

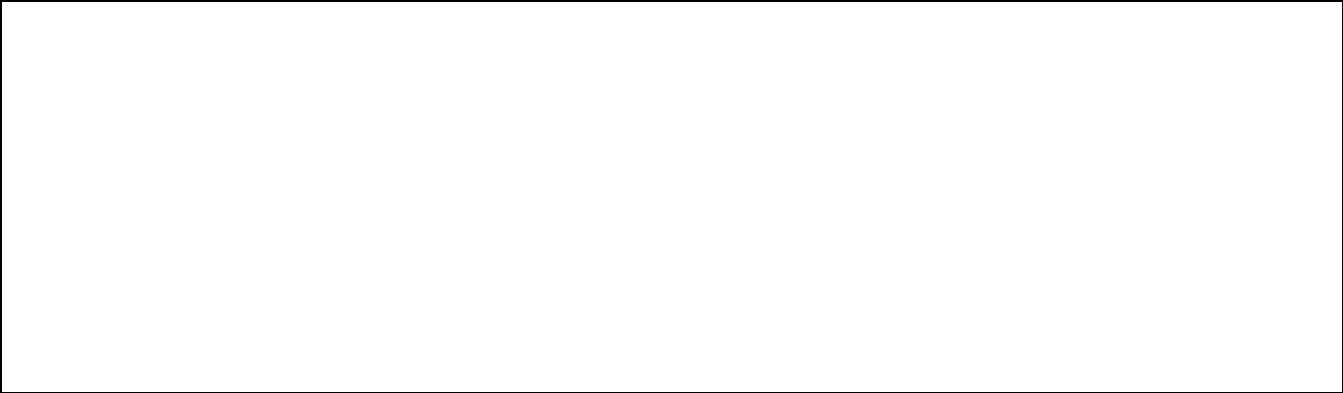


PROOF OF CONCEPT AGREEMENT - US

Cover page

Project details	
Supplier:	Company name: Registration number: Registered address:
Supplier address and contact details for notices, if different:	Name: Address (and telephone / email):
Barclays:	Company name: Registration number: Registered address:
Barclays address and contact details for notices, if different:	Name: Address (and telephone / email):
Effective Date:	
Term:	<input type="checkbox"/> Fixed term: [•] [months] / [years]
	<input type="checkbox"/> Goal-based: The Term shall expire on the completion of the Project, which shall be no later than [insert date].
Project:	<i>[Describe (a) the new or existing Supplier/Barclays technology that the parties intend for Barclays to test / evaluate, and (b) any wider installation or other related services that Supplier will provide]</i>
Barclays' Background IPR:	<i>[Describe any Barclays' Background IPR specifically to be provided to Supplier pursuant to the Project.]</i>
Supplier Inputs and Background IPR:	<i>[Describe any inputs to be provided by Supplier in order for the Project to be completed successfully and any Background IPR to be used by Supplier in relation to the Project. Differentiate between Inputs and IPR where appropriate]</i>
Outputs (and Key Dates, if any):	<i>[Describe any outputs / key dates relevant to the Project.]</i>
Proof of Concept Obligations:	<p>(A) The parties will work to allow Barclays to conduct its proof of concept process and complete the Project in accordance with all requirements of this Agreement, including within the time frames set forth in this Agreement (including the provision of all Outputs in accordance with relevant Key Dates (if any)) and in accordance with Good Industry Practice.</p> <p>(B) Supplier shall act reasonably, promptly provide its Inputs and co-operate (and, where relevant, procure the co-operation of third parties) to give effect to the provisions of this Agreement and otherwise do nothing to hinder or prevent the successful completion of the Project.</p>
Barclays Policies	<p>“Barclays Policies” are schedules and/or policies that are checked below, which can be viewed on https://www.home.barclays/about-barclays/suppliers/requirements-of-external-suppliers/external-supplier-control-requirements-.html. They form a binding part of this Agreement and are incorporated by reference in accordance with clause 3.1:</p> <p style="text-align: center;"><input type="checkbox"/> Complaints Control Obligations</p>

	<input type="checkbox"/> Cyber Risk Control Obligations <input type="checkbox"/> Data Privacy Control Obligations <input type="checkbox"/> End User Developed Applications (EUDA) Control Obligations <input type="checkbox"/> Information Security Control Obligations <input type="checkbox"/> Payments Process Control Obligations <input type="checkbox"/> People Screening Control Obligations <input type="checkbox"/> Physical Security Control Obligations <input type="checkbox"/> Records Management Control Obligations Resilience Control Obligations <input type="checkbox"/> Resilience Category 0 <input type="checkbox"/> Resilience Category 1 <input type="checkbox"/> Resilience Category 2 <input type="checkbox"/> Resilience Category 3 <input type="checkbox"/> Subcontractor Schedule <input type="checkbox"/> Technology Risk Control Obligations <p>These Control Obligations are version 9.0 dated April 2019</p>														
Open Source Software:	<input type="checkbox"/> Supplier will solely provide / use the below-listed open source software in or in connection with the Supplier’s Background Intellectual Property Rights: <table border="1" data-bbox="518 1163 1412 1398"> <thead> <tr> <th data-bbox="518 1163 917 1199">Open source software</th> <th data-bbox="917 1163 1412 1199">Relevant licence terms</th> </tr> </thead> <tbody> <tr><td> </td><td> </td></tr> <tr><td> </td><td> </td></tr> <tr><td> </td><td> </td></tr> <tr><td> </td><td> </td></tr> <tr><td> </td><td> </td></tr> <tr><td> </td><td> </td></tr> </tbody> </table>	Open source software	Relevant licence terms												
Open source software	Relevant licence terms														
Key IPR terms:	Supplier grants each Barclays Entity a royalty-free, non-exclusive, perpetual, irrevocable, worldwide, sub-licensable, transferable licence to use Supplier's Background Intellectual Property Rights in order to perform its obligations and exercise its rights under this Agreement in connection with the proof of concept process envisaged and the Project more generally.														
Charges:	<i>[Describe the Charges regime – whether fixed price (based on fixed term / completion of the Project) or T&M. If none, state “None”.]</i>														
Liability Cap:	<i>[insert amount for the purposes of clause [●]]</i>														
Barclays Project Manager:															
Supplier Project Manager:															
Special Conditions															
The parties agree that the provisions of this section constitute Special Conditions.															



THIS AGREEMENT (the “**Agreement**”) is entered into by and between Barclays and Supplier, each as specified on the cover page (respectively, “**Barclays**” and “**Supplier**”).

In consideration of the mutual payment of £1 (one pound), which is hereby acknowledged as received, the parties hereby agree as follows:

- 1. INTRODUCTION**
 - 1.1 Definitions and Interpretation**
 - 1.1.1 Capitalised terms have the meanings set out on the cover page or given in Exhibit A.
 - 1.1.2 The cover page is hereby incorporated into, and forms part of, this Agreement.
 - 1.1.3 If there is a conflict between any provision of this Agreement and the cover page, the terms of the cover page shall prevail to the extent of such conflict. Any “Special Condition” shall take precedence over any other conflicting term of this Agreement.
 - 1.2 The parties acknowledge and agree that further software development, product supply, professional services or other related work beyond the scope of the Project (if any) shall be governed by the terms of another agreement, which may or may not be based on the terms of this Agreement. The parties agree to negotiate the terms of any such further agreement in good faith but neither party shall be obliged to enter into such further agreement.
- 2. TERM**
 - 2.1 This Agreement will come into effect on the Effective Date and shall remain in force for the Term, at which point it will terminate automatically.
- 3. GENERAL PERFORMANCE OBLIGATIONS**
 - 3.1 Supplier shall, and will procure that all Supplier Personnel shall, comply with the Barclays Policies and any other policies made available to Supplier while any Supplier Personnel are working at a Barclays site or have access to any Barclays Systems, which policies are hereby incorporated by reference into this Agreement. Barclays shall provide Supplier with a copy of the Barclays Policies on request.
 - 3.2 Supplier shall not access the Barclays Systems except as authorised to do so by Barclays in writing in advance. In addition, Supplier shall immediately inform Barclays of any misuse or unauthorised use of the Barclays Systems and / or any misuse or unauthorised use or disclosure of any Barclays Data.
 - 3.3 Supplier shall ensure that no service or deliverable provided by it has or will have the effect of disabling, harming or otherwise impeding in any manner the services, deliverables or the Barclays Systems (e.g., via a virus, Trojan horse, worm, backdoor, etc.) (collectively the “**Destructive Elements**”). If Supplier breaches this clause 3.3, Supplier shall, at Barclays’ option: (a) use commercially reasonable efforts to immediately eliminate all such Destructive Elements and reverse their adverse effects; and/or (b) cooperate fully with and reimburse Barclays for all costs incurred by Barclays in eliminating all such Destructive Elements and reversing their adverse effects. Prior to delivery to Barclays, Supplier will test each element of the services and products utilizing the most recent version and the most recent data file of a reputable, commercially available anti-virus-checking software program to ensure that it is free of Destructive Elements.
 - 3.4 Supplier shall ensure that neither it, nor any of the Supplier Personnel engages in any act or omission which is reasonably likely to embarrasses, bring into disrepute or diminish the trust that the public places in Barclays, or Barclays’ brand and reputation, regardless of whether or not such act or omission is related to the Project or the Supplier’s obligations under this Agreement.

3.5 Each party will cause its Personnel to comply with the obligations and restrictions applicable to such party under this Agreement.

4. CHARGES & COSTS

4.1 If applicable, Barclays shall pay Supplier the Charges in accordance with this clause 4 and the cover sheet.

4.2 Other than as covered by the Charges, each party shall meet any and all costs it incurs associated with the Project.

4.3 Barclays will pay all sales, use, property, ad valorem, value added or similar taxes imposed on the Charges to the extent noted in the relevant invoice, except for any corporate business taxes or taxes based on Supplier's income and/or gross receipts, withholding taxes and/or personnel-related taxes.

4.4 Supplier will invoice Barclays: (a) after Barclays' confirmation that a Project (or Output, as applicable) performed on a fixed price basis has been satisfactorily completed by the applicable Key Date; and (b) monthly in arrears for all other Charges. Each validly-rendered, undisputed Supplier invoice will be payable within forty five (45) days after receipt by Barclays.

4.5 To the extent that Supplier is entitled to interest on the unpaid amount of any validly rendered, undisputed Supplier invoice that remains unpaid following the due date, the default interest rate for such purposes shall be two per cent (2%) per annum above Barclays Bank PLC's base rate from time to time.

5. CONFIDENTIALITY AND PUBLICITY

5.1 Confidentiality

5.1.1 From time to time, Confidential Information of either party (the "**Disclosing Party**") may be received by the other party (the "**Receiving Party**"). For the purposes of this Agreement, Confidential Information does not include information to the extent the

Receiving Party can demonstrate that such information:

- (a) is or becomes publicly available other than as a result of a breach of a duty of confidentiality (including under this clause 5) by the Receiving Party;
- (b) was known to it before receipt from the Disclosing Party, free from any obligation to keep it confidential; or
- (c) was obtained by the Receiving Party from a third party who was not bound by confidentiality obligations with respect to such information.

5.1.2 The Receiving Party will keep all Confidential Information of the Disclosing Party confidential and will not, except as authorized in advance by the Disclosing Party in writing, use (other than to fulfil its obligations under this Agreement) or directly or indirectly disclose Confidential Information of the Disclosing Party to any third party.

5.1.3 Clause 5.1.2 shall not apply to the extent that:

- (a) such Confidential Information is required to be disclosed pursuant to Law or regulation;
- (b) the Receiving Party needs to disclose the Disclosing Party's Confidential Information to any of its Affiliates, Personnel or professional advisers in order to fulfil its obligations or exercise its rights under this Agreement, provided however, that in each case, the Receiving Party shall ensure that every person to whom such disclosure is made is bound by obligations of confidentiality that are materially no less restrictive than those set forth in this clause 5.1 (Confidentiality); or
- (c) any Supplier Confidential Information is embodied in or

otherwise incorporated into any Foreground Intellectual Property Rights (if any).

5.2 Publicity

5.2.1 The Supplier shall not, without Barclays' prior written consent in each instance: (a) use the name or any other identifier of Barclays (or any of its Affiliates); or (b) refer to or identify Barclays (or any of its Affiliates) in any publicity releases or promotional or marketing materials.

6. INTELLECTUAL PROPERTY

6.1 General

6.1.1 All Background Intellectual Property Rights shall remain vested in the relevant party, including, for the avoidance of doubt, any modifications or amendments made thereto in relation to the Project (unless otherwise agreed between the parties and set out in the Key IPR Terms).

6.1.2 Barclays grants Supplier a royalty-free, non-exclusive, non-sub-licensable, and non-transferable licence to use Barclay's Background Intellectual Property Rights for the Term solely to the extent necessary to perform its obligations and exercise its rights under this Agreement in connection with the Project.

6.2 Intellectual Property Rights Indemnity

6.2.1 Each party shall indemnify and hold harmless the other party's Indemnitees against all Losses suffered or incurred by any such Indemnitee, whether or not such Losses were foreseeable, arising out of any allegation of infringement, misappropriation or unlawful disclosure of any third party's Intellectual Property Rights as a result of the Indemnitee's use of the indemnifying party's Intellectual Property Rights within the scope of the Project.

6.2.2 Any party seeking indemnification protection under clause 6.2.1 shall (i) provide prompt written notice to the indemnifying party of any such claim; (ii)

allow the indemnifying party to control the defence and any related settlement of any such claim; and (iii) furnish the indemnifying party with reasonable assistance in the defence of any such claim, so long as the indemnifying party pays the indemnified party its reasonable out-of-pocket expenses.

7. WARRANTIES AND REPRESENTATIONS

7.1 Each party warrants and represents that it has the capacity, power and authority to enter into this Agreement.

7.2 Supplier warrants, represents and covenants on an ongoing basis to Barclays that:

7.2.1 unless stated otherwise on the cover page, no open source software (as defined by the Open Source Initiative) has been used or embedded in its Background Intellectual Property Rights or the Foreground Intellectual Property Rights (if any);

7.2.2 the terms on which any such open source software is licensed are consistent with and are not contrary to the terms and/or purpose of this Agreement;

7.2.3 it has all necessary regulatory licences, consents and / or permits applicable to its participation in the Project and Supplier and its use of all third party licensed materials (including open source software) is compliant with the terms of all applicable licences, consents and/or permits; and

7.2.4 it shall comply with all applicable Laws;

7.2.5 any Barclays Entity's use of the Foreground Intellectual Property Rights, Background Intellectual Property Rights and/or deliverables provided under this Agreement will not subject any Barclays Entity to any terms of any open source license nor any obligation or restriction thereunder, including (i) any obligation of any Barclays Entity to make available any of its proprietary source code to any third party or (ii) any restriction or limitation on the ability of any Barclays Entity to enforce or maintain any of its Intellectual Property Rights or on the ability of any Barclays Entity to

commercially exploit any of its proprietary software.

8. USE OF BARCLAYS DATA

8.1 Supplier shall not store, handle or use Barclays Data save to the extent:

8.1.1 the storage, handling or use of the Barclays Data by Supplier is necessary to complete the Project;

8.1.2 it shall treat and keep all Barclays Data secret and confidential and will not, without Barclays' prior written consent, directly or indirectly communicate or disclose (whether in writing or orally or in any other manner) Barclays Data to any person other than in accordance with clause 8.2 and the other provisions of this Agreement;

8.1.3 it shall ensure proper and secure storage of all Barclays Data and Barclays Data shall be retained in accordance with Barclays' records management policy or other policies as disclosed to Supplier from time to time; and

8.1.4 where the Barclays Data comprises Personal Data it shall be Processed in accordance with clause 9 at all times.

8.2 Notwithstanding clause 8.1.2, Supplier may disclose Barclays Data:

8.2.1 to those of its employees or Affiliates who strictly need to know the Barclays Data in connection with the Project provided that Supplier shall ensure that such recipients are made aware prior to the disclosure of any part of the Barclays Data that the Barclays Data is confidential and that they owe a duty of confidence to each Barclays Entity on the same terms as contained in this Agreement. Supplier shall at all times remain liable for any actions of such receiving parties that would constitute a breach of this Agreement; and

8.2.2 to the extent required by Law or any Regulator.

8.3 Notwithstanding whether Supplier uses the Barclays Data in or not in accordance with

this Agreement (including modifying or amending the Barclays Data), all Barclays Data shall remain the property of the relevant Barclays Entity and its disclosure shall not confer on Supplier any rights of any Barclays Entity, including Intellectual Property Rights, over the Barclays Data whatsoever beyond those contained in this Agreement.

8.4 Barclays, each Barclays Entity and Supplier shall have a right of access to the Barclays Data on request and on reasonable notice and Supplier shall, and shall procure that its Affiliates shall, give each Barclays Entity reasonable cooperation in providing such access subject to the relevant Barclays Entity observing obligations of confidentiality in respect of any Supplier data contained in or alongside the Barclays Data.

8.5 Supplier shall, within seven days of receipt of a written demand from Barclays, return all the Barclays Data and any copies thereof or shall destroy all the Barclays Data and certify to Barclays that it has done so.

9. DATA PROTECTION

9.1 Supplier shall not Process, disclose or use Personal Data pursuant to this Agreement. If Supplier does receive Personal Data from Barclays it shall promptly notify Barclays of its receipt of Personal Data and follow any instructions in relation to such Personal Data. The remainder of this clause 9 shall apply if Supplier is in receipt of Personal Data from Barclays.

9.2 Supplier shall Process, disclose or use Personal Data pursuant to this Agreement in accordance with all applicable Laws and only to the extent necessary for the performance of its obligations under this Agreement or as otherwise expressly authorised by Barclays in writing.

9.3 Supplier shall take reasonable steps to ensure the reliability of Supplier Personnel having access to the Personal Data.

9.4 Supplier shall implement and maintain appropriate administrative, technical, and

- physical safeguards and appropriate technical and organisational measures adequate to insure the security and confidentiality of Personal Data and protect against accidental loss, destruction, damage, alteration or disclosure of Personal Data.
- 9.5 Supplier shall not Process Personal Data outside the European Economic Area (“EEA”) or a country not deemed to provide an adequate level of protection for personal data by any Regulator without the prior written consent of Barclays.
- 9.6 Supplier shall promptly notify Barclays if the subject of any Personal Data makes a written request to have access to Personal Data or any other complaint, allegation, or request is made relating to Barclays' obligations under the Data Protection Legislation and provide full cooperation and assistance to Barclays in relation to any such complaint, allegation or request.
- 10. ANTI-BRIBERY**
- 10.1 Supplier represents and warrants that neither it nor any of the Supplier Personnel have taken or will take any action that might cause Barclays to violate any Applicable Anti-Bribery Law, namely: that neither it nor any of the Supplier Personnel will, authorise, offer, give or agree to offer or give, directly or indirectly, any payment, gift or other advantage with respect to any activities undertaken relating to this Agreement which:
- 10.1.1 is intended to, or does, influence any person to act or reward any person for acting in breach of an expectation of good faith, impartiality or trust, or which it would otherwise be improper for the recipient to accept; or
- 10.1.2 is made to or for the benefit of a Public Official, or to any person while knowing or being aware of a high probability that all or a portion of the payment, gift or other advantage will be offered or given to a Public Official, with the intention of influencing any act or decision of the Public Official in his/its official capacity, inducing such Public Official to use his/its influence to affect any act or decision of a government entity, or securing an improper advantage; or
- 10.1.3 would otherwise violate Applicable Anti-Bribery Law.
- 11. COLLABORATION**
- 11.1 The parties shall meet regularly to hold collaboration meetings to discuss the progress of the Project.
- 12. LIMITATION OF LIABILITY**
- 12.1 Liability**
- 12.1.1 Neither party limits or excludes its liability:
- (a) for any wilful misconduct, fraud or fraudulent misrepresentation by it or its Personnel;
- (b) for death or personal injury caused by it or its Personnel;
- (c) in relation to any breach of clause 5 (Confidentiality and Publicity);
- (d) in relation to its indemnification obligations under clause 6.2.1; or
- (e) to the extent such limitation or exclusion is not permitted by applicable Law.
- 12.1.2 Subject to clauses 12.1.1 and 12.1.3, the maximum aggregate liability of each party arising out of or in connection with this Agreement, arising from tort (including negligence), breach of contract or otherwise, shall not exceed, for each party, the greater of: (a) one hundred percent (100%) of the Charges paid or payable under this Agreement; and (b) the Liability Cap.
- 12.1.3 Subject to clause 12.1.1, neither party will be liable to the other for any indirect or consequential loss or damages (including any indirect loss of business, revenues, goodwill, anticipated savings, wasted expenditure or profits) arising out of or in connection with this Agreement, in each

case whether arising from tort (including negligence), breach of contract or otherwise.

Barclays shall be reduced on a pro rata basis accordingly.

12.2 Force majeure

13.4 Consequences of Termination

12.2.1 Neither party will be liable to the other for any delay or non-performance of its obligations under this Agreement to the extent such arises from a Force Majeure Event. If performance is not resumed within ten (10) days after the commencement of the Force Majeure Event the non-affected party may terminate the Agreement immediately by giving written notice to the affected party.

13.4.1 In the event of any termination or expiry of this Agreement, the Supplier shall at Barclays' request (and at an agreed cost), provide to Barclays and / or any third party nominated by Barclays all reasonable exit / hand-over assistance requested. The exit and/or hand-over assistance described in this clause is governed by the terms and conditions of this Agreement notwithstanding any earlier termination or expiration thereof.

13. TERMINATION

13.4.2 On the expiry or termination of this Agreement, upon Barclays' request, Supplier shall:

13.1 Barclays may terminate this Agreement, in whole or in part, for convenience at any time by giving the Supplier not less than thirty (30) days' prior written notice. If Barclays terminates the Agreement pursuant to this clause 13.1, Barclays shall pay Supplier all outstanding undisputed Charges (apportioned on a daily basis) up until the date of such termination, subject always to Supplier providing Barclays with a full breakdown of all such Charges and such supporting documentation as may be reasonably requested (but Barclays will not be responsible for paying any termination-related charges).

(a) ensure that all IT access provided by or on behalf of Barclays to Barclays Systems ceases to be used by Supplier;

(b) immediately deliver to Barclays all knowhow related to the Project in documentary or electronic format that may be in the possession of, or under the control of, Supplier (including any Supplier Personnel); and

13.2 Each party may terminate this Agreement with immediate effect on giving written notice to the other, upon any of the following events:

(c) promptly refund to Barclays any Charges paid in advance by Barclays for the parts of the Project that would have been performed by Supplier after the date of notice of termination, or that have otherwise been paid for but not delivered or provided as at such date.

(a) a material breach by the other party which, if capable of remedy, is not remedied within thirty (30) days of receiving written notice of such breach; or

(b) the other party being affected by an Insolvency Event.

13.4.3 Upon the termination or expiration of this Agreement, each party will promptly return to the other all:

13.3 Barclays may, at its option, require Supplier to suspend work on the Project from time to time. In the event Barclays exercises such option, the Charges otherwise payable by

(a) in the case of the Supplier, all Barclays Data and other Barclays Confidential Information; and

(b) in the case of Barclays, all Supplier Confidential Information,

- that it has in its possession in a format and on media reasonably requested by the other party.
- 13.5 Survival**
- 13.5.1 The following provisions will survive any termination or expiry of this Agreement and continue in full force and effect thereafter: (a) clauses 1 (Introduction), 5 (Confidentiality and Publicity), 6.2 (Intellectual Property Rights Indemnity), 7 (Warranties and Representations), 8 (Use of Barclays Data), 9 (Data Protection), 10 (Anti-Bribery), 12.1 (Liability), 13.4 (Consequences of Termination), 14 (Miscellaneous) and Exhibit A of this Agreement and (b) any other provision of this Agreement that contemplates performance, application or observance subsequent to termination or expiration of this Agreement.
- 14. MISCELLANEOUS**
- 14.1 Subject to clause **14.2**, neither party may assign any of its rights or obligations or delegate any performance, in each case arising under or in connection with this Agreement, without the other party's prior written consent, not to be unreasonably withheld or delayed.
- 14.2 Supplier will cause Supplier Personnel to comply with the obligations and restrictions applicable to Supplier under this Agreement. Supplier shall be fully responsible and liable for all acts and omissions of any Supplier Personnel as if they were the acts and omissions of Supplier. Supplier may not subcontract the performance of any of its obligations under this Agreement without Barclays' prior written approval.
- 14.3 Any formal notices relating to this Agreement may be sent by regular mail or given by email. If sent by email, they will be effective when actually received in readable form if it is received not later than 17.00 hours on a business day, or, if it is received later than 17.00 hours on a business day or at any time on a day which is not a business day, at 09.00 hours on the next business day.
- 14.4 The relationship between Barclays and Supplier is as an independent contractor and not an employer-employee relationship. This Agreement is not intended to create or record any employment, partnership, joint-venture, agency or other such relationship between Barclays and Supplier.
- 14.5 This Agreement constitutes the entire agreement and understanding between the parties, superseding all previous proposals, agreements, arrangements, understandings, promises, representations, and negotiations, whether written or oral. An electronic copy of a signature received in 'Portable Document Format' (PDF) or a copy of a signature received via a fax machine shall be deemed to be of the same force and effect as an original signature on an original executed document.
- 14.6 No relaxation, forbearance, delay or negligence by Barclays or Supplier in enforcing any of the terms and conditions of this Agreement shall prejudice, affect or restrict the rights and powers of that party.
- 14.7 Nothing in this Agreement shall create any right enforceable by any third party and the Contracts (Rights of Third Parties) Act 1999 shall not apply to this Agreement.
- 15. DISPUTE RESOLUTION PROCEDURE**
- 15.1 In the event of any dispute relating to this Agreement, the parties agree that each party's applicable Project Manager shall negotiate in good faith in an attempt to resolve such dispute and, if necessary, then escalate the dispute to a senior executive.
- 16. OPEN SOURCE**
- 16.1 Barclays hereby provides its prior written consent for the use of the open source software set forth on the Cover Page section entitled "Open Source Software" in the Supplier's Background Intellectual Property Rights, its Foreground Intellectual Property Rights, or otherwise in connection with this Agreement; to the extent Supplier desires to utilize any other additional Open Source Software aside from those listed on the

Cover Page in the Supplier Background Intellectual Property Rights or the Foreground Intellectual Property Rights, Supplier hereby acknowledges and agrees that it will not do so without seeking Barclays' prior written consent, such consent to be memorialized by an amendment to this Agreement.

16.1.1 Supplier hereby represents, warrants and covenants as follows, on an ongoing basis:

A. Supplier's use and licensing of the Supplier Background Intellectual Property Rights and/or the Foreground Intellectual Property Rights, and use of any Open Source Software included therein or required for the effectiveness of the Supplier Background Intellectual Property Rights and/or the Foreground Intellectual Property Rights, is and shall be in full compliance with the terms of all applicable Open Source Licenses;

B. Supplier's legal counsel has reviewed and will review all Open Source Licenses prior to incorporating the applicable Open Source Software into any Supplier Background Intellectual Property Rights and/or the Foreground Intellectual Property Rights; and

C. Any Barclays Entity's use of the application, Supplier Background Intellectual Property Rights and/or the Foreground Intellectual Property Rights, will not subject any Barclays Entity to any terms of any Open Source License nor any obligation or restriction thereunder, including (i) any obligation of any Barclays Entity to make available any of its proprietary source code to any third party or (ii) any restriction or limitation on the ability of any Barclays Entity to enforce or maintain any of its Intellectual Property Rights in its proprietary software or on the ability of any Barclays Entity to commercially exploit any of its proprietary software.

16.1.2 Barclays Entities have the right to scan any application, Supplier Background Intellectual Property Rights and/or the Foreground Intellectual Property Rights for the purpose of identifying any Open Source Software

included therein. Notwithstanding anything to the contrary in this Agreement or any Open Source License, all obligations (including indemnification and support obligations), representations, warranties and covenants of Supplier with respect to the Software shall apply fully to any Open Source Software included in the application, Supplier Background Intellectual Property Rights and/or the Foreground Intellectual Property Rights, or required for its effective use. If requested by Barclays, Supplier shall promptly provide Barclays with any information related to any applicable Open Source Licenses and/or Supplier's policies and procedures governing its approval, use and deployment of any Open Source Software.

16.1.3 For purposes of this Section 16:

"Open Source Software" means open source software, 'free' software or any code derived from any of the foregoing or any component thereof; and

"Open Source License" means any license or agreement governing or otherwise pertaining to any Open Source Software incorporated into or forming any component of any Software licensed under this Agreement.

17. GOVERNING LAW

17.1 This Agreement, and all disputes, claims, controversies, disagreements, actions and proceedings arising out of or in connection with it (including any non-contractual disputes or claims) (each, a "Proceeding") shall be governed by and construed in accordance with the laws of the State of New York without giving any effect to any contrary choice of law or conflict of law provision or rule (whether of the State of New York or any other jurisdiction). Each party hereby irrevocably and unconditionally (i) submits to the exclusive jurisdiction of the appropriate federal or state court located in the State of New York, New York County, and any appellate court from any thereof, for all Proceedings, and (ii) agrees that all claims in respect of any Proceeding shall be heard and

determined in such court. With respect to each Proceeding, each party hereby irrevocably and unconditionally waves, to the fullest extent permitted by law: (a) any objection that it may now or hereafter have to the laying of venue; (b) the defense of an inconvenient forum; and (c) any right to trial

by jury. In the event that the appropriate above referenced court declines jurisdiction over any action brought in accordance with this provision, the parties agree that jurisdiction is appropriate in any forum possessing original jurisdiction over such action.

IN WITNESS WHEREOF, Barclays and Supplier have each caused this Agreement to be signed and delivered by their duly authorised representatives as of the Effective Date.

Barclays

Supplier

Signed:

Signed:

Name:

Name:

Title:

Title:

EXHIBIT A DEFINITIONS

Capitalised terms defined on the cover page have the meanings set out there.

Affiliate means, in relation to an entity, any person or entity Controlling, Controlled by or under common Control with such entity;

Applicable Anti-Bribery Law means any bribery, fraud, kickback, or other similar anti-corruption law or regulation to which Barclays, any Barclays Entity, the Supplier or the Supplier Personnel is subject in relation to the Project;

Background Intellectual Property Rights means any Background IPR identified on the cover page and any and all Intellectual Property Rights owned or licensed by a party (and which are capable of being sub-licensed) prior to the commencement of this Agreement and which are capable of being used in connection with the Project, but excluding the Foreground Intellectual Property Rights (if any);

Barclays Confidential Information means any information obtained by Supplier or any Supplier Personnel (or to which any of them has access) in connection with this Agreement that relates to any past, present or future (i) business activities, products and/or developments of any Barclays Entity and/or (ii) employees, customers, counterparties, suppliers and/or contractors of any Barclays Entity, including this Agreement and any information relating to the applicable entity's or person's plans, pricing, methodologies, processes, financial data, Intellectual Property Rights, research, systems, programs, and/or information technology;

Barclays Data means all data, information, text, drawings and other materials embodied in any medium including all electronic, optical, magnetic or tangible media that are supplied to Supplier by any Barclays Entity or that Supplier is required to generate, collect, process, store or transmit in connection with this Agreement;

Barclays Entity means Barclays and each Barclays Affiliate;

Barclays Indemnitees means all Barclays Entities and their respective officers, directors, employees, contractors, agents, representatives, successors and assigns;

Barclays Systems means the electronic information systems comprising any one or more of hardware, equipment, software, peripherals and communications networks owned, controlled, operated and/or used by any Barclays Entity;

Charges means the fees and reimbursable expenses payable by Barclays to Supplier in accordance with clause 4 (Charges), as set out on the cover page;

Confidential Information means Barclays Confidential Information or Supplier Confidential Information (as applicable);

Control of an entity means the power, direct or indirect, to direct or cause the direction of the management and policies of such entity whether by contract or otherwise and, in any event and without limitation of the foregoing, any entity owning more than thirty percent (30%) of the voting securities of a second entity shall be deemed to control that second entity. Derivative forms of the term "Control" (e.g. **Controlling** and **Controlled by** have corresponding meanings;

Data Protection Legislation means the EU Data Protection Directive 95/46/EC, the EU Directive on Privacy and Electronic Communications 2002/58/EC, Commission decisions and guidance and all national implementing legislation and all other applicable laws, regulations and regulatory guidance relating to data protection and privacy;

Disclosing Party has the meaning set out in clause 5.1 (Confidentiality);

Force Majeure Event means any fire, flood, earthquake, act of God, war, governmental act, riot, civil disorder, rebellion or revolution or any other event of a similar nature beyond a party's reasonable control;

Foreground Intellectual Property Rights means any Intellectual Property Rights that arise or are obtained or developed by, or by a contractor on behalf of, either party in the course of or in connection with the Project (if any);

Good Industry Practice means, in relation to any undertaking and any circumstances, the exercise of the degree of skill, diligence, prudence and foresight that would reasonably be expected from a highly skilled and experienced person engaged in the same type of undertaking under the same or similar circumstances;

Indemnitees means Barclays Indemnitees or Supplier Indemnitees (as applicable);

Insolvency Event means one or more of the following affecting a party (an **Affected Party**):

- (a) the Affected Party becomes unable to pay its debts or is deemed to be unable to pay its debts;

- (b) the Affected Party enters into either compulsory or voluntary liquidation or a provisional liquidator is appointed in respect of the Affected Party;
- (c) an administrator, administrative receiver, receiver or manager, liquidator or similar officer is appointed in respect of the whole or any part of the Affected Party's assets; and
- (d) the Affected Party proposes to enter or enters into any composition or arrangement with its creditors generally or any class of creditors;

Intellectual Property Rights means patents (including any rights in or to (or any rights in and to), inventions); trademarks, service marks, logos, trade names and business names (including rights in goodwill attached thereto); design rights; rights in or to (or rights in and to) internet domain names and website addresses; semi-conductor topography rights; copyright (including future copyright); database rights; rights in and to Confidential Information (including trade secrets); and all other intellectual property rights, in each case subsisting at any time in any part of the world (whether registered or unregistered) and any: (a) pending applications or rights to apply for registrations of any of these rights that are capable of registration in any country or jurisdiction; and (b) similar or analogous rights to any of these rights in any jurisdiction;

Law means any treaty, legislation, statute, directive, regulation, judgment, decision, decree, order, instrument, by-law, or any other law of, or having effect in, any jurisdiction;

Losses means all losses, liabilities, damages, costs, expenses (including management time and reasonable legal fees) and charges, of any type;

Personal Data means any and all personal data in respect of which any Barclays Entity is a data controller and that will be Processed by Supplier in connection with this Agreement, where "personal data" and "data controller" have the meanings given to them by the EU Data Protection Directive 95/46/EC;

Personnel means, in relation to the relevant party, employees, agents, consultants, contractors and sub-contractors and their employees, agents, consultants, contractors and sub-contractors;

Processing has the meaning given to that term by the EU Data Protection Directive 95/46/EC and **Process** and **Processed** shall have corresponding meanings;

Public Official means: (a) any officer, employee or representative of a government or government entity; (b) any individual exercising a legislative, administrative or judicial function; (c) any candidate for or holder of public

office; (d) any political party or official of a political party; (e) any officer, employee or representative of a public international organisation; and (f) any member of a royal family;

Receiving Party has the meaning set out in clause 5.1 (Confidentiality);

Regulator means any regulator, regulatory body or supervisory authority in any country;

Subcontractor means any third party from time to time providing goods and/or services in connection with the Project;

Supplier Confidential Information means the following that Supplier provides to Barclays in connection with this Agreement and designates in writing as its Confidential Information: (a) Supplier proprietary information, software code and/or technology created by or for Supplier prior to and independent of the Project and/or (b) proprietary information, software code and technology owned by a third party and provided by Supplier to Barclays; and

Supplier Indemnitees means Supplier and each Supplier Affiliate and their respective officers, directors, employees, contractors, agents, representatives, successors and assigns.