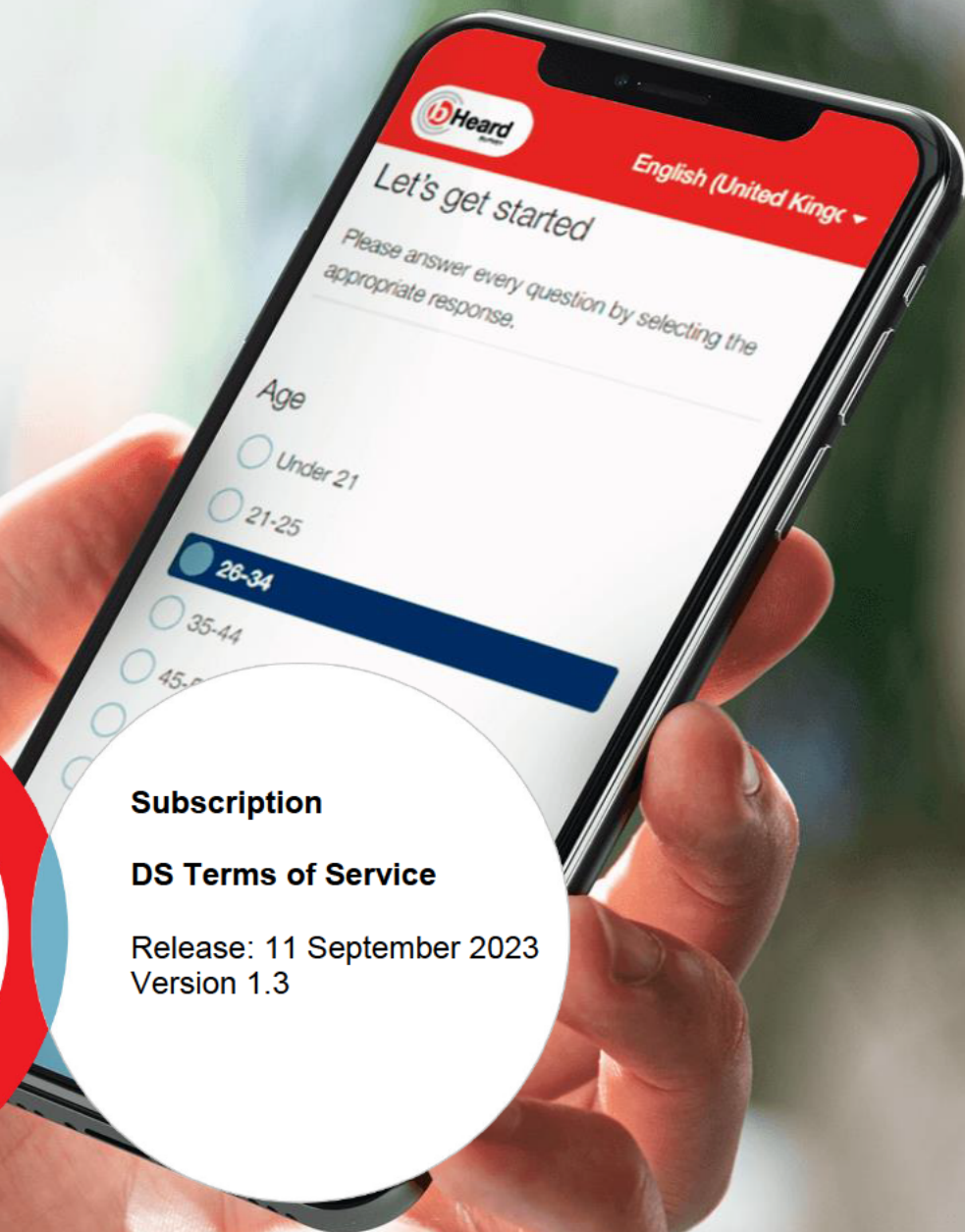




### **Subscription**

### **DS Terms of Service**

Release: 11 September 2023  
Version 1.3

## Introduction

Hi, we are Best Companies, the workplace engagement people. We want to help make the world a better workplace. We truly believe that people who are fully engaged at work feel happier and more secure, which makes them more productive.

True employee engagement is a journey, not a destination. Guided by our five key principles Care, Humility, Responsibility, Hunger and Discipline. We work with organisations to provide them with the information they need to understand what it is really like to work for them.

Best Companies provides the standard for workplace accreditation, manager accreditation and the Best Companies League Tables. Accreditation tells your clients, partners, investors and employees that your organisation understands the importance of workplace engagement and genuinely values its people.

We conduct research and data analysis. The personal data we process is to provide the organisation you work for, the tools and expertise that will enable them to monitor engagement over time, with a view to improve. Our services provide, an accurate insight into the engagement levels within an organisation, assisting employers to inform, meet and monitor their people strategy needs.

We also use the statistical data we collect for research purposes with the goal of discovering new information, informing conclusions, and supporting decision-making into better understanding of employee engagement.

Today we work with some of the world's best-known organisations: measuring, improving and recognising world class workplace engagement. We have a number of documents and articles to assist you with your compliance and due diligence. Visit our Trust Centre <https://www.b.co.uk/compliance/trust-centre> to find out more.

Thank you for considering Best Companies to be your employee engagement partner of choice.

## The Best Companies Team

**THIS AGREEMENT is made BETWEEN:**

- (1) NHS BUSINESS SERVICES AUTHORITY** a public sector organisation whose address is **Stella House, Goldcrest Way, Newburn Riverside, Newcastle upon Tyne, NE15 8NY** (“Client”)
- (2) BEST COMPANIES LIMITED** a company registered in England and Wales under company number **(03916471)** whose registered office is at **Hamilton House, Rackery Lane, Llay, Wrexham, LL12 0PB** (“Best Companies”)

(each a “party” and together the “parties”)

**1. INTERPRETATION**

- 1.1 The rules of interpretation set out below apply to this Agreement (including the schedules where applicable) and the following terms have the following meaning:

|                                 |                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
|---------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>“Accreditation”</b>          | Best Companies accreditation scheme, which is set out in the Rules of Engagement schedule to this Agreement where applicable;                                                                                                                                                                                                                                                                                                                                              |
| <b>“Accreditation Year”</b>     | 1 <sup>st</sup> October to 30 <sup>th</sup> September in each year of the term of the Agreement;                                                                                                                                                                                                                                                                                                                                                                           |
| <b>“Additional Services”</b>    | any services agreed to be provided by Best Companies to the Client on their written instruction, which are not specified in the Purchase Order, including (but not limited to) bespoke reporting and workshop(s), that are chargeable to the Client and invoiced separately which shall be deemed to be supplied upon and subject to these Conditions;                                                                                                                     |
| <b>“Additional Charges”</b>     | means charges quoted for Additional Services or charged on a time and materials basis at Best Companies then prevailing rates for Additional Services if not set out in the Proposal;                                                                                                                                                                                                                                                                                      |
| <b>“Agreement”</b>              | means the legally binding agreement between Best Companies and the Client comprising of the Purchase Order, these Conditions, the schedules and any other documents incorporated by reference as set out herein including any made available by reference to a website. For the avoidance of doubt, by issue of the Purchase Order the client accepts that it has read and accepted the Conditions to apply during the Subscription Term for the commencement of Services; |
| <b>“Annual Winter Shutdown”</b> | the period starting Christmas Eve, up until and including the New Year’s Day Bank Holiday;                                                                                                                                                                                                                                                                                                                                                                                 |

|                                      |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
|--------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>“Authorised Personnel”</b>        | the project manager(s) or other named personnel nominated by the Client, Best Companies may liaise with in relation to this Agreement as specified in the Purchase Order;                                                                                                                                                                                                                                                                                                                                                                                                       |
| <b>“Best Companies”</b>              | Best Companies Limited a company registered in England and Wales under company number (03916471) whose registered office is at Hamilton House, Rackery Lane, Llay, Wrexham, LL12 0PB, a party to this Agreement.                                                                                                                                                                                                                                                                                                                                                                |
| <b>“Business Day”</b>                | a day, other than a Saturday, Sunday or public holiday when banks in England and Wales are open for business;                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| <b>“Client”</b>                      | the person, firm, company or organisation whose name is on the Purchase Order and who is thereby commissioning the Services from Best Companies;                                                                                                                                                                                                                                                                                                                                                                                                                                |
| <b>“Conditions”</b>                  | the terms and conditions set out in this document as amended from time to time in accordance with Clause 6, Clause 13.19 and Clause 17;                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| <b>“Controller and Processor”</b>    | as defined in Data Protection Legislation;                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| <b>“Cultural Insight”</b>            | Best Companies Cultural Insight, a questionnaire completed by the Client providing information regarding the Client's business and operation;                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| <b>“Data Protection Legislation”</b> | the UK Data Protection Legislation and any other European legislation relating to Personal Data and all other legislation and regulatory requirements in force from time to time which apply to a party relating to the use or processing of Personal Data (including, without limitation, the privacy of electronic communications);                                                                                                                                                                                                                                           |
| <b>“Deliverables”</b>                | Best Companies' reporting documentation, tools, sessions, presentations, services, (whether in hard copy, visual, audio or electronic format), developed by Best Companies or its agents, subcontractors, consultants and employees, provided under license to the Client, for understanding levels of Employee engagement through the services and products provided by Best Companies. Including but not limited to Data Insight Sessions, Workplace Insight and MC <sup>3</sup> results, data packs support services and any Additional Services as purchased by the Client; |
| <b>“Diversity Questionnaire”</b>     | set questions, which can be added on request as an extension to the Employee Survey, being designed to inform the Client (with anonymous reporting), of the                                                                                                                                                                                                                                                                                                                                                                                                                     |

|                                       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
|---------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                       | ethnic, social and cultural diversity within a workplace of those that choose to respond;                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| <b>“Effective Date”</b>               | the date upon which the Client either a) accepts these Conditions by way of signature, manual or electronic (electronic includes: electronic signature or acceptance) or b) the date upon which the Client registers to commence their Subscription Term thus generating a Purchase Order at their request for delivery of our services (a or b, of whichever date is soonest); or c) on the start date of the Renewal Period where accepted at any point during a Subscription Term;                                                                                                                                                                        |
| <b>“Employees”</b>                    | the Client’s Employees;                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| <b>“Employee Survey” or “Survey”</b>  | the Survey form in its entirety that is served, at a minimum this includes the b-Heard Survey. Where added, this includes the Diversity Questionnaire, and additional statements. This is completed by the Employees providing information regarding their experience of working for the Client’s business;                                                                                                                                                                                                                                                                                                                                                  |
| <b>“Grace Period”</b>                 | the period of 30 days following expiry of the Initial Subscription Term and any Renewals Period during which the Client may elect to terminate the Agreement in accordance with clause 3.1 during which period Services may be accessed with reduced functionality.                                                                                                                                                                                                                                                                                                                                                                                          |
| <b>“Initial Subscription Term”</b>    | the initial term of this Agreement as set out in the Purchase Order;                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| <b>“Input Material</b>                | all documents, information and data provided by the Client relating to the Services including completed data reports, information submitted via completion of Employee Surveys, Cultural Insight and any specifications;                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| <b>“Intellectual Property Rights”</b> | all patents, rights to inventions, utility models, copyright and related rights, trademarks, service marks, trade business and domain names, rights in trade dress or get-up, rights in goodwill or to sue for passing off, unfair competition rights, rights in designs, rights in computer software, database rights, rights in confidential information (including know-how and trade secrets) and any other intellectual property rights, in each case whether registered or unregistered and including all applications for renewals or extensions of such rights and all similar or equivalent rights or forms of protection in any part of the world; |
| <b>“League Table”</b>                 | the categories of League Table published by Best Companies from time to time including (but not limited to)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |



“The Best Companies to Work For” national, regional or sector Quarterly League Tables, and any replacement, equivalent or additional League Table as may be made available from time to time;

**“Materials”**

Best Companies service documents and products developed by Best Companies or its agents, subcontractors, consultants and employees, in order for Best Companies to administer and conduct its Services to the Client, including but not limited to the Employee Survey form, instructions and guidance;

**“Personal Data”**

as defined in Data Protection Legislation;

**“Personal Data Breach”**

a breach of security leading to the accidental or unlawful destruction loss, alternation, unauthorised disclosure of, or access to, Personal Data transmitted, stored or otherwise processed;

**“Processing, Processes and Process”**

either any activity that involves the use of Personal Data or as the Data Protection Legislation may otherwise define processing, processes or process. It includes any operation or set of operations which is performed on Personal Data or on sets of Personal Data, whether or not by automated means, such as collection, recording, organisation, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction. Processing also includes transferring Personal Data to third parties;

**“Purchase Order”**

the hard copy, online form or schedule which is agreed to by an authorised representative of the Client, that sets out the Services to be provided by Best Companies within the stated Subscription period;

**“Quarter and Quarterly”**

each quarterly period of 3 months commencing on 1<sup>st</sup> January, 1<sup>st</sup> April, 1<sup>st</sup> July and 1<sup>st</sup> October in each year;

**“Quarterly League Tables”**

the Quarterly League Tables published by Best Companies from time to time;

**“Recognition Year”**

the calendar year in which each League table is published;

**“Renewal Period”**

the period described in clause 3;

**“Rules of Engagement”**

the rules set out in schedule 1 of the Agreement and as amended from time to time by Best Companies and as they apply to the League Tables and Accreditation;

|                                             |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
|---------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>“Services”</b>                           | the services purchased by the Client as set out in the Purchase Order; which shall include the Deliverables, Standard Support Services and any Additional Services.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| <b>“Strategy Day”</b>                       | up to a maximum of 10 (ten) company away days held throughout a calendar year (1 <sup>st</sup> January to 31 <sup>st</sup> December) on what would normally be considered a Business Day, to provide or facilitate business planning, company training, team building, wellbeing, award events and as required by Best Companies;                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| <b>“Standard Support Services”</b>          | the standard telephone and online support made available to the Client by Best Companies, details of which are set out in clause 4;                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| <b>“Standard Contractual Clauses (SCC)”</b> | a) the standard contractual clauses approved by the European Commission for the transfer of Personal Data from the European Economic Area to processors established in third countries as set out in the modules C2C (controller-to-controller transfers) and C2P (controller-to-processor transfers), as set out in the Annex of Commission Implementing Decision 914 / 2021 pursuant to regulation EU 679/2016 including the International Data Transfer Agreement and Addendum clauses issued by the Information Commissioners Office under s119A(1) Data Protection Act 2018 as it is revised under section 18 of the mandatory clauses to the Addendum ; or<br>b) equivalent provisions of the third country of the recipient of any such transfers as are consistent with the UK Data Protection Legislation; |
| <b>“Subscription Fee”</b>                   | the non-refundable fee payable in advance by the Client for the provision of Services, as specified in the Purchase Order and payable annually thereafter in respect of each Renewal Period;                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| <b>“Subscription Term”</b>                  | has the meaning given in clause 3 (being the Initial Subscription Term together with any subsequent Renewal Periods).                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| <b>“Survey Period”</b>                      | the period between Survey delivery to Employees for submission, to the date of Survey close, agreed between the Parties;                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| <b>“UK Data Protection Legislation”</b>     | all applicable data protection and privacy legislation in force from time to time in the UK including the General Data Protection Regulation; the Data Protection Act 2018; the Privacy and Electronic Communications Directive 2002/58/EC (as updated by Directive 2009/136/EC) and                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |

the Privacy and Electronic Communications Regulations 2003 (SI 2003/2426) as amended;

**“VAT”**

value added tax as defined by the Value added Tax Act 1994 chargeable under the laws of England and Wales for the time being and any similar additional or alternative tax;

**“Writing”**

includes email, subject to the provision as to the service of notices as set out below.

- 1.2 Clause, Schedule and paragraph headings shall not affect the interpretation of this Agreement.
- 1.3 References to a person include a natural person, corporate or unincorporated body (whether or not having a separate legal personality).
- 1.4 Reference to a statute or statutory instrument includes any amendment or replacement provision.
- 1.5 The Schedules to this Agreement form part of it where relevant. In the event that there is any conflict between a provision of the main body of the Agreement and the Schedules, the terms of the main body of the Agreement shall take precedence.
- 1.6 A reference to a company shall include any company, corporation or other body corporate, wherever and however incorporated or established.
- 1.7 Unless the context otherwise requires, words in the singular, shall include the plural and in the plural shall include the singular.
- 1.8 Unless the context otherwise requires, a reference to one gender shall include a reference to the other genders.
- 1.9 This Agreement shall be binding on, and to the benefit of, the Parties to this Agreement and their respective personal representatives, successors and permitted assigns, and references to any party shall include that party's personal representatives, successors and permitted assigns.
- 1.10 A reference to writing or written includes email.
- 1.11 Any obligation in the Agreement on a person to do something or not to do something includes an obligation not to agree, allow, permit, encourage or acquiesce in that thing being done or not done.
- 1.12 References to Conditions and Schedules are to the Conditions and Schedules of the Agreement.

## **2. APPLICATION OF CONDITIONS**

- 2.1 The Conditions including the Schedules where relevant shall:
  - 2.1.1 apply to and be incorporated into the Agreement; and
  - 2.1.2 prevail over any inconsistent terms or conditions contained, or referred to, in the Purchase Order, confirmation of order, acceptance of a quotation, or specification or other document supplied by the Client, or implied by law, trade custom, practise or course of dealing.



- 2.1.3 For the avoidance of doubt, subject to clause 12.5, the Parties intend that the Standard Contractual Clauses, should become effective and the parties shall comply with clause 13.4, if Article 44 of the General Data Protection Regulation (the “GDPR”) applies to a transfer of Personal Data from the EEA to the UK, because the UK has left the European Union, and the transfer is not permitted under Article 45.

### **3. COMMENCEMENT AND DURATION**

- 3.1 This Agreement shall, commence on the Effective Date and shall continue for the Initial Subscription Term and, thereafter, this Agreement shall auto renew for successive periods of 12 months (each a Renewal Period), unless:

3.1.1 the Client elects before the end of the Initial Subscription Term or any current Renewal Period, not to renew in which case this Agreement shall terminate upon the expiry of the applicable Initial Subscription Term or the then current Renewal Period; or

3.1.2 the Client elects to opt for automatic renewal of the Agreement in accordance with clause 7.7 in which case the Agreement shall renew for the Renewal Period commencing from the end date of the Initial Subscription Period and shall thereafter renew for successive Renewal Periods unless and until the Client shall opt out of automatic renewal when the Agreement shall terminate at the end of the then current Renewal period; or

3.1.3 a Grace Period is applied by Best Companies and the Client does not opt to renew during that Grace Period; or

3.1.4 otherwise terminated in accordance with the provisions of this Agreement;

and the Initial Subscription Term together with any subsequent Renewal Periods and/or Grace Period shall constitute the Subscription Term. The Client shall indicate its agreement or election to opt for automatic renewal or to opt -out of automatic renewal either at the time of entering into this Agreement for the Services, or by giving notice, or by using the Best Companies electronic reporting tools or dashboard which comprise the Deliverables.

- 3.2 If the Client elects to renew the Agreement during the Grace Period, the Renewal Period shall be deemed to have commenced at the start of the Grace Period.

### **4. BEST COMPANIES OBLIGATIONS**

- 4.1 Best Companies shall provide the Materials required, to provide the agreed Services and Deliverables for the Subscription Term to the Client, provided the Client complies with its obligations under the Agreement and complies with the Rules of Engagement where applicable.

- 4.2 Best Companies shall provide access to the Standard Support Services between the hours of 9.00 am and 5.00 pm GMT/BST on Business Days save for Strategy Days and Annual Winter Shutdown.

- 4.3 Unless the minimum number of Surveys are returned, Best Companies will not be able to, and is therefore not under an obligation to report on the Client’s level of engagement or provide any information or analysis based on the Surveys returned. For the avoidance of doubt in that event the Client will not be entitled to either a total or partial refund of fees.

### **5. CLIENT’S OBLIGATIONS**

5.1 The Client shall:

5.1.1 co-operate with Best Companies in all matters relating to the Services;

5.1.2 provide to Best Companies, in a timely manner, such Input material (including responses to questionnaires) and such other information as Best Companies may reasonably require;

5.1.3 comply with the prevailing Rules of Engagement where they apply. The current Rules of Engagement are set out in Schedule 1 to this Agreement;

5.1.4 Complete or review and update the Cultural Insight prior to your survey close, or within any alternative deadline notified by Best Companies in writing; and

5.1.5 assist with the delivery to all Employees, of the Best Companies data protection privacy notice which can be found by visiting [www.b.co.uk/privacy-notice](http://www.b.co.uk/privacy-notice).

**6. REVIEW OF RULES OF ENGAGEMENT**

6.1 Best Companies shall review the Rules of Engagement from time to time and shall notify the Client with at least 30 (thirty) days' notice of any amendments prior to publication of a League Table, where impacted by the change.

**7. CHARGES AND PAYMENT**

7.1 The Client shall pay to Best Companies the following charges as set out in the Purchase Order:

7.1.1 the Subscription Fees; and/or;

7.1.2 agreed fees for Additional Services; and

7.1.3 VAT at the prevailing rate.

7.2 Subject to clause 7.7.1, terms of payment are 30 (thirty) days from receipt of each invoice in full and in cleared funds. In the event of non-payment by the date falling 30 (thirty) days after the due date (including under clause 7.4 below) the Client shall pay interest on any outstanding sums at the rate of 2% (two percent) per annum above the Royal Bank of Scotland's then current base lending rate continuing until fully paid whether before or after judgement.

7.3 Without prejudice to its right to terminate the Agreement as set out in clause 14, where any fees payable to Best Companies are overdue in whole or part, Best Companies reserves the right to withhold access to the Deliverables and Support Services and require that the Client return any Deliverables and suspend all Services until payment has been made in full.

7.4 In the event of termination of the Agreement under clause 14 all sums due under the Agreement shall be payable immediately rather than as set out above. Where an invoice has already been rendered for outstanding sums on termination it becomes payable immediately. Where an invoice for charges due has not yet been rendered, Best Companies shall be entitled to render an invoice for immediate payment.

7.5 All amounts and fees stated or referred to in this Agreement are non-cancellable and non-refundable and shall be paid without set-off or counterclaim.

- 7.6 Best Companies shall be entitled to increase the Subscription Fee, at the start of each Renewal Period.
- 7.7 Best Companies may in its sole discretion, offer the Client a preferential rate such as for opting into automatic renewal. ("Preferential Rate").

7.7.1 Any special terms accepted by the Client, such as a Preferential Rate are subject to Best Companies' invoice being paid within 7 days of the date of invoice. Otherwise, any Preferential Rate shall not apply, and the Client will be subsequently charged, and will pay, the full amount of Best Companies fees in accordance with clause 7.2, unless otherwise agreed in writing.

## **8. RATING**

- 8.1 For the avoidance of doubt, neither the payment of the fees nor the performance by the Client of the other terms of the Agreement guarantees any result, Accreditation or rating or that the Client will appear on any League Table.
- 8.2 Except as expressly and specifically provided in this Agreement:

the Client assumes sole responsibility for results and Deliverables obtained from the use of the Services and the Materials by the Client, and for conclusions drawn from such use. Best Companies shall have no liability for any damage caused by errors or omissions in any Materials provided to the Client in connection with the Services.

## **9. INTELLECTUAL PROPERTY AND OWNERSHIP RIGHTS**

- 9.1 As between the Client and Best Companies all Intellectual Property Rights and other rights including ownership and title in the Materials and Deliverables shall be and remain vested in Best Companies. By this Agreement, Best Companies grants to the Client a licence to access and use the Deliverables on a non-exclusive, worldwide basis to such extent as is required for the purposes of this Agreement and for those purposes alone. The Deliverables and/or their contents shall not be disclosed to third parties (save for Employees, agents, professional advisers or as required by law) save with the permission in writing of Best Companies which permission shall not be unreasonably withheld.
- 9.2 The Materials and/or their contents, (such as the Employee Survey Forms) used by Best Companies in order to create the Deliverables are provided to the Client for the purposes of this Agreement alone. The Materials should not be reproduced or disclosed to third parties (save for Employees, agents, professional advisers for the purposes only of the Agreement or as required by law) save with the permission in writing of Best Companies which permission shall not be unreasonably withheld.
- 9.3 Each and every piece of Input Material provided by Employees or other agents of the Client, through the Employee Surveys or in any other manner for the purposes of this Agreement is confidential and remains in the ownership and control of Best Companies both before and after the termination of this Agreement. Best Companies will comply with its duties as Controller in respect of that data.

## **10. CONFIDENTIALITY**

- 10.1 Subject to clause 13.17.1, each party undertakes that it shall not at any time and for a period of 3 (three) years after termination or expiry of the Initial Subscription Term and where applicable, expiry or termination of a Renewal Period, disclose to any person any confidential information concerning the business, affairs, customers, clients or suppliers of the other party or of any member of the group of companies to which the

other party belongs except as permitted by clause 10.2.

10.2 Each party may disclose the other party's confidential information:

10.2.1 to its own employees, officers, representatives, advisers, agents, contractors or subcontractors who need to know such information for the purposes of exercising the party's rights or carrying out its obligations under or ancillary to this Agreement. Each party shall ensure that its employees, officers, representatives, advisers, agents, contracts or subcontractors to whom it discloses the other party's confidential information comply with this clause 10; and

10.2.2 as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.

10.3 No party shall use any other party's confidential information for any purpose other than to exercise its rights and perform its obligations under or in connection with this Agreement.

## **11. WARRANTY**

11.1 Except as otherwise expressly provided Best Companies warrants that, at the time of performance, the Services shall:

- (a) conform in all material respects to their description;
- (b) be free from material defects; and
- (c) be supplied with reasonable care and skill within the meaning of the Supply of Goods and Services Act 1982, Part II s 13.

11.2 Except as set out in this clause 11, and expressly and specifically provided in this Agreement:

- (a) Best Companies gives no warranties and makes no representations in relation to the Services; and
- (b) shall have no liability for their failure to comply with the warranty in clause 11.1,

and all warranties and conditions (including the conditions implied by ss 12-16 of the Supply of Goods and Services Act 1982), whether express or implied by statute, common law or otherwise are excluded to the extent permitted by law.

## **12. LIMITATION OF LIABILITY**

12.1 References to liability in this clause 12 include every kind of liability arising under or in connection with this Agreement including but not limited to liability in contract, tort (including negligence), misrepresentation, restitution or otherwise.

12.2 Nothing in this clause 12 shall limit the Client's payment obligations under this Agreement.

12.3 Subject to clause 12.6, each Party's total liability, including under the indemnities, shall not exceed £1 million. This limit on liability shall apply to any one claim or series of related claims.

12.4 Subject to clause 12.6, neither Party shall be liable whether in tort (including for negligence or breach of statutory duty), contract, misrepresentation, restitution or otherwise for consequential, indirect or special losses howsoever arising under this Agreement.

- 12.5 Subject to clause 12.6, neither Party shall not be liable whether in tort (including for negligence or breach of statutory duty), contract, misrepresentation, restitution or otherwise for any of the following (whether direct or indirect):
- (a) loss of profits;
  - (b) loss of business;
  - (c) loss of production;
  - (d) loss of contract;
  - (e) loss of opportunity;
  - (f) loss of savings, discount or rebate (whether actual or anticipated); or
  - (g) harm to reputation or loss of goodwill.
- 12.6 Nothing in these Conditions limits or excludes the liability of the Parties in respect of the following:
- 12.6.1 death or personal injury caused by negligence; or
  - 12.6.2 fraud or fraudulent misrepresentation; or subsistence
  - 12.6.3 any other losses which cannot be excluded or limited by applicable law.

### **13. DATA PROTECTION**

- 13.1 Subject to clause 9.3, under this Agreement Best Companies accepts that although the Client retains overall control of supplied Personal Data contained in the Input Material, Best Companies can and will make its own decisions as to how it uses that data in the provision of an Accolade and/or Surveys and/or Additional Services and/or research to the extent that it is a Controller within that process. Best Companies acting as Controller additionally processes the said data on the basis that its Processing is compatible with the original purpose of data collection. With regard to any other data Processing activities by the Client and over which Best Companies does not exercise such degree of control the Parties recognise that the Client is the Controller and Best Companies the Processor in relation thereto. Best Companies therefore recognises and accepts that it owes duties as both a Controller and Processor within the meaning of the Data Protection Legislation under this Agreement.
- 13.2 The Parties agree that they will each comply with all Data Protection Legislation in the Processing of Personal Data.
- 13.3 The Parties will indemnify each other and hold each other harmless from any cost, charge, damages, expense or loss, which they cause each other as a result of their breach of any of the provisions of this clause 13. Indemnification hereunder is contingent upon (a) the party(ies) to be indemnified (the "indemnified party(ies)") promptly notifying the other party(ies) (the "indemnifying party(ies)") of a claim, (b) the indemnifying party(ies) having sole control of the defence and settlement of any such claim, and (c) the indemnified party(ies) providing reasonable cooperation and assistance to the indemnifying party(ies) in defence of such claim.
- 13.4 In the event that Personal Data is transferred to Best Companies by the Client from the European Economic Area for the purposes of processing pursuant to this Agreement in circumstances which render that transfer restricted within the meaning of relevant Data Protection Legislation, the following shall apply in order to provide an appropriate safeguard:

- a) the Parties shall enter the Standard Contractual Clauses agreement; and
- b) the agreement referred to above will be effective upon it being signed by both Parties; and
- c) a copy of the executed agreement shall be delivered to each of the Parties.

- 13.5 Best Companies agrees that it will only process Personal Data on the Client's written instruction unless such processing is required by law in which case, to the extent that it is permitted by law to do so, Best Companies will inform the Client of that legal requirement before it undertakes such processing. Best Companies shall immediately inform the controller if, in its opinion, an instruction infringes Data Protection Legislation.
- 13.6 The Client hereby instructs Best Companies for the purposes of clause 4 above to process Personal Data as is reasonably required to comply with its obligations to provide the Services. The Client warrants and represents that it is duly authorised to give that instruction and will ensure that it has all necessary appropriate consents (where required) and notices in place to enable lawful transfer of the Personal Data to Best Companies for the duration and purposes of this Agreement.
- 13.7 Best Companies will ensure that persons authorised by it to process the Personal Data have committed themselves to confidentiality or are under an appropriate statutory obligation of confidentiality. Without prejudice to that condition, Best Companies shall only disclose to or allow access to Personal Data by those of Best Companies employees (or agents or subcontractors) whose use of such data relates to their normal employment or function.
- 13.8 Taking into account the state of the art, the costs of implementation and the nature, scope, context and purposes of processing as well as the risk of varying likelihood and severity for the rights and freedoms of natural persons, Best Companies shall implement appropriate technical and organisational measures to ensure a level of security appropriate to the risk, including inter alia as appropriate:
- 13.8.1 the pseudonymisation and encryption of personal data;
  - 13.8.2 the ability to ensure the ongoing confidentiality, integrity, availability and resilience of processing systems and Services;
  - 13.8.3 the ability to restore the availability and access to personal data in a timely manner in the event of a physical or technical incident; and
  - 13.8.4 a process for regularly testing, assessing and evaluating the effectiveness of technical and organisational measures for ensuring the security of the processing;
- 13.9 Best Companies may also process special categories of Personal Data when requested by the Client to conduct and report anonymously the findings of a Diversity Questionnaire. As such, that Processing is necessary for research purposes or statistical purposes under Article 9(2)(j) and in accordance with Article 89(1) of the GDPR. (In addition, where possible, Best Companies shall obtain the full and free written consent of each and every Data Subject to the Processing of relevant special categories of Personal Data by Best Companies for the purposes of the Diversity Questionnaire). Best Companies shall comply with all other requirements of Data Protection Legislation and good practice in relation thereto.
- 13.10 Best Companies will keep a proper record of the Personal Data it is Processing pursuant to this Agreement.
- 13.11 The Client hereby provides Best Companies with a general authority (subject to the terms set out below) to engage another Processor whether by addition or replacement. In the event that Best Companies intends to use this general authority it shall inform the Client in advance and in such reasonable time to enable any objections to be made. The sub-processor list is made available to the Client at the following online location: <https://support.b.co.uk/s/article/GDPR-OurDataProcessorsyourSub-Processors> or can be provided on request.



- 13.12 Where Best Companies engages another Processor for carrying out Processing activities on behalf of the Client, the same data protection obligations as set out in this Agreement shall be imposed on that other Processor by way of a contract or other binding legal means, in particular providing sufficient guarantees to implement appropriate technical and organisational measures in such a manner that the Processing will meet the requirements of Data Protection Legislation. Before the commencement of any sub-processing Best Companies shall make sufficient enquiries to ensure that the sub processor is capable of carrying out its data processing obligations.
- 13.13 The Parties will assist each other by appropriate technical and organisational measures, insofar as this is possible, in the fulfilment of requests for exercising Data Subject's rights. Each party shall notify the other as soon as is reasonably practicable if it receives a request pursuant to Data Protection Legislation from a Data Subject.
- 13.14 Each party will notify the other as soon as is reasonably possible on becoming aware of a Personal Data Breach affecting the other party's Personal Data and providing sufficient information and assistance to meet any and all consequential obligations under Data Protection Legislation.
- 13.15 Each party will co-operate with the other as reasonably required to assist in complying with Articles 35 and 36 of the GDPR or any equivalent or similar provision in any Data Protection Legislation.
- 13.16 Best Companies, in its capacity as a Processor will, at the choice of the Client, delete or return all the Personal Data to the Client as Controller after the end of the retention period, and delete existing copies as per the provisions of clause 13.20, unless Union or Member State law requires storage of the Personal Data. For the avoidance of doubt, Best Companies will continue to keep within its control the Personal Data it holds in its capacity as a Controller and comply with Data Protection Legislation in respect thereto.
- 13.17 Best Companies will make available to the Client on request all information necessary to demonstrate compliance with this clause of the Agreement and shall allow for, contribute to and co-operate with reasonable audits (including inspections) by the Client to ensure they are both meeting their Article 28 obligations. The Client shall give to Best Companies reasonable notice of any audit and/or inspection.
- 13.17.1 On request, Best Companies shall provide the Client (or auditors mandated by the Client) with a copy of the third-party certifications and audits to the extent made generally available to Best Companies customers. Such information shall be confidential to Best Companies and the Client shall maintain the confidentiality of such information, including but not limited to technical diagrams and information relating to Best Companies systems, security operations, vulnerability and penetration test reports and architecture for a period of ten years after termination or expiry of this Agreement and shall not without Best Companies prior written consent, disclose, copy or modify the information (or permit others to do so) other than as necessary for the performance of the Client's express rights and obligations under this Agreement.
- 13.18 Nothing in this clause entitles either party to process Personal Data in a manner, which is prohibited in the other sections of the Agreement.
- 13.19 If, as a result of any change in Data Protection Legislation, Best Companies is required to vary the terms of this Agreement it shall notify the Client in writing of the terms of the variation which shall be the minimum required to comply with the change in law. The variation shall become effective 30 days after the notification is served on the Client in accordance with this Agreement unless, within that 30-day period, the Client serves notice in writing of an objection to Best Companies. The Parties shall then use their best endeavours to resolve any differences and, in default of agreement, as per the provisions of

clause 24.3 of this Agreement.

- 13.20 Personal Data will be protected by Best Companies in accordance with this clause 13 until the earlier of the following: a) a request in writing from the Client that the Personal Data is removed from the Best Companies systems by anonymisation to the extent that it can no longer be defined as Personal Data under Data Protection Legislation; or b) 3 (three) year's Subscription lapse following termination or expiry of the Subscription Term, where Personal Data will be automatically removed from the Best Companies systems by anonymisation to the extent that it can no longer be defined as Personal Data under Data Protection Legislation.

For the avoidance of doubt, Best Companies shall still be entitled to use and process the anonymised data.

## **14. TERMINATION**

- 14.1 Without prejudice to any other rights or remedies which the Parties may have, and subject to clause 3.1.1, either party may terminate this Agreement immediately on giving written notice to the other if:

14.1.1 the other party fails to pay any amount due under this Agreement on the due date for payment and remains in default for not less than seven days after being notified in writing to make such payment; or

14.1.2 the other party commits a material breach of any of the terms of this Agreement (to include the Rules of Engagement where applicable) and fails to remedy that breach (if it is remediable) within 30 days of being notified in writing of the breach; or

14.1.3 the other party repeatedly breaches any of the terms of the agreement in such a manner as to reasonably justify the opinion that its conduct is inconsistent with it having the intention or ability to comply with the terms of the Agreement; or

14.1.4 the other party suspends, or threatens to suspend payment of its debts or is unable to pay its debts or (being a company) is deemed unable to pay its debts within the meaning of Section 123 of the Insolvency Act 1986 or, being a natural person, is deemed either to be unable to pay its debts or having no reasonable prospect of doing so within the meaning of Section 268 of the Insolvency Act 1986 or, being a partnership, has a partner to whom any of the foregoing apply; or

14.1.5 the other party commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors; or

14.1.6 a petition is filed, a notice given, a resolution is passed, or an order is made for or in connection with the winding or bankruptcy of that other party; or

14.1.7 an application is made to a court, or an application or an order is made for the appointment of an administrator or notice of intention to appoint an administrator is given or if an administrator is appointed over the other party; or

14.1.8 a floating charge holder over the assets of that other party has become entitled to appoint or has appointed an administrative receiver; or

14.1.9 a person becomes entitled to appoint a receiver over the assets of the other party or a receiver is appointed over the assets of the other party; or

14.1.10 a creditor or encumbrancer of the other party attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of its assets and such attachment or process is not discharged within 14 days: or

14.1.11 any event occurs, or proceedings is taken, with respect to the other party in any jurisdiction to which it is subject which has an effect the same as or similar to any of the matters set out in this clause 14; or

14.1.12 the other party suspends or ceases or threatens to suspend or cease to carry on all or a substantial part of its business.

14.1.13 The accrued rights and liabilities of the Parties at termination shall not be affected by such termination.

14.2 Any clause which expressly or by implication continues after termination shall not be affected by such termination.

14.3 Should notice to terminate this Agreement be served by either Party or the Client give written notice to withdraw its application to appear in a League Table, if such written notice is received:

14.3.1 less than 6 weeks prior to the publication of a Quarterly League Table, this may not allow Best Companies sufficient time to reasonably request the removal of the Client from a Quarterly League Table (where this aspect of the Services has been contracted for); or

14.3.2 Best Companies has already taken steps to arrange for publication of the League Table, then the Client will, notwithstanding serving of such notice, appear in a Quarterly League Table, where eligible.

## **15. COMPLIANCE WITH THE RULES**

Without prejudice to the right to terminate, in the event that the Client is in breach of the Rules of Engagement where they are applicable, Best Companies shall be under no obligation to provide the Services or be under any liability to refund any sums received by Best Companies.

## **16. FORCE MAJEURE**

Best Companies will have no liability to the Client under this Agreement if it is prevented from, or delayed in performing, its obligations or from carrying on its business by acts, events, omissions or accidents beyond its reasonable control including strikes, lock-outs or other industrial disputes (whether involving the workforce of Best Companies or any other party) failure of a utility service or transport network, act of God, war, riot, civil commotion, malicious damage, compliance with any regulation, law or court order, breakdown of plant or machinery, fire, flood, storm, pandemic, epidemic or default of suppliers or subcontractors.

## **17. VARIATION**

17.1 In the event that by providing the Survey, Accreditation and/or Additional Services as defined above, Best Companies would be rendered in breach of any statutory requirement, Best Companies may vary the nature of the Services to the reasonable minimum extent to avoid any such breach and provided that such variation does not materially affect the level of charges payable as a result.

- 17.2 Without prejudice to the provisions of clause 13.19 above, there shall be no variation of the terms of this Agreement other than as agreed in writing and signed by both Parties.

## **18. WAIVER**

- 18.1 Any waiver of rights under this Agreement is only effective if it is in writing and it applies only to the circumstances in which it was given. No failure (in whole or in part) or delay by a party in exercising any right or remedy under the Agreement or in law shall constitute a waiver of that (or any other) right or remedy or its exercise in the future.
- 18.2 Unless specifically provided otherwise rights arising under this Agreement are cumulative.

## **19. SEVERANCE**

If any provision of this Agreement (or any part provision) is found by any court or other authority of competent jurisdiction to be invalid, illegal or unenforceable that provision (or part) shall apply with the minimum modification necessary to render it legal, valid and enforceable. Alternatively, that provision (or part) to the extent required, shall be deemed not to form part of the Agreement, the remainder of which shall not be affected.

## **20. ENTIRE AGREEMENT**

- 20.1 This Agreement constitute the whole agreement between the Parties and supersedes all previous agreements between the Parties relating to the same subject matter.
- 20.2 Each party acknowledges that in entering into this Agreement it has not relied on any statement, representation, assurance or warranty other than as provided in the Agreement.

## **21. ASSIGNMENT**

Neither party is entitled to assign this agreement in whole or in part without the prior written agreement of the other party.

## **22. RIGHTS OF THIRD PARTIES**

- 22.1 Save as expressly provided for in this Agreement in respect of Data Subjects, no person who is not a named party to this Agreement shall have any rights under or in connection with it.
- 22.2 For the avoidance of doubt, each party warrants and represents that it is acting on its own behalf and not on behalf of any other person.

## **23. NOTICES**

- 23.1 Any notice required to be given under this Agreement shall be in writing and shall be delivered personally (in which case a written signed receipt must be obtained) or sent by pre-paid first-class post, recorded delivery, by commercial courier or email to the other party or as otherwise agreed between the Parties in

writing.

- 23.2 Any notice required to be given under this Agreement, if sent by email, is not effective unless and until receipt is acknowledged by Best Companies.
- 23.3 A notice served other than by email shall be deemed to have been duly received if delivered personally or by commercial courier on the date so delivered as recorded on the receipt. In the case of service by first class post or recorded delivery the notice shall be deemed to have been at 9.00 am on the second business day after posting.

## **24. GOVERNING LAW AND JURISDICTION AND DISPUTE RESOLUTION**

- 24.1 This Agreement is, and any dispute arising out of it shall be, governed by the law of England and Wales.
- 24.2 The Parties agree that the courts of England and Wales shall have exclusive jurisdiction over any dispute arising out of this Agreement.
- 24.3 The parties shall use reasonable endeavours to reach a negotiated resolution of any dispute by a meeting between the Authorised Personnel and Best Companies to discuss the dispute and attempt to resolve it. The specific format for the meeting to be left to the reasonable discretion of the parties .
- 24.4 Either party may issue formal legal proceedings at any time whether or not the steps in clause 24.3 have been completed.

## **25. USE OF CLIENT'S NAME**

- 25.1 Should the Client appear on any League Table, gain Best Companies Accreditation or Ones to Watch status the Client hereby consents to the use by Best Companies of the Client's name in Best Companies League Tables, on its website, social media channels including (without limitation) LinkedIn, Facebook, Twitter, Instagram and other publicity, including interviews, case studies, live events and conference discussions, provided that such publicity accurately describes the relationship between the Client and Best Companies.
- 25.2 Client is responsible for any Employee nominated or offered to participate ("Attendee") in a Best Companies Live broadcast ("Event"), to ensure where provided a platform, they are not to bring Best Companies, or any other organisation involved with the Event into disrepute.

25.2.1 Any discussion, comments, suggestions, or improvements offered as an Attendee relating to the Event or its development and exploitation are offered freely for Best Companies to use, without any expectation of compensation or participation in proceeds.

## **26. ANONYMITY**

Without prejudice to its duties under Data Protection Law in order to ascertain full, candid and honest opinions from Employees responding to the Survey, Employees' individual responses, views and opinions will be retained by Best Companies and will not be disclosed to the Client or to any other person at any time, save for where any questions are clearly marked on the Employee Survey as providing the respondent with an opportunity to give direct and anonymous feedback to their employer; cases of emergency; and/or where ordered by a court of competent jurisdiction. The responses to such questions may be disclosed to their employer without personal identifiers and attached only to information on which

employment group the Employee belonged. Best Companies will, at all times observe the following rules:

- (a) Employees will never be asked to provide their names on Surveys;
- (b) to protect the identity of individual Employees to ensure anonymity, individual responses are not reported; only averages from groups where a minimum number of Employees have responded:
  - i) 3 (three) minimum responses for managerial engagement reporting, MC<sup>3</sup> product;
  - ii) 5 (five) minimum responses for demographics;
- (c) Any view of direct Employee comment which may be provided, will only be attributed to an employment group and not to individual Employees;
- (d) e-mail addresses and / or contact details for Survey distribution and fields required for Client restructuring purposes are not disclosed to any other Parties and are removed from our systems as per the provisions of clause 13.20.
- (e) Where dynamic demographic reporting is available, information based on demographic splits which contain the responses of fewer than five Employees, will not be reported upon to avoid identification by obvious inference;
- (f) Surveys will only be accepted that are completed online or individually sealed in their own envelope. Any Surveys received that are not separately sealed in this way will not be counted; and
- (g) Deliverables may be limited for organisations surveying with under 50 (fifty) employees, where we are unable to apply our anonymity rules to protect the anonymity of the respondents.

Signed by:  
Duly authorised for and on behalf of  
NHS BUSINESS SERVICES AUTHORITY  
(Client)

Signed by:  
Duly authorised for and on behalf of  
BEST COMPANIES LIMITED  
(Best Companies)

**SIGNATURE**

**SIGNATURE**

**JOB TITLE:**

**JOB TITLE:**

**DATE:**

**DATE:**



## SCHEDULE 1

### RULES OF ENGAGEMENT

The Rules of Engagement apply to Best Companies “Accreditation” and include the Conditions applying to Best Companies Accreditation and where applicable a League Table.

#### **Part 1 – “Accolades” Rules of Engagement**

##### **1. INTRODUCTION**

It is important that you read the Rules of Engagement carefully. These measures are in place to ensure that a fair and consistent approach is maintained throughout the process. Clients are required to abide by these Rules of Engagement.

Outlined below is a description of the rules by which Best Companies operates, and what is expected from organisations being assessed for the Accolades.

##### **PURPOSE**

Accreditation is an elite performance standard to recognise and reward organisations that demonstrate high levels of workplace engagement. Successful organisations are encouraged to celebrate and promote their achievement and create a forum for best practice. Participating organisations are measured against eight key workplace factors to identify a Best Companies Index (“BCI”) score. The BCI will determine any applicable star rating against a fixed standard where:

|              |             |
|--------------|-------------|
| One to Watch | Good        |
| 1 Star       | Very Good   |
| 2 Stars      | Outstanding |
| 3 Stars      | World Class |

Unlike a competition (where performance positions may change based on the overall number and standard of participants). Accreditation is designed to provide a consistent standard over the years.

##### **2. DEFINITIONS**

2.1 The following definitions are provided to assist understanding and should be read in conjunction with the definitions in the main agreement:

|                         |                                                                                                            |
|-------------------------|------------------------------------------------------------------------------------------------------------|
| <b>“Accolade”:</b>      | An Accreditation status including 3 Star, 2 Star, 1 Star, Ones to Watch and / or a place on a League Table |
| <b>“Accreditation”:</b> | The Best Companies Accreditation Scheme                                                                    |

|                                |                                                                                                                                                                                                                                                                                                                                                                              |
|--------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>“Bank Staff”:</b>           | A pool of workers that an employer can call on as and when work becomes available. The employer is not obligated to provide work for its ‘Bank Staff’ nor is any member of the pool of ‘Bank Staff’ obliged to accept it should it be offered (no ‘Mutuality of Obligation’).                                                                                                |
| <b>“Contractor”:</b>           | an individual or organisation who may be carrying out work commissioned by and under a contract to a client. There is no employee status – the individual does not have a contract of employment.                                                                                                                                                                            |
| <b>“Employee”:</b>             | an individual employed under a contract of employment including an Equity Partner.                                                                                                                                                                                                                                                                                           |
| <b>“External Seconded”:</b>    | where employees of the organisation are temporarily seconded to another organisation but retain employee status under a contract of employment with the seconding organisation and are included in payroll or “Implant” where an organisation provides staff to another organisation under contract. The Employee experiences the workplace environment of the organisation. |
| <b>“Freelancer”:</b>           | where there is a contract for Services. There is no employee status – the individual does not have a contract of employment.                                                                                                                                                                                                                                                 |
| <b>“Full Time Equivalent”:</b> | <p>a full-time employee, or a combination of part-time employees whose combined hours are the equivalent of a full-time position. For the purposes of the process, Best Companies uses the following definitions:</p> <p>Full time = 35 hours or more per week</p> <p>Part time = fewer than 35 hours per week</p>                                                           |

### 3. ELIGIBILITY CRITERIA

The Client hereby confirms that on the first of the month prior to that month in which the surveying commences, it meets or will meet, by the commencement of the Survey, the following eligibility criteria and if any change occurs prior to the termination of this agreement, it will immediately inform Best Companies (including any such change that takes place before the commencement of the Survey).

- (a) The organisation must have been in existence and operating as a legal entity for a minimum of twenty-four (24) months;
- (b) The organisation has a minimum of 25 full-time (or full-time equivalent) Employees working within the organisation's own workplace environment.

- (c) An organisation may be required to provide further evidence to confirm their headcount. Subject to clause 4c(ii) Best Companies may at their discretion consider inclusion of Employees under 16 years of age. Employees will:
  - i) have an employment contract, and
  - ii) be aged 16 years or over.
- (d) At least 50% of Employees must have worked at the Client's organisation for a minimum of 6 months, prior to surveying.
- (e) Organisations being evaluated for an Accolade should include:

All Employees on the payroll (for UK Accolade, include United Kingdom or Great Britain and Northern Ireland including the Isle of Man & Channel Islands but not including employees in the Republic of Ireland or other countries);  
Employees on maternity leave;  
External Seconded / Implant into the organisation; \*  
Equity partners;  
Non-Equity Partners;  
Temporary and seasonal staff \*  
Employees on zero-hour contracts \*  
Bank Staff \*

\*Only where employee have worked within the three months prior to the Survey launch
- (f) Organisations should exclude Contractors (and Sub-Contractors), Freelancers, External Consultants, Non-Executive Directors, and for country specific League Tables should state where indicated non-country specific employees (e.g., for a UK Accolade, non-UK employees should be excluded), franchisees or other persons not on the organisation's payroll;
- (g) Any contemplated Management buy outs or proposed mergers, de-mergers or acquisitions not completed and fully integrated prior to commencement of the Survey process and any that are anticipated to take place prior to publication of the results of the Survey eligibility will be considered on their merits and must be notified to Best Companies in writing;
- (h) Organisations involved in the processing of Surveys, or the editorial compilation related to Best Companies Accolades are ineligible.
- (i) Best Companies, may allow a Client to be evaluated for an Accolade where they do not directly employ staff, such as an External Employee or Implant but where for the individual it is:
  - i) their sole place of work;
  - ii) they would recognise the leader of the company, as their leader
  - iii) entitled to the same benefits as direct Employees

Acceptance to participate will be based on merit, eligibility will be considered on a case-by-case basis. Best Companies' decision on acceptance for inclusion is final.

#### **4. GROUPS AND TRADING DIVISIONS**

If an organisation is comprised of multiple trading divisions, it may enter in one of two ways:

##### **4.1 As a Group of Companies or Divisions**

Under this scenario, all UK trading divisions must be included in the Survey process. The sample of Employees surveyed must include Employees from all UK companies or divisions and any data provided in the overall submission must reflect the organisation as a whole. In cases where the parent does not wholly own a subsidiary but owns 50% or more (i.e., is the majority shareholder) then these subsidiaries must also be included as part of the group.

#### 4.2 As Individual Trading Divisions

Each trading organisation, division or subsidiary entered must operate as a separate legal entity from any other organisation or division in the organisation complete with its own board of directors, managing director or CEO, and its own separate policies and procedures relating to its personnel. Although a rare occurrence, where an individual trading division does not have a separate company registration number, an application to enter may still be accepted, provided Best Companies are satisfied that the divisions are sufficiently separate and an entry in this manner is appropriate.

### 5. **MERGERS AND ACQUISITIONS**

Any merger, de-mergers, acquisitions or management buy-outs or the like completed or ongoing during the twelve months prior to the commencement of surveying and any that are completed or ongoing after commencement of surveying and prior to publication of the results may affect eligibility and will be reviewed case by case at the discretion of Best Companies.

### 6. **OTHER COMPANY CHANGES**

Best Companies acknowledges that from time to time businesses may undergo major changes i.e., large-scale restructuring exercises, downsizing, changes in trading name, etc., with little advance notice. To help ensure research data collected from your organisation remains current, up to date and is reflective of the present environment found in your workplace, Best Companies must be notified of any significant changes in the structure or operation of a business that takes place after the commencement of surveying and prior to publication of the results.

### 7. **ENTRIES**

- 7.1 Employee Surveys and the Cultural Insight must be submitted in accordance with the process notified to the Project Manager for an organisation to be eligible for the award of an Accolade.
- 7.2 No communications express or implied may be made to Employees which might encourage a favourable response such as communications highlighting employment benefits whilst introducing or reminding Employees about the Survey.
- 7.3 Any communications made to Employees during the three months prior to the Client's agreement to these Rules of Engagement and Terms of Service, which may be deemed to be encouraging a positive response, by highlighting employment benefits whilst introducing or reminding Employees about this Survey must be notified in writing to Best Companies before surveying is undertaken.

### 8. **ACCOLADE ENTRY**

- 8.1 When setting up a Survey the Client will be responsible for selecting to be evaluated for Accreditation and League Table(s). Where a Client does not want to be put forward for Accolade

evaluation, they may select to Survey only. For the avoidance of doubt, Surveys must meet with the eligibility criteria for evaluation for an Accolade.

- 8.2 A Client may select in advance of a Survey Period to be evaluated for Accreditation at any point during the Accreditation Year. Evaluation will commence on completion of a qualifying Survey Period.
- 8.3 A Client may continue to promote the highest achieved Accreditation standard awarded during a Recognition Year.

## **9. PROJECT MANAGEMENT**

- 9.1 All Clients must nominate a Project Manager from within their organisation whose responsibility will be to ensure that the entry is completed within the timelines and in adherence with these Rules of Engagement. The project manager must have access to both external email and the internet to effectively manage the process. They will also need to have access to data such as Employee names, email addresses, job grade and employment group information. In the interests of confidentiality, Best Companies will only discuss the entry process with the Project Manager or other nominated person or persons.
- 9.2 Clients will have visibility of the number of respondents to the Employee Survey. This information must not be used to approach individual Employees to ascertain if and/ or how they have responded. Best Companies will provide the Project Manager with appropriate communications for distribution to encourage increased levels of response from Employees for completing Employee Surveys. However, any additional activities from a Client (such as targeting individual Employees or undue pressure being exerted on Employees) may lead to disqualification.
- 9.3 Best Companies will conduct independent checks on organisations and investigate any concerns raised as part of our Accolade evaluation process. This includes but not limited to information received from whistle blowers. Where a Client has been reported or is considered in violation of the Rules of Engagement. A Client project manager may be contacted for additional information, to give a warning, or to make immediate corrective action. In serious cases of violation, Clients will be advised that Services will be terminated, and entry withdrawn from Accolade evaluation. This action is to protect the integrity of a Best Companies Accolade and any decision made by Best Companies in these matters is final.

## **10. BEST COMPANIES EMPLOYEE SURVEY**

- 10.1 To elicit and measure the views and opinions of the Employees and to provide a fair measure for Accolade evaluation, all Employees must have the opportunity to Survey. Employees may be marked not for survey in specific circumstances where they do not meet our eligibility requirements, such as the leader of the organisation, eligibility guidance will be provided on request.
- 10.2 At Best Companies' sole discretion under specific circumstances, it may be allowed for a selection of Employees to be invited by Best Companies to complete an Employee Survey ("Sample"). The minimum number of Surveys that an organisation will receive is dependent on the size of organisation as determined by Best Companies.

- 10.3 At the sole discretion of Best Companies, surveys may be reset on request and/or some organisations may be required to distribute an additional number of surveys.

## 11. METHODOLOGY

## 11.1

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[REDACTED]

[REDACTED]

## 12. REQUIRED RESPONSE RATE

- 12.1 A minimum of 20 (twenty) validly completed surveys must be submitted for an organisation to be considered for an Accolade. In addition, the following response rates will need to be achieved. For more information please view:  
<https://support.b.co.uk/s/article/Whatistheminimumreturnratethatourorganisationneedstoachieve>

| Organisation Size  | Required Returns                         |
|--------------------|------------------------------------------|
| 25 – 49 Employees  | 75% or 20 Surveys (whichever is greater) |
| 50 - 74 Employees  | 60% or 20 Surveys (whichever is greater) |
| 75 - 249 Employees | 50% or 20 Surveys (whichever is greater) |
| 250+ Employees     | 40% or 20 Surveys (whichever is greater) |



- 12.1.1 Where an organisation's Employees return fewer than the number, or proportion, of surveys required the Client will not be evaluated for an Accolade.
- 12.2 Where paper Surveys are utilised, it is permissible to place central collection boxes within the workplace where Employees may deposit their completed Surveys which they must first have sealed inside the reply paid envelope that would have been distributed with the Survey form. Surveys, sealed inside their own individual envelope, may then be gathered together and returned to Best Companies in bulk. Alternatively, Employees should return their Survey by post individually sealed inside the reply paid envelope. On no account, must there be any demands on Employees to return their Survey to any specific person within the organisation or to log or monitor the completion of Surveys. It should be noted that any paper Employee Survey returned to Best Companies that is not individually sealed within its own reply paid envelope will not be accepted.

In the event of unusual or unforeseen circumstances (e.g., postal strikes) please consult Best Companies before making any alternative arrangements.

Should you be concerned about the level of response to your Survey or require any help or advice on achieving a higher response rate, please contact Best Companies for advice. Should a Client fail to achieve the required response rate by the end of the period designated by Best Companies for the Survey process then it will be excluded from assessment for Best Companies Accolades.

### **13. BEST COMPANIES CULTURAL INSIGHT**

- 13.1 In addition to the Employee Survey the Client shall be required to complete a "Cultural Insight". The Cultural Insight supports the evaluation of an organisation to be shortlisted for a special award and provides detail to assist composition of your company profile, editorial content, to help Best Companies publicise your organisation and create your organisation profile. This content may be used to highlight areas of best practice and may be used on Best Companies websites and within related publications. Where an organisation is being evaluated for an Accolade the Cultural Insight requests information on various aspects including:

- (a) a detailed breakdown of Employee numbers;
- (b) information on the company in relation to the factors of workplace engagement; and
- (c) basic details on your organisation including financial information and what it does.

- 13.2 Failure to complete and submit the Cultural Insight by the final deadline, may render an organisation ineligible for an Accolade.
- 13.3 Best Companies will review the sector League Table a Client has requested to be evaluated against. Organisations may be entered in an alternative sector League Table, should in Best Companies opinion it is better suited. Previous listing in an alternative League Table will not take precedent over that decision. Best Companies decision in this matter is final.

### **14. WORKPLACE VISITS**

Best Companies may be required to visit a Client's premises in the later stages of the research when scores from the Employee Survey have been determined and the Cultural Insight has been

reviewed. Clients that are shortlisted for visits by Best Companies will be notified in advance and hereby agree to facilitate any such visit by Best Companies to their premises during a Business Day.

## **15. MEASURING PERFORMANCE**

- 15.1 The Best Companies Index (BCI) scores and where applicable, positions on League Tables are based on objective data that Best Companies obtains from the measurement process. The intention is not to judge by what we think is best but to produce an accurate measure of what Employees think. Clients will be assessed on eight key workplace factors by measuring Employee responses to the Employee Survey.
- 15.2 Best Companies' methodology details the process and measurement of performance. A detailed description of our methodology is available upon request and for the avoidance of doubt in agreeing to these terms the Client agrees and accepts this methodology and scoring.

## **16. SUPPORT SERVICES**

Use of the telephone/email support and access to Survey results is limited to the Authorised Personnel.

## **17. WITHDRAWALS / DISQUALIFICATION**

### **17.1 Withdrawals**

Should an organisation wish to withdraw they must do so in accordance with clause 14.3. Written withdrawal request must be submitted to Best Companies as early as possible prior to publication. Once publications have been finalised, removing an organisation may not be possible.

### **17.2 Disqualifications**

- (a) Although a rare occurrence, Best Companies reserves the right to disqualify participant organisations from Accolades at Best Companies' discretion. Grounds for disqualification may include an event or action that takes place within an organisation which in the reasonable opinion of Best Companies may affect their credibility as a good employer, the mishandling of Materials, such as the Employee Survey, submission of illogical, statistically improbable, erroneous or invalid data, dishonesty or the failure to abide by the rules, terms, Conditions or spirit of the project. In such circumstances, Best Companies reserves the right to retain all of the Subscription Fees.
- (b) Clients should be aware that Best Companies actively requests Employees of participating organisations to contact Best Companies if they have any concerns about the way the Employee Survey process has been conducted. All concerns are treated anonymously and will be investigated accordingly.
- (c) Best Companies may refuse to evaluate an organisation for an Accolade and it may also remove an Accolade status from a Client where in Best Companies reasonable opinion:
- (i), the Client conducts itself in a manner; or
  - (ii) the Client receives negative or adverse publicity

- that may cause a negative impact to Best Companies, damage Best Companies' reputation or cause harm to the prestige of the Accolade the Client has been awarded. In such circumstances the Client shall immediately cease all use of Best Companies' Accolade marks.

## **18. PUBLICATION**

18.1 Decisions in relation to scoring and status made by Best Companies are final and no correspondence will be entered into. Clients will be notified as soon as reasonably practicable in accordance with timescales set by Best Companies, of having achieved an Accolade along with their BCI score and Accreditation grade.

18.2 Best Companies may, be required to discuss the Client and its operations directly with an Employee or Employees of the Client. In the event that within those discussions an Employee or Employees reports criminal acts, then the Client agrees that Best Companies will report those acts to the responsible authority to the extent required by law. If within those discussions an Employee or Employees reports a failure to act within the Rules of Engagement, then, for Best Companies to successfully referee and protect the reputation of the Accolades, the Client agrees that Best Companies may take such action to address such reports as it considers reasonable.

## **19. PR**

Best Companies will seek coverage to publicise successful organisations. This may include interviews with the Client organisation and their Employees whilst an organisation remains accredited. All organisations successful in gaining an Accreditation or Ones to Watch status will be publicised. Best Companies does not require the prior approval or consent to any PR it wishes to issue pursuant to this clause and it is the responsibility of the Client to obtain consent (where required) for Best Companies to include their Employee names, images and interviews.

## **20. RECOGNITION AWARD PRESENTATION**

Successful organisations will be entitled to purchase awards in recognition of their achievement. Awards may be purchased from Best Companies.

Physical awards may be presented, at the discretion of Best Companies to those who attend the presentation. Client may purchase awards and merchandise from Best Companies where relevant standards have been achieved.

## **21. EVALUATION FEES**

For the avoidance of doubt, there are no additional fees for being evaluated for an Accolade. Client shall opt into Accolade evaluation when selecting survey type. Clients that receive an Accreditation status, shall be entered and listed in applicable League Tables.

## **Part 2 – Additional Rules of Engagement Specific to the “League Tables”**

## **22. THE PURPOSE OF THE “LEAGUE TABLES”**

To recognise the very best organisations to work for on a national, regional and sector basis, and to provide benchmark research into Workplace Engagement.

For Successful organisations, publication of an online profile and the ability to use the relevant Best Companies to work for awarded mark(s).

## **23. LEAGUE TABLE SPECIFIC ELIGIBILITY CRITERIA**

- 23.1 A Client will be evaluated for League Table entry determined on location of operations and/or organisation size and/ or sector where client has selected evaluation.
- 23.2 Certification of a Best Companies Accreditation and a minimum of 600 BCI score is a requirement to be considered for any League Table entry.

## **24. ENTRY DEADLINE**

- 24.1 League Table entry deadline will be communicated to Client on purchase of Services. No entries will be accepted after the closing date communicated to the Client.
- 24.2 Where a Client misses the deadline for a League Table entry, the Survey results will be considered for the next Quarter League Table entry.

## **25. SCORING & PLACEMENT**

- 25.1 Decisions in relation to scoring and placement made by Best Companies are final and no correspondence will be entered into with Clients. Clients that achieve Accreditation will be ranked against the relevant League Table based on the Client's profile and location of operations.
- 25.2 Clients notified or made aware in advance (intentionally or not) of making a League Table and or/of their specific ranking hereby agree not to disclose any information regarding rank until the date of publication.
- 25.3 For the avoidance of doubt, regardless of the number of Survey's a Client undertakes within the Agreement period, an organisation may only have one entry within any given League Table. The highest achieved BCI score will stand within the Accreditation Year.

## **26. PR**

### **FINAL LEAGUE TABLE REVEAL**

The final League Table reveal for the Recognition Year is usually published by Best Companies on the night of the Awards ceremony (typically November); there is a strict press embargo in place until the date of publication. Best Companies will seek coverage to publicise winners from each League Table. This may include interviews with organisations and their Employees whilst an organisation remains on one of the League Tables. Clients hereby consent to facilitate any such public relations activity as far as is reasonably possible.

### **QUARTERLY LEAGUE TABLES**

The League Tables are usually published by Best Companies on a Quarterly basis. Clients who Survey in a particular Quarter will have their result reflected in the following Quarter's League Table. The date of reveal for each Quarter League Table will typically be within the second month of each quarter following the Survey Period. The specific date of release each Quarter will vary. The publication date will be communicated to the Client by Best Companies prior to publication.

There is a strict press embargo in place until the date of publication of any League Table. Best Companies will seek coverage to publicise winners from each League Table. This may include interviews with organisations and their Employees and future contact by Best Companies' whilst an organisation remains on the League Table. Clients hereby consent to facilitate any such public relations activity as far as is reasonably possible.

A Client accepts as part of the terms of this Agreement, they will not promote or publish or make public their BCI score outside of their organisation, until after the BCI score is made public within the Best Companies League Table.

## **27. AWARD PRESENTATION**

- 27.1 Physical awards will be presented to selected organisations successfully placed on a League Table at an event towards the end of the Recognition Year. All accredited organisations will be invited to purchase tickets to attend this event to celebrate. Organisations will receive recognition as a Best Company for the year awarded only. Physical awards may be purchased from Best Companies, either in addition to the received award or by Clients not in attendance where they have achieved respective award.
- 27.2 Organisations must adhere to the Accolade Terms of Use (available on request) on being awarded a Best Companies Accolade.

## SCHEDULE 2

### DATA PROCESSING

#### 1. PURPOSE OF THE PROCESSING

Best Companies is to carry out an assessment of the current levels of workplace engagement. Data is transferred to Best Companies by the Client, for the purposes of providing the Services. Secondary processing will be conducted by Best Companies, as a separate Controller, to the extent it is considered compatible processing in accordance with the Agreement.

#### 2. DATA SUBJECTS

Subject to the Eligibility Criteria within Schedule 1, the Personal Data transferred may concern the following categories of data subjects

- Client Employees

#### 3. CATEGORIES OF DATA

The Personal Data transferred by the Client may include the following categories of data, dependent on the services requested and requirements of processing:

|                                                                                                                                                  |                                                                                                                                               |                                                                                                                                        |
|--------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------|
| First Name<br>Surname<br>Payroll/ Unique Number<br>Email Address<br>Delivery Postcode<br>Eligible for Accreditation<br>Reporting Office Postcode | Employment Group<br>Manager Name<br>Manager Payroll/ Unique Number<br>Date of Birth<br>Start Date<br>Contracted weekly hours<br>Annual salary | Registered Sex at Birth<br>% Time Spent Working Remote<br>Job role<br>Job Grade/Level<br>People manager<br>Reason for survey exclusion |
|--------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------|

Best Companies may on occasion have a requirement to undertake processing of “Special Category Data” (as per the meaning in Data Protection Legislation), for Client diversity monitoring in order to consider the needs of all individuals in their day to day work – in shaping policy, in delivering services, and in relation to their own employees.

Special category data processed may include but not limited to:

|                                                                                                                |
|----------------------------------------------------------------------------------------------------------------|
| Racial and ethnic origin<br>Religious and philosophical beliefs<br>Health and disability<br>Sexual orientation |
|----------------------------------------------------------------------------------------------------------------|

#### 4. RETENTION PERIODS

Best Companies shall retain the Personal Data for the following periods, unless otherwise agreed in writing by both Parties. For the avoidance of doubt Personal Data will not be retained in excess of 3 (three) years following termination or expiry of Subscription Term as per the provisions of clause 13.20.

| Category of Data                                                                             | Agreed retention period                                                                                                                                                                                                                                                                     |
|----------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Full Name<br>Email Address<br>Payroll Number<br>Survey Delivery Location<br>Location of Work | As per clause 26(d) Best Companies shall retain the minimum amount of Personal Data to protect the invested interests of the Client. The Client will notify Best Companies if retention is no longer required, and to commence the anonymisation process prior to this determined schedule. |
| Date of Birth<br>Employment Start Date                                                       | Data Converted<br>Date of Birth entry converted to year (YYYY) with individual entry deleted.<br>Employment Start date converted to Month and Year (MM/YYYY)                                                                                                                                |
| Statistical Data                                                                             | Indefinitely. Following the anonymisation process this data is no longer considered Personal Data.                                                                                                                                                                                          |



### SCHEDULE 3

## PURCHASE ORDER

[illegible]