Placecube Limited
Cloud Application Services
Terms and Conditions

These Terms and Conditions are supplemental to the G Cloud Framework Agreement RM1557.13 and the order of precedence is as set out in Clause 8.3 of the Framework Agreement.

Definitions and Interpretation

The definitions of the terms used shall be as follows:

Acceptable Usage Policy means the Policy by which Placecube's Software Application is used – See Acceptable Usage Policy – Schedule 1.

Applications means the selected software applications provided by Placecube which shall be available to the Customer, online via the internet

ASP infrastructure means Placecube's virtual, firmware, software, and communications infrastructure which is used to facilitate access to the Applications by the Customer.

Billing Month means the period starting from the first day of the calendar month and ending on the last day of the calendar month.

Call-Off Contract means a G Cloud Framework Call-Off Contract, which sets out the services and terms and conditions by which the Customer purchases the services.

Charges means the fees for the provision of the Service set out in the Call-Off Contract.

Confidential Information means:
Information specific to the other party's business activities, technology or sales that has been disclosed in writing (including electronic formats) that indicates that the information is confidential,
Information specific to the other party's business activities, technology or sales that has been indicated as being confidential while being disclosed verbally or by demonstration and that has been presented in writing (including electronic formats) within 10 days of disclosure,
Customer-Specific Information, and
The content of this Agreement, but Confidential Information does not include:
Information that was already public knowledge at the time of disclosure, or which becomes public knowledge after the disclosure through no fault of the party receiving the Confidential Information (hereafter "the Recipient"),
Information that the Recipient has rightfully obtained from a third party without obligations of confidentiality,
Information that the Recipient already held at the time of disclosure, and
Information that the Recipient has developed independently without reliance on Confidential Information that has been disclosed.

Confidential Materials means materials received from the other party that contain Confidential Information including Confidential Information received via a network, such as email, that have been fixed in a tangible form.

Customer Content means the data, information, and material that the Customer provides, stores, accesses, or transmits using the Service.

Customer User means an employee of the Customer, a citizen or business who transacts with the Customer in line with the Customer's usual business operations

Customer-Specific Information means the information relating to the Customer that the Customer has personally registered, or that Placecube has collected, in connection with the Service.

Execution Date means the date that this Agreement is signed by the last party or if it is agreed electronically the date when the Service is first taken up following acceptance of this Agreement during the registration and subscription process provided for on the ASP infrastructure.

Force Majeure means a circumstance beyond the reasonable control of the party claiming the event of force majeure which results in that party being unable to observe or perform on time an obligation under this Agreement. Such circumstances include, but are not limited to, acts of God, lightning strikes, earthquakes, floods, storms, explosions, fires and any natural disaster, pandemics, acts of war, acts of public enemies, terrorism, riots, civil commotion, malicious damage, sabotage, revolution and strikes.

Insolvency Event means if either party: (a) being a company, has a petition presented for its liquidation or calls a meeting to propose a resolution for its liquidation (other than solely for solvent amalgamation or reconstruction) or has a petition presented for the appointment of an administrator or has a receiver or administrative receiver appointed over it or any of its assets or makes any voluntary arrangement with its creditors; or (b) being an individual (or if a firm or partnership, any of its partners or members), has a petition presented for his bankruptcy, or has a receiver appointed over his affairs, or makes any voluntary arrangement with his creditors or (in the case of a firm or partnership) proposes or has presented against it a petition for its dissolution; or (c) in either case undergoes any analogous event in any jurisdiction where it is domiciled.

Intellectual Property means all copyright (including future copyright), patents, trademarks and service marks (registerable or not), rights in Internet domain names and website addresses and other rights in trade names, designs (registerable or not), database rights, eligible circuit layout rights, trade secrets, applications for any of the foregoing, know-how and other intellectual property rights in any country or jurisdiction.

Minimum Term means the minimum period of time for which the Customer must purchase the Service(s), as set out in the relevant Call-Off Contract.

Service means the cloud services provided by Placecube to the Customer as described in the relevant Service Definition in the Call-Off Contract.

Support Service means the support service provided by Placecube in connection with the Service(s), as set out in the relevant Call-Off Contract.

Term means the Minimum Term plus all renewals thereof.

Users means any person, registered or otherwise, who shall, from time to time, access the Applications through the ASP Infrastructure.

Virtual System Set means a collection of virtual machines and virtual infrastructure (including, but not limited to, virtual memory disks and virtual communications facilities), with a single virtual firewall and independent networks for each virtual subnet on the inside of the firewall

In the interpretation of this Agreement, the following provisions apply unless the context otherwise requires:

- reference to "clause" shall mean a numbered clause in these Terms and Conditions and reference to "paragraph" shall mean a numbered paragraph in the schedules;
- the clause headings are for ease of reference only and will not be relevant to interpretation;
- a reference to a clause number is a reference to its sub clauses;
- a reference to a sub clause is a reference to a sub clause of the clause in which that reference is made;
- words in the singular number include the plural and vice versa;
- words importing a gender include any other gender;
- a reference to a person includes bodies corporate and unincorporated associations and partnerships;
- any phrase introduced by the terms "including", "include", "in particular" or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms;
- any reference to a statute, statutory provision, subordinate legislation, code or guideline ("legislation") is a reference to such legislation as amended and in force from time to time;
- where a word or phrase is given a particular meaning, other parts of speech and grammatical forms of that word or phrase have corresponding meanings; and
- Monetary references are references to pounds sterling.

1 Term

This Agreement will commence on the Execution Date and, unless terminated earlier in accordance with this Agreement, continue for the Minimum Term. Thereafter this Agreement may be extended for further periods as per the Call-Off Contract.

2 Termination

2.1 On termination of this Agreement for any reason, the Customer must immediately remove or delete any Customer Content registered and stored in the Virtual System Set, at the Customer's own responsibility and cost. If the Customer fails to remove or delete any of the Customer Content from the Virtual System Set within 30 days of termination of this Agreement, Placecube shall be entitled to take such action as it considers necessary to remove or delete the Customer Content and shall have no liability to the Customer or any other person if it does so.

2.2 Either party may terminate this Agreement immediately by notice in writing if the other party is in material breach of any term of this Agreement and such breach is not remedied within 7 days of it being notified of the breach, or undergoes an Insolvency Event.

2.3 Placecube may immediately terminate this Agreement, without notice to the Customer:
- If requested by a law enforcement or regulatory authority or to avoid the Service infringing any law or regulation.
- the Customer is in breach of its obligations under clause 6.

2.4 On termination of this Agreement for any reason, the Service will immediately terminate and the Customer's right to use software and content licensed by this Agreement immediately ceases.

3   Provision of the Service

3.1   Placecube shall provide the Service to the Customer for the Term with due care and skill and in accordance with the terms of this Agreement and so that the Service complies in all material respects with the relevant Call-Off Contract.

3.2   The Customer acknowledges that Customer Content is provided or transmitted at the Customer's own risk and that the Customer is solely responsible and liable for all of its Customer Content and its accuracy, quality and legality and the means by which the Customer acquired the Customer Content.

3.3   The Customer acknowledges and agrees that Placecube makes no guarantees whatsoever regarding the Customer Content and is not responsible or liable for monitoring or otherwise ensuring the integrity, completeness, or accuracy of any of the Customer Content.

3.4   Customer must only access and use the Service:

- for its own business purposes and not access, use or reproduce any part of the Service for any other purpose (except, for security or back-up purposes);
- in accordance with any operating instructions and procedures and documentation set out or referred to in the Call-Off Contract or that Placecube notifies to it from time to time, including procedures and policies relating to security, access and passwords; and
- in accordance with all applicable laws and regulations.
- In accordance with the Acceptable use Policy
- ensures that any other person who is permitted to access or use the Service complies with the relevant provisions of this Agreement.

4   Intellectual Property

4.1   Subject to sub-Clause 4.2 all Intellectual Property Rights subsisting in the Applications and the ASP Infrastructure, including any supporting software and documentation are the property of Placecube. For the purposes of this Clause 4 'Applications' and 'ASP Infrastructure' along with supporting software and documentation are taken to include the manner in which all such material is compiled and presented.

4.2   Where expressly indicated, the Intellectual Property Rights subsisting in certain Applications including any supporting software and documentation may be the property of named third parties.

4.3   The Customer shall not either during the term or after the expiry of this Agreement permit or cause to occur any infringement of any Intellectual Property Rights covered by this Clause 4. Use by the Customer and its employees of the Service shall be only within the terms of this Agreement.

4.4   The Customer shall not, in the absence of Placecube's written consent, reproduce, adapt, translate, reverse-engineer, or make available to any third party any of the Applications, any part of the ASP Infrastructure, or any other material associated with this Agreement where such activity goes beyond the scope of actions permitted by the terms and conditions of this Agreement.

4.5   Where the Customer either suspects or is aware of any breach of Intellectual Property Rights covered by this Clause 4 it shall be under a duty to inform Placecube of such breach immediately.

5   Support Service

Support Services are detailed in the G Cloud Call- Off Contract.

6   Terms and Conditions of Use of the Service

6.1   The Customer shall use all Applications under a non-exclusive, non-transferrable Subscription as set out in this Agreement. Unless otherwise stated in Schedule 1 of this agreement this Subscription permits an unlimited number of Users to access the Applications and such access is only permitted through supported web browsers on supported desktop, tablet, and mobile devices.

6.2   Users' access to the Applications and the ASP Infrastructure shall be controlled by means of username and password.

6.3   Only Customer Users are permitted to use the Application

6.4   Use by Non-Customer Users is not permitted under this Agreement in the absence of express written consent from Placecube, such consent not to be unreasonably withheld. Placecube may require such details as the reason that access to the Applications and ASP Infrastructure is required by the Non-Customer User, details of the Non-Customer User and other information which may be specified from time to time.

6.5   The Customer may only access the Applications detailed in Schedule 1 to the Call-Off Contract. No access to other parts of the ASP Infrastructure shall be permitted in the absence of express written permission from Placecube.

6.6   The Customer is exclusively responsible for its use of the Service, including the conduct of individual Users including non-Customer Users, and must ensure that all use is in accordance with this Agreement. The Customer shall notify Placecube immediately of any breaches of this Agreement by any Users or Non-Customer Users.

6.7   Access to the Applications is only permitted through supported web browsers on supported desktop, tablet, and mobile devices via the ASP Infrastructure. Under no circumstances may the Customer download, store, reproduce or redistribute the Applications or any other part of the ASP Infrastructure, without first obtaining the express written permission of Placecube.

6.8   The Customer's use of the Applications and ASP Infrastructure may, from time to time, be governed by statutory or regulatory rules and requirements external to the terms and conditions of this Agreement. It shall be the Customer's exclusive responsibility to ensure that their use of the Service is in compliance with any such laws.

6.9   The Customer's use of the Service shall be subject to the following limitations, any of which may be waived by Placecube giving their express written consent:

6.10   The Customer may not use or redistribute the Applications or the ASP Infrastructure for the purpose of conducting the business of an Application Service Provider.

6.11   The Customer may not redistribute or reproduce the Applications or the ASP Infrastructure through any network; and

6.12   The Customer may not allow any unauthorised third party to access the Applications or the ASP Infrastructure.

6.13   Neither the Customer, nor anyone on their behalf may, in the absence of written consent from Placecube:

- Make changes of any kind to the Applications or the ASP Infrastructure; or

- Attempt to correct any fault or perceived fault in the Applications or the ASP Infrastructure.

7 Security

7.1 Placecube's systems shall be hosted in the United Kingdom, within SSAE16 compliant datacentres. The datacentres shall be engineered with fully redundant connectivity, power and heating, ventilation, and air conditioning (HVAC) to mitigate any single point of failure.

7.2 Each datacentre shall be staffed by suitably vetted and trained technical support staff.

7.3 Placecube shall be responsible for the backup of data on a nightly basis. Backups shall be fully encrypted. and retained for 35 days, by default.

7.4 Placecube shall be responsible for restoring backups on any environment upon the reasonable request of the Customer.

7.5 All persisted data shall be encrypted at Rest

7.6 All data in transit shall be encrypted using TLS 1.2

8 Disaster Recovery

8.1 Disaster Recovery shall be provided through the use of two or more physically separate data centres connected over a low latency network (availability zones). If one availability zone shuts down, the application continues to run without interruption and all data remains available.

9 Maintenance

9.1 Placecube shall be responsible for all maintenance and upgrades to the ASP Infrastructure which may from time to time be required.

9.2 Whenever possible, Placecube shall use its best and reasonable endeavours to undertake maintenance work outside of the Customer's business hours and to minimise downtime.

9.3 Unless maintenance is corrective in nature, Placecube shall provide at least 5 Business Days' notice of any maintenance which may affect the Customer's use of the Service. Placecube shall use it's best and reasonable endeavours to provide as much notice as possible in the case of corrective maintenance, however advance notice may not always be possible.

9.4 Where maintenance will disrupt the Service, Placecube shall aim to complete all necessary work within 4 Business Hours or as soon as possible thereafter where resolution in that time is not possible.

9.5 Whenever possible, Placecube shall provide a workaround solution to the Customer to enable the Customer's continued use of the Service or to enable use that is as close to normal as is possible under the prevailing circumstances.

10 Confidential Information

10.1 During the Term of this Agreement and after the termination or expiration of this Agreement for any reason, Placecube shall use its best and reasonable endeavours to ensure that all Customer Data is kept secure and confidential. Placecube shall not, in the absence of express written consent from the Customer, disclose Customer Data to any third party unless such disclosure is required by law in which case the Customer shall be notified in writing of the disclosure.

10.2 During the Term of this Agreement, the following obligations shall apply to the Party receiving Confidential Information (the "Receiving Party") from the other Party (the "Disclosing Party").

10.3   Subject to sub-Clause 10.4, the Receiving Party:

- may not use any Confidential Information for any purpose other than the performance of their obligations under this Agreement.

- may not disclose any Confidential Information to any third party except with the prior written consent of the Disclosing Party; and

- shall make every effort to prevent the unauthorised use or disclosure of the Confidential Information.

10.4   The obligations of confidence referred to in this Clause 10 (excluding sub-Clause 10.1) shall not apply to any Confidential Information that:

10.5   is in the possession of and is at the free disposal of the Receiving Party or is published or is otherwise in the public domain prior to its receipt by the Receiving Party.

10.6   is or becomes publicly available on a non-confidential basis through no fault of the Receiving Party.

10.7   is required to be disclosed by any applicable law or regulation; or

10.8   is received in good faith by the Receiving Party from a third party who, on reasonable enquiry by the Receiving Party claims to have no obligations of confidence to the Disclosing Party in respect thereof and who imposes no obligations of confidence upon the Receiving Party.

10.9   Without prejudice to any other rights or remedies the Disclosing Party may have, the Receiving Party acknowledges and agrees that in the event of breach of this Clause the Disclosing Party shall, without proof of special damage, be entitled to an injunction or other equitable remedy for any threatened or actual breach of the provisions of this Clause in addition to any damages or other remedies to which they may be entitled.

10.10   The obligations of the Parties under all provisions of this Clause shall survive the expiry or the termination of this Agreement irrespective of the reason for such expiry or termination.

11   Customer Data

11.1   Subject to sub-Clause 11.2 all Intellectual Property Rights subsisting in Customer Data are and shall remain the property of the Customer.

11.2   Certain Customer Data may belong to third parties. In such cases, the Customer warrants that all such Customer Data is used with the consent of relevant third parties.

12   Data Processing

12.1   Both Parties shall comply with all applicable data protection requirements set out in the Data Protection Legislation. This Clause 12 shall not relieve either Party of any obligations set out in the Data Protection Legislation and does not remove or replace any of those obligations.

12.2   For the purposes of the Data Protection Legislation and for this Clause 12, the Customer is the "Data Controller" and the Service Provider is the "Data Processor".

12.3   The type(s) of personal data, the scope, nature and purpose of the processing, and the duration of the processing shall be set out in Schedule 7 to the Call-Off Contract.

12.4 The Data Controller shall ensure that it has in place all necessary consents and notices required to enable the lawful transfer of personal data to the Data Processor for the purposes described in these Terms and Conditions and Schedule 7 to the Call-Off Contract..

12.5 The Data Processor shall, with respect to any personal data processed by it in relation to its performance of any of its obligations under these Terms and Conditions

- Process the personal data only on the written instructions of the Data Controller unless the Data Processor is otherwise required to process such personal data by law. The Data Processor shall promptly notify the Data Controller of such processing unless prohibited from doing so by law.

- Ensure that it has in place suitable technical and organisational measures (as approved by the Data Controller) to protect the personal data from unauthorised or unlawful processing, accidental loss, damage or destruction. Such measures shall be proportionate to the potential harm resulting from such events, taking into account the current state of the art in technology and the cost of implementing those measures. Measures to be taken shall be agreed between the Data Controller and the Data Processor and set out in Schedule 7 to the Call-Off Contract..

- Ensure that any and all staff with access to the personal data (whether for processing purposes or otherwise) are contractually obliged to keep that personal data confidential; and

- Not transfer any personal data outside of the European Economic Area without the prior written consent of the Data Controller and only if the following conditions are satisfied:

  - The Data Controller and/or the Data Processor has/have provided suitable safeguards for the transfer of personal data;

  - Affected data subjects have enforceable rights and effective legal remedies;

  - The Data Processor complies with its obligations under the Data Protection Legislation, providing an adequate level of protection to any and all personal data so transferred; and

  - The Data Processor complies with all reasonable instructions given in advance by the Data Controller with respect to the processing of the personal data.

12.6 Assist the Data Controller at the Data Controller's cost, in responding to any and all requests from data subjects in ensuring its compliance with the Data Protection Legislation with respect to security, breach notifications, impact assessments, and consultations with supervisory authorities or regulators (including, but not limited to, the Information Commissioner's Office);

12.7 Notify the Data Controller without undue delay of a personal data breach;

12.8 On the Data Controller's written instruction, delete (or otherwise dispose of) or return all personal data and any and all copies thereof to the Data Controller on termination of the Agreement unless it is required to retain any of the personal data by law; and

12.9 Maintain complete and accurate records of all processing activities and technical and organisational measures implemented necessary to demonstrate compliance with this Clause 12 and to allow for audits by the Data Controller and/or any party designated by the Data Controller.

12.10 The Data Processor shall not sub-contract any of its obligations with respect to the processing of personal data under this Clause 12

12.11 Either Party may, at any time, and on at least 30 calendar days' notice, alter the data protection provisions of the Agreement, replacing them with any applicable data processing clauses or similar terms that form part of an applicable certification scheme. Such terms shall apply and replace these provisions by attachment to the Agreement.

13 Limitation of Liability

13.1 Neither party shall have any liability for any indirect, incidental, special, or consequential or punitive damages arising out of or relating in any way to this agreement, including but not limited to reliance, cover, or loss of anticipated profits, even if the party has been advised of the possibility of such damages. Liability for damages arising out of or relating in any way to this agreement or Placecube's technology or affiliated documentation under any legal theory, whether contract, tort, product liability, reliance, breach of any implied duty, or otherwise shall not exceed the amount in the order form as per Clause 24 in the G Cloud Call Off Contract.

13.2   The provisions of this article allocate the risks under this Agreement between Placecube and Customer and are an intrinsic part of the bargain between the parties. The fees provided for in this Agreement reflect this allocation of risks and the limitation of liability specified herein.

14 Indemnity

14.1 The Customer will indemnify Placecube against all costs, expenses, liabilities, losses, damages, and judgments that Placecube may incur or be subject to as a result of any of the following:

- The Customer's misuse of the Applications, ASP Infrastructure or any other element of the Service.

- The Customer's breach of this Agreement; or

- The Customer's negligence or other act of default.

14.2 Placecube will indemnify the Customer against all costs, expenses, liabilities, losses, damages, and judgments that the Customer may incur or be subject to as a result of any of the following:

- Placecube's breach of this Agreement; or

- Placecube's negligence or other act of default.

15   Charges and Payment

15.1   The Customer shall pay the Charges to Placecube in accordance with the detail set out in the relevant Call-Off Contract. All payments shall be made in pounds sterling (GBP).

15.2   The Customer shall pay to Placecube all Charges due within 30 days of receipt of an invoice from Placecube for the same.

15.3   In the event that the Customer does not pay all Charges due within the time period specified in sub-Clause 15.2 above, Placecube may suspend the Customer's use of the Service by whatever means it deems appropriate, subject to the requirement that such shall not disrupt any other of the Customer's operations.

15.4   In the event that the Customer fails to pay under sub-Clause 15.3 then, without prejudice to sub-Clause 15.3, that amount shall bear interest from the due date until payment is made in full, both before and after any judgment, at 4% per annum over the Bank of England base rate obtaining at the time.

15.5   Placecube may vary the Charges in the manner provided for in the Call-Off Contract Placecube shall provide the Customer with at least 60 days' written notice. Such variations shall take effect upon renewal.

16   Compliance with Law

16.1   Placecube is under no obligation to the Customer to supply any Service under this Agreement or otherwise if its possession or processing of the Customer Content constitutes a breach of any relevant law or regulation.

16.2   Placecube is under no obligation to refrain from delivering the Customer Content into the custody of a duly authorised law enforcement officer or government representative, officer or agency or from providing such persons or instrumentalities with access to the Service or the Customer Content if Placecube receives a valid and proper request or demand for such information.

17   Force Majeure

17.1   Neither party shall be liable for any failure to comply with this Agreement which is due to Force Majeure.

17.2   If a delay or failure by a party to perform its obligations due to Force Majeure exceeds 30 days, either party may immediately terminate the Agreement on providing notice in writing to the other party.

18   Prohibition of Transfer of Rights and Obligations

Neither Party shall assign, transfer, sub-contract, or in any other manner transfer its rights or obligations to any third party the benefit and/or burden of this Agreement without the prior written consent of the other, such consent not to be unreasonably withheld.

19 Governing Law and Jurisdiction

19.1 This Agreement shall be governed by the laws of England and Wales.

19.2 Any dispute between the Parties relating to this Agreement shall fall within the jurisdiction of the courts of England and Wales.

20 Dispute Resolution

20.1 A party must not start court proceedings unless it has complied with this clause

20.2 A party claiming that a dispute, difference or question arising out of this Agreement ("Dispute") has arisen must notify the other party giving details of the Dispute ("Notification").

20.3 Within 7 days (or any longer period agreed between the parties) after a Notification is given, each party's relationship manager must personally or through a nominee use reasonable efforts to resolve the Dispute through negotiation.

20.4 If the parties' relationship managers cannot resolve the Dispute within 14 days after the Notification is given (or any longer period agreed between the parties), the relationship managers must immediately refer the Dispute to a General Manager (or equivalent) of each party or their nominated representatives.

21 Subcontract

Placecube may subcontract for the performance of the Application and may engage subcontractors, whether or not operating under a corporate structure, to assist in the provision of the Application pursuant to this Agreement at any time without the Customer's consent.

22 Variation

22.1 The Customer acknowledges and agrees that Placecube may change the terms of this Agreement and its Schedules at any time during the Term, in which case the new (changed) Agreement shall apply to the Customer.

22.2 Placecube will provide the Customer with at least 30 days' advance notice of any proposed change to the terms in writing and served by hand, prepaid recorded or special delivery post or prepaid international recorded airmail to the relevant addressee at the address referred to on the cover page of this Agreement or such other address as the relevant party may designate to the other in writing from time to time; or made by electronic mail or other electronic means via the ASP infrastructure in accordance with any procedures set up for such purposes.

22.3 If the Customer does not agree with the terms of the new (changed) Agreement, the Customer may terminate the Agreement without penalty by providing 30 days written notice to Placecube.

23 Express rights

Any express statement of a right of Placecube under this Agreement is without prejudice to any other right of Placecube expressly stated in this Agreement or existing at law.

24 Publicity

Except as required by applicable law, the requirements of any governmental authority or other regulatory body which restricts the undertaking of marketing and promotional activities or press releases and public announcements in respect to the Service provided under this Agreement, Placecube may, with notice to the Customer, undertake marketing and promotional activities and make press releases and other public announcements in respect to the Service provided under this Agreement.

25 Waiver

25.1 No right under this Agreement will be deemed to be waived except by notice in writing signed by each party. Any waiver by Placecube will not prejudice its rights in respect of any subsequent breach of the Agreement by the Customer.

25.2 Any failure by Placecube to enforce any clause of this Agreement, or any forbearance, delay or indulgence granted by Placecube to the Customer will not be construed as a waiver of Placecube's rights under this Agreement.

26 Severability

If any provision of this Agreement is held invalid, unenforceable or illegal for any reason, the Agreement will remain otherwise in full force apart from such provisions which will be deemed deleted.

27 Third Party Rights

A person who is not a party to this Agreement has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Agreement but this does not affect any right or remedy of any person which exists or is available otherwise than pursuant to that Act.

28 Relationship of the Parties

Nothing in this Agreement shall create, or be deemed to create, a partnership, the relationship of principal and agent, or of employer and employee between Placecube and the Customer.

29 Notices

29.1 Any notice or communication given under this Agreement shall be in writing and served by hand, prepaid recorded or special delivery post or prepaid international recorded airmail to the relevant addressee at the address referred to on the cover page of this Agreement or such other address as the relevant party may designate to the other in writing from time to time; or made by electronic mail or other electronic means via the ASP infrastructure in accordance with any procedures set up for such purposes.

29.2 Any such notice shall be deemed to have been served at the time of delivery.

PLACECUBE

Schedule 1

Acceptable Usage Policy

You may only use Placecube's Software Application in a manner that is lawful and that complies with the provisions of this Policy. Specifically:

- You must ensure that you comply fully with any and all applicable local, national, and international laws and/or regulations;

- You must not use Placecube's Software Application in any way, or for any purpose, that is unlawful or fraudulent;

- You must not use Placecube's Software Application to knowingly send, upload, or in any other way transmit data that contains any form of virus or other malware, or any other code designed to adversely affect computer hardware, software or any data of any kind; and

- You must not use Placecube's Software Application in any way, or for any purpose, that is intended to harm any person or persons in any way.

The following types of User Content are not permitted on Placecube's Software Application and you must not create, submit, communicate, or otherwise do anything that:

- is obscene, deliberately offensive, hateful, or otherwise inflammatory;

- promotes violence;

- promotes or assists in any form of unlawful activity;

- discriminates against, or is in any way defamatory of, any person, group or class of persons, race, sex, religion, nationality, disability, sexual orientation, or age;

- is intended or otherwise likely to threaten, harass, annoy, alarm, inconvenience, upset, or embarrass another person;

- is calculated or otherwise likely to deceive;

- is intended or otherwise likely to infringe (or threaten to infringe) another person's right to privacy;

- misleadingly impersonates any person or otherwise misrepresents your identity or affiliation in a way that is calculated to deceive (obvious parodies are not included within this definition provided that they do not fall within any of the other provisions of this sub-Clause);

- implies any form of affiliation with Placecube where none exists;

- infringes, or assists in the infringement of, the intellectual property rights (including, but not limited to, copyright, patents, trademarks, and database rights) of any other party; or

- is in breach of any legal duty owed to a third party including, but not limited to, contractual duties and duties of confidence.

We reserve the right to suspend or terminate your Account and/or your access to Placecube's Software Application if you materially breach the provisions of this Policy or any of the other provisions of these terms and conditions. Specifically, we may take one or more of the following actions:

- Suspend, whether temporarily or permanently, your Account and/or your right to access Placecube's Software Application (for more details regarding such cancellation, please refer to Clause 19);

- Remove any of your User Content which violates this Acceptable Usage Policy;

- Issue you with a written warning;

- Take legal proceedings against you for reimbursement of any and all relevant costs on an indemnity basis resulting from your breach;

- Take further legal action against you as appropriate.

- Disclose such information to law enforcement authorities as required or as we deem reasonably necessary; and/or

- Any other actions which we deem reasonably appropriate (and lawful).

Placecube hereby exclude any and all liability arising out of any actions (including, but not limited to, those set out above) that Placecube may take in response to breaches of this policy.