplier shall comply with all Data Protection Laws while conducting pre-employment screening.

**11.6** The Supplier will ensure that all subcontractors complies with this Clause 11, and for these purposes all references to the Supplier should therefore be read as if they were references to the subcontractor concerned.

**11.7** Failure by the Supplier to comply with the provisions of this Clause 11 will be a material breach of this Agreement.

## **12. Business continuity**

**12.1** The Supplier will ensure that at all times it has in place and is able to implement the Business Continuity and Disaster Recovery Plan in accordance with its terms. The Supplier if requested will provide AYVNES with a copy of its Business Continuity and Disaster Recovery Plan and will provide AYVNES with a copy of any revised version of it within 5 Business Days of the changes being made.

**12.2** The Supplier will advise AYVNES immediately of any event that causes or threatens to cause, disruption to the performance and operation resilience of any of the Services.

**12.3** The Supplier shall develop, update and test the Business Continuity and Disaster Recovery Plan on a regular basis in accordance with Good Industry Practice.

**12.4** If AYVNES considers (on reasonable grounds) that the Business Continuity and Disaster Recovery Plan is insufficient to ensure the continued performance and operational resilience of the Services or fails to meet the requirements of any Regulator then AYVNES may require the Supplier to modify the Business Continuity and Disaster Recovery Plan, within a timeframe to be agreed with AYVNES but in any event promptly, to cure such

insufficiency or failure and the Supplier will promptly make the modifications that AYVNES may reasonably require.

**12.5** The Supplier shall also comply with any specific business continuity and disaster recovery requirements.

### **13. Indemnification**

The Supplier hereby indemnifies and agrees to keep AYVNES, its customers, its parent, subsidiaries, affiliates, whether in India or outside India, indemnified, saved, defended and hold harmless, their respective officers, employees, agents, assigns, licensees or any persons claiming under them, against and from any and all Losses, claims, demands, causes of action, judgments, notices, proceedings, litigations, penalties, liabilities, damages, costs and expenses (including, without limitation, reasonable attorneys' fees) that may allegedly arise out of, in whole or in part from:

**13.1** The execution and performance of the Services and the duties and obligations of the Supplier contemplated under this Agreement or by its Staff;

**13.2** Any negligence, misconduct, error, act or omission in performing the Services or carrying out the duties and obligations as set out in this Agreement, whether by the Supplier or by its Staff;

**13.3** The infringement of the Intellectual Property Rights of any third party being directly or indirectly caused by the use or possession of the Materials and/or any Licensed Software;

**13.4** The infringement by the Supplier or its Staff of any Intellectual Property Rights of a third party;

**13.5** Any unpaid taxes, charges, dues, levies, penalties (interest on penalties) that are obligations of the Supplier or its Staff pursuant to this Agreement; and

**13.6** The Supplier or its Staff's failure to comply with any Applicable Law.

### **14. Term and termination**

**14.1** The Agreement may be terminated by AYVNES:

**14.1.1** at any time by giving a minimum of thirty (30) days' prior written notice to the Supplier; or

**14.1.2** in circumstances in which termination is necessary for the purposes of meeting the requirements from time to time of a Regulator. If such circumstances arise, termination may be effected immediately, or within such period of time as the requirements of the Regulator permit by giving notice to the Supplier to that effect; or

**14.1.3** in case of breach of Clauses 10; or

**14.1.4** immediately or within such period of time as AYVNES considers reasonably necessary by giving notice to the Supplier, in the event of an act or omission on the part of the Supplier or its subcontractor which AYVNES reasonably believes will impact adversely on the reputation of AYVNES; or

**14.1.5** immediately or within such period of time as AYVNES considers reasonably necessary by giving notice to the Supplier if AYVNES becomes aware that there has been a Change of Control or a Substantial Disposal provided that AYVNES will not be entitled to terminate this Agreement under this Clause 14.1.5 where the Change of Control or Substantial Disposal has been approved by AYVNES in advance in writing and, for this purpose, the Supplier will notify AYVNES in writing immediately on becoming aware that any such Change of Control or Substantial Disposal has taken or is due to take place.

**14.1.6** immediately or within such period of time as AYVNES considers reasonably necessary by giving notice to the Supplier if Supplier suffers any event or series of events which, in the opinion of AYVNES, has or could reasonably be expected to have a Material Adverse Effect.

**14.2** This Agreement may be terminated immediately by either party upon written notice to the other party, if the other party (or in the case of Clause 14.2.1 automatically upon the filing of the application for the commencement of the relevant proceedings without any notice or other formalities), if the other party:

**14.2.1** ceases trading, admits that it is, becomes or is declared unable to pay its debts as they fall due, files for (or has filed against it) bankruptcy, corporate reorganization, civil rehabilitation, special liquidation or similar bankruptcy proceedings, receives an order or notification for any attachment, provisional attachment, auction or compulsory execution, or if a court having proper authority makes any order to that effect; or

**14.2.2** materially breaches this Agreement, except that where such breach is capable of being remedied, this Agreement may only be terminated where the party in breach has failed to remedy the breach within thirty (30) days of receipt of written notice of the breach. Notwithstanding the foregoing, this Agreement can be terminated immediately where the breach is persistent. A breach of this Agreement will be persistent where the party in breach has already been asked to remedy the breach but it has recurred not less than 2 further times in any continuous period of twelve (12) months; or

**14.2.3** loses (or is expected to lose) any authorization, license, and/or permission that it requires under the Applicable Laws in connection with the performance of its obligations under this Agreement.

**14.3** Any termination or expiry of this Agreement (however it occurs) will not affect any rights or liabilities of either party that may have accrued before termination or expiry of any provisions of this Agreement that are expressly or by implication intended to come into or continue in force on or after such termination or expiry. For the avoidance of doubt, termination or expiry of this Agreement will not affect the license of Licensed Software, which shall remain in force.

**14.4** Where this Agreement is lawfully terminated by AYVNES, the Supplier will immediately repay to AYVNES any portion of the Fees which has been paid in advance and which relates to the period after the date of termination, save where this Agreement has been lawfully terminated by AYVNES in terms of Clause 14.2.2 in circumstances where the Supplier is not in breach of the terms of this Agreement.

## **15. AYVNES principal**

**15.1** The Supplier agrees that all benefits, warranties, indemnities, licenses and any other rights granted or provided to AYVNES under this Agreement are also granted or provided to AYVNES's Principal, where AYVNES is acting as an agent and that the Supplier owes the same duties and obligations to the Principal (Client) of AYVNES as it owes to AYVNES. Other than in respect of any:

**15.1.1** duty or obligation of AYVNES;

**15.1.2** right of the Supplier;

**15.1.3** reference to AYVNES in Clause 3.1 (Transfer of Title);

**15.1.4** reference to AYVNES in this Clause 13 (AYVNES);

**15.1.5** any other reference to AYVNES will be deemed to refer to any principal/client of AYVNES.

**15.2** In the event of any negligence or breach of this Agreement by the Supplier which results in any direct/indirect/consequential loss, damage, costs or expense ("Loss") being suffered by a member/principal/client of AYVNES, that Loss will be treated as if it had been suffered by AYVNES. In any proceedings brought against the Supplier to recover any Loss, the Supplier will not Dispute the validity of any assignment by member/principal/client to AYVNES of any of the AYVNES member's/principal/clients rights to sue or recover the loss.

**15.3** AYVNES will be able to recover any Loss from the Supplier subject to any limits on the Supplier's liability contained in this Agreement.

**15.4** The limitations of liability in this Agreement will apply to member/principal/client of AYVNES as a whole so that they apply to all liabilities incurred under or in connection with this Agreement:

**15.4.1** by the Supplier to member/principal/client of AYVNES in aggregate; and

**15.4.2** by member/principal/client of AYVNES in aggregate to the Supplier.

**15.5** If and to the extent that AYVNES is unable to recover Loss suffered by members/principal/client of the AYVNES under Clause 13.3, each member/principal/client of AYVNES will be entitled to recover such Loss directly from the Supplier and to enforce this Agreement against the Supplier for this purpose. AYVNES and the Supplier may withdraw from or vary this Agreement or terminate it in accordance with its terms without the agreement of any other member/principal/client of AYVNES.

**15.6** The Supplier acknowledges that the provisions of this Clause have been notified to the other members/principal/clients of AYVNES.

## **16. Corporate social responsibility**

AYVNES informs the Supplier that Societe Generale, group to which it belongs, has signed the "UNEP Statement of Commitment by Financial Institutions on Sustainable Development" (UNEP Finance Initiative) on 27th November 2001. Furthermore, Societe Generale has joined the United Nations Global Compact on 16th May 2003.

As such, [the Supplier] is required to make the following commitments (and shall procure that its affiliates will comply with the following):

to comply, in every country where it operates, the applicable provisions in terms of:

- i. the employment legislation or as a minimum, the provisions of the fundamental
- ii. conventions of the International Labour Organization,
- iii. the environmental legislation, not to deal with sub-contractors, individuals or corporate bodies, which, to its knowledge, do not comply with the provisions of the present article.

## **17. Governing law and dispute resolution**

**17.1** Arbitration In the event of any dispute arising out of or relating to this Agreement (including the interpretation, performance or termination of this Agreement) the Parties shall first endeavor to amicably settle such disputes, differences or claims. If amicable settlement cannot be reached within (30) thirty days of dispute having arisen, the matter under dispute, shall be referred to arbitration by sole arbitrator appointed by AYVNES and the decision of the sole arbitrator shall be final and binding upon the Parties. The arbitration shall be in accordance with the provisions of Arbitration and Conciliation Act, 1996 and any statutory modifications and amendments thereto and the seat and venue of such arbitration shall be at Mumbai. The language of the arbitration proceedings shall be English.

**17.2** Governing Law: This Agreement and any obligations arising out of or in connection with this Agreement shall be governed by and construed and interpreted in accordance with the laws of India. Subject to the provisions of the above sub-clause above, the Courts at Mumbai, Maharashtra India shall have exclusive jurisdiction to decide all matters and disputes arising out of or otherwise connected to this Agreement (including termination or expiry of this Agreement).