



PURECYBER SUBSCRIPTION SERVICES TERMS AND CONDITIONS

1 INTERPRETATION

1.1 The following definitions and rules of interpretation apply in this Agreement:

Affiliate	in relation to a party, any entity that directly or indirectly controls, is controlled by, or is under common control with that party from time to time.
Agreement	the Order and these Conditions.
Applicable Data Protection Laws	means: <ul style="list-style-type: none">(a) to the extent the UK GDPR applies, the law of the United Kingdom or of a part of the United Kingdom which relates to the protection of personal data.(b) to the extent the EU GDPR applies, the law of the European Union or any member state of the European Union to which PureCyber is subject, which relates to the protection of personal data.
Applicable Laws	all applicable laws, statutes, regulation and codes from time to time in force.
Authorised Users	those employees, agents and independent contractors of the Customer who are authorised by the Customer to access and use the Services and the Documentation.
Business Day	a day, other than a Saturday, Sunday or public holiday in England, when banks in London are open for business.
Charges	the amounts payable for Services as detailed in the Order.
Commencement Date	as defined in clause 2.1.
Conditions	these terms and conditions.



Control	has the meaning given in section 1124 of the Corporation Tax Act 2010 and controls , controlled and the expression change of control shall be construed accordingly.
Customer Data	all data and information provided by Customer to, or accessible by, PureCyber under this Agreement, in connection with the performance of the Services.
Customer Personal Data	any personal data which PureCyber processes in connection with this Agreement, in the capacity of a processor on behalf of the Customer.
Delay	has the meaning given in clause 4.6.
Documentation	the documents made available to the Customer by PureCyber from time to time which sets out a description of the Services and the user instructions for the Services.
EU GDPR	means the General Data Protection Regulation ((EU) 2016/679), as it has effect in EU law.
Extended Term	as defined in clause 2.5.
Hardware	any hardware device provided by PureCyber to the Customer, as part of the Services, as set out in the Order.
Initial Term	as defined in clause 2.5.
Intellectual Property Rights	patents, utility models, rights to inventions, copyright and neighbouring and related rights, moral rights, trade marks and service marks, business names and domain names, rights in get-up and trade dress, goodwill and the right to sue for passing off or unfair competition, rights in designs, rights in computer software, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how and trade secrets) and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which



subsist or will subsist now or in the future in any part of the world.

Order	a detailed order for Services describing the specific Services to be provided by PureCyber, the timetable for their delivery or performance, the location for delivery or performance, the Charges for those Services.
Open-Source Software	any software programs which are licensed under any form of open-source licence meeting the Open Source Initiative's open source definition from time to time.
Permitted Purpose	the Customer's internal business operations.
PureCyber Indemnified Parties	as defined in clause 8.7.
Services	the subscription services as set out in the Order.
Services Start Date	the date of commencement of the Services identified within the Order.
Software	the software used by PureCyber and/or the software the Customer is given access to by PureCyber in the course of PureCyber providing the Services to the Customer.
Term	means the Initial Term together with the Extended Term.
UK GDPR	has the meaning given to it in section 3(10) (as supplemented by section 205(4)) of the Data Protection Act 2018.
User Subscriptions	the user subscriptions purchased by the Customer which entitle Authorised Users to access and use the Services and the Documentation in accordance with this Agreement.
VAT	value added tax or any equivalent tax chargeable in the UK.
Virus	any thing or device (including any software, code, file or programme) which may: prevent, impair or otherwise adversely affect the operation of any computer software, hardware or network, any telecommunications service, equipment or



network or any other service or device; prevent, impair or otherwise adversely affect access to or the operation of any programme or data, including the reliability of any programme or data (whether by re-arranging, altering or erasing the programme or data in whole or part or otherwise); or adversely affect the user experience, including worms, trojan horses, viruses and other similar things or devices.

- 1.2 Clause, Schedule and paragraph headings shall not affect the interpretation of this Agreement.
- 1.3 A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
- 1.4 The Schedules form part of this Agreement and shall have effect as if set out in full in the body of this Agreement. Any reference to this Agreement includes the Schedules.
- 1.5 A reference to a **company** shall include any company, corporation or other body corporate, wherever and however incorporated or established.
- 1.6 Unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular.
- 1.7 Unless the context otherwise requires, a reference to one gender shall include a reference to the other gender.
- 1.8 This Agreement shall be binding on, and enure 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.
- 1.9 A reference to legislation or a legislative provision is a reference to it as amended, extended or re-enacted from time to time.
- 1.10 A reference to legislation or a legislative provision shall include all subordinate legislation made from time to time under that legislation or legislative provision.
- 1.11 A reference to **writing** or **written** includes email.
- 1.12 Any obligation on a party not to do something includes an obligation not to allow that thing to be done.



- 1.13 A reference to **this Agreement** or to any other agreement or document is a reference to this Agreement or such other agreement or document, in each case as varied or novated from time to time.
- 1.14 References to clauses and Schedules are to the clauses and Schedules of this Agreement and references to paragraphs are to paragraphs of the relevant Schedule.
- 1.15 Any words following the terms **including, include, in particular, for example** or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.

2 BASIS OF CONTRACT AND DURATION

- 2.1 The Customer providing PureCyber with a signed copy of the Order constitutes an offer by the Customer to purchase the Services in accordance with these Conditions.
- 2.2 The Order shall only be deemed to be accepted when it has been signed by both parties, at which point and on which date the Contract shall come into existence ("**Commencement Date**").
- 2.3 These Conditions apply to the Agreement to the exclusion of any other terms that the Customer seeks to impose or incorporate, or which are implied by law, trade custom, practice or course of dealing.
- 2.4 Any samples, drawings, descriptive matter or advertising issued by PureCyber, and any descriptions or illustrations contained in PureCyber's catalogues or brochures, are issued or published for the sole purpose of giving an approximate idea of the Services described in them. They shall not form part of the Contract or have any contractual force.
- 2.5 This Agreement shall, unless otherwise terminated as provided in clause 12, commence on the Commencement Date and shall continue for the initial period as set out in the Order ("**Initial Term**") and thereafter, this Agreement shall continue until terminated in accordance with clause 12 (Termination) ("**Extended Term**").

3 USER SUBSCRIPTIONS

- 3.1 PureCyber grants to the Customer a non-exclusive, non-transferable right to permit the Authorised Users to access and use the Services and the Documentation identified in the Order, for the Term, solely for the Permitted Purpose.
- 3.2 In relation to the Authorised Users, the Customer undertakes that:



- 3.2.1 it will not allow any User Subscription to be used by more than one individual Authorised User unless it has been reassigned in its entirety to another individual Authorised User, in which case the prior Authorised User shall no longer have any right to access or use the Services and/or the Documentation under the reassigned User Subscription;
 - 3.2.2 it will restrict access to the Services to those Authorised Users who have a need to know as part of their official duties; and
 - 3.2.3 when an Authorised User who has had access to the Services leaves the Customer, or where access presents a security risk, the Customer must take all necessary steps to promptly terminate access of such Authorised User to the Services.
- 3.3 PureCyber reserves the right to suspend any User Subscription or password access to the Services if at any time it reasonably considers that there is or is likely to be a breach of security or misuse of the Services, and/or to require the Customer to change any or all of the Authorized User's IDs and passwords used by its Authorised Users in connection with the Services.

4 SERVICES

- 4.1 PureCyber shall provide the Services from the Services Start Date.
- 4.2 PureCyber undertakes that the Services will be performed substantially in accordance with the relevant Order, the Documentation and with reasonable skill and care, except that this undertaking shall not apply to the extent of any non-conformance which is caused by use of the Services contrary to PureCyber's instructions, or modification or alteration of the Services by any party other than PureCyber or PureCyber's duly authorised contractors or agents.
- 4.3 If the Services do not conform with the undertaking at clause 4.2, PureCyber will, at its expense, use all reasonable commercial endeavours to correct any such non-conformance promptly, or provide the Customer with an alternative means of accomplishing the desired performance. Such correction or substitution constitutes the Customer's sole and exclusive remedy for any breach of the undertaking set out in clause 4.2. Notwithstanding the foregoing, PureCyber:
 - 4.3.1 does not warrant that the Customer's use of the Services will be uninterrupted or error-free; or



- 4.3.2 does not warrant that the Services will meet the Customer's requirements; and
 - 4.3.3 is not responsible for any delays, delivery failures, or any other loss or damage resulting from the transfer of data over communications networks and facilities, including the internet, and the Customer acknowledges that the Services and/or the Documentation may be subject to limitations, delays and other problems inherent in the use of such communications facilities.
- 4.4 PureCyber shall use commercially reasonable endeavours to make the applicable Services available 24 hours a day, seven days a week, except for any maintenance (planned and unscheduled), provided that PureCyber has used reasonable endeavours to give the Customer notice in advance.
- 4.5 PureCyber will, as part of the Services, provide the Customer with PureCyber's standard customer support services in accordance with PureCyber's support services policy in effect at the time that the Services are provided. PureCyber may amend the support services policy in its sole and absolute discretion from time to time.
- 4.6 If PureCyber is prevented or delayed from performing any of the Services for any reason which is not directly attributable to PureCyber's acts or omissions (a "**Delay**") PureCyber shall:
 - 4.6.1 not be liable for any costs, charges or losses sustained or incurred by the Customer that arise directly or indirectly from such prevention or delay; and
 - 4.6.2 to the extent that PureCyber is delayed or prevented from providing the Services due to an act or omission of the Customer and/or any of their third party service providers, PureCyber shall be entitled to recover any additional costs, charges or losses PureCyber sustains or incurs that arise directly or indirectly from such prevention or delay.
- 4.7 The Customer acknowledges that the Software may contain Open-Source Software and any Open-Source Software provided by PureCyber is provided "as-is" and expressly subject to the disclaimer in clause 11.1.5.
- 4.8 The rights provided under this Agreement are granted to the Customer only and shall not be considered granted to any subsidiary, Affiliate, group or holding company of the Customer unless expressly specified to the contrary in the Order.



- 4.9 This Agreement shall not prevent PureCyber from entering into similar agreements with third parties, or from independently developing, using, selling or licensing documentation, products and/or services which are similar to those provided under this Agreement.

5 HARDWARE

- 5.1 The following provisions shall apply in the event that PureCyber is to provide Hardware to the Customer, as set out in the Order.
- 5.2 PureCyber shall use reasonable endeavours to deliver the Hardware to the Customer, on or before such delivery date as set out in the Order. However, PureCyber will not be liable for any delays in the delivery of the Hardware.
- 5.3 The Hardware shall at all times remain the property of PureCyber, and the Customer shall have no right, title or interest in or to the Hardware (save the right to possession and use of the Hardware subject to the terms of this Agreement).
- 5.4 The risk of loss, theft, damage or destruction of the Hardware shall pass to the Customer on delivery of the Hardware. The Hardware shall remain at the sole risk of the Customer during the Term until such time as the Hardware is redelivered to PureCyber.
- 5.5 Whilst the Hardware is in the Customer's possession, the Customer shall:
- 5.5.1 clearly designate the Hardware as PureCyber's property;
 - 5.5.2 store and use the Hardware in a proper manner in conditions which adequately protect and preserve the Hardware in the same condition as it was on the delivery date (fair wear and tear only excepted); and
 - 5.5.3 insure the Hardware against all risks to its full replacement value of £699.00.
- 5.6 The Customer shall give immediate written notice to PureCyber in the event of any loss, accident or damage to the Hardware arising out of or in connection with the Customer's possession or use of the Hardware.
- 5.7 In the event that the Hardware is damaged (other than fair wear and tear), lost or stolen, the Customer shall reimburse PureCyber, on demand, the full replacement cost of the Hardware (as set out in clause 5.5.3).

6 CUSTOMER'S OBLIGATIONS

- 6.1 The Customer shall:



- 6.1.1 provide PureCyber with all necessary co-operation in relation to this Agreement and all necessary access to such information as may be required by PureCyber, in order to provide the Services;
- 6.1.2 without affecting its other obligations under this Agreement, comply with all Applicable Laws and regulations with respect to its activities under this Agreement;
- 6.1.3 carry out all other Customer responsibilities set out in this Agreement in a timely and efficient manner. In the event of any delays in the Customer's provision of such assistance as agreed by the parties, PureCyber may adjust any agreed timetable or delivery schedule as reasonably necessary;
- 6.1.4 ensure that the Authorised Users use the Services (and, where applicable, the Documentation) in accordance with the terms and conditions of this Agreement and shall be responsible for any Authorised User's breach of this Agreement;
- 6.1.5 obtain and shall maintain all necessary licences, consents, and permissions necessary for PureCyber, its contractors and agents to perform their obligations under this Agreement, including without limitation the Services;
- 6.1.6 ensure that its network and systems comply with the relevant specifications provided by PureCyber from time to time;
- 6.1.7 be solely responsible for procuring, maintaining and securing its network connections and telecommunications links from its systems to PureCyber's systems, applications and infrastructure, and all problems, conditions, delays, delivery failures and all other loss or damage arising from or relating to the Customer's network connections or telecommunications links or caused by the internet;
- 6.1.8 be responsible for making regular back-ups of the Customer Data;
- 6.1.9 not access, store, distribute or transmit any Viruses, or any material during the course of its use of the Services that:
 - 6.1.9.1 is unlawful, harmful, threatening, defamatory, obscene, infringing, harassing or racially or ethnically offensive;
 - 6.1.9.2 facilitates illegal activity;



- 6.1.9.3 depicts sexually explicit images;
- 6.1.9.4 promotes unlawful violence;
- 6.1.9.5 is discriminatory based on race, gender, colour, religious belief, sexual orientation, disability; or
- 6.1.9.6 is otherwise illegal or causes damage or injury to any person or property;

and PureCyber reserves the right, without liability or prejudice to its other rights to the Customer, to disable the Customer's access to any material that breaches the provisions of this clause;

6.1.10 except as may be allowed by any Applicable Law which is incapable of exclusion by agreement between the parties and except to the extent expressly permitted under this Agreement, shall not:

- 6.1.10.1 copy, modify, duplicate, create derivative works from, frame, mirror, republish, download, display, transmit, or distribute all or any portion of the Software and/or Documentation, in any form or media or by any means; or
- 6.1.10.2 de-compile, reverse compile, disassemble, reverse engineer or otherwise reduce to human-perceivable form all or any part of the Software; or

6.1.11 not access all or any part of the Services and Documentation to build a product or service which competes with the Services and/or the Documentation; or

6.1.12 not use the Services and/or the Documentation to provide services to third parties; or

6.1.13 except to the extent expressly permitted under this Agreement, license, sell, rent, lease, transfer, assign, distribute, display, disclose, or otherwise commercially exploit, or otherwise make the Services and/or the Documentation available to any third party except the Authorised Users;

6.1.14 not obtain, or attempt to obtain, or assist third parties in obtaining, access to the Services and/or the Documentation, other than as provided under this clause 6;



- 6.1.15 not introduce or permit the introduction of any Virus into PureCyber's network and information systems;
- 6.1.16 use all reasonable endeavours to prevent any unauthorised access to, or use of, the Services and/or the Documentation and, in the event of any such unauthorised access or use, promptly notify PureCyber; and
- 6.1.17 not engage in any activities or behaviours that may (in PureCyber's sole opinion) adversely affect PureCyber's reputation.

7 CHARGES AND PAYMENT

- 7.1 In consideration of the provision of the Services by PureCyber, the Customer shall pay to PureCyber the Charges as set out in the Order.
- 7.2 Payment method (as set out in the Order):
 - 7.2.1 **Direct debit option:** The Customer may choose to make payments via direct debit. In such a case, the Customer shall provide PureCyber with the necessary authorisations and banking information to facilitate automated payments. Payments shall be automatically deducted from the Customer's designated bank account each month, on the same date as the Commencement Date. For example, if the agreement is entered into on the 5th day of a month, subsequent direct debit payments will be processed on the 5th day of each month thereafter. In the event of a failed direct debit payment, PureCyber reserves the right to charge a £15.00 administration fee.
 - 7.2.2 **Invoice payment option:** Alternatively, the Customer may choose to make payments upon receipt of an invoice. PureCyber shall invoice the Customer for the Charges at the intervals specified in the Order and the Customer shall pay each invoice submitted to it by PureCyber within 30 days of receipt to a bank account nominated in writing by PureCyber from time to time.
- 7.3 If the Customer disputes any invoice, or part thereof, in good faith, it shall notify PureCyber in writing and the undisputed portion of the relevant sum shall be paid by the Bank in accordance with clause 7.2.2. Following settlement of such dispute any amount agreed or determined to be payable shall be included or adjusted within the next monthly invoice and be paid/credited accordingly.



7.4 Without prejudice to any other right or remedy that it may have, if the Customer fails to pay PureCyber any sum due under this Agreement on the due date:

7.4.1 the Customer shall pay interest on the overdue sum from the due date until payment of the overdue sum, whether before or after judgment. Interest under this clause will accrue each day at 4% a year above the Bank of England's base rate from time to time, but at 4% a year for any period when that base rate is below 0%; and

7.4.2 PureCyber may suspend part or all of the Services until payment has been made in full.

7.5 All sums payable to PureCyber under this Agreement:

7.5.1 are exclusive of VAT, and the Customer shall in addition pay an amount equal to any VAT chargeable on those sums on delivery of a VAT invoice; and

7.5.2 shall be paid in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law).

7.6 PureCyber shall be entitled to increase the Charges to take account of any increase in costs of any third party applicable to the Services which PureCyber shall be entitled to pass on to the Customer.

8 INTELLECTUAL PROPERTY RIGHTS

8.1 The Customer acknowledges and agrees that PureCyber and/or its licensors own all intellectual property rights in the Services and the Documentation. Except as expressly stated herein, this Agreement does not grant the Customer any rights to, under or in, any patents, copyright, database right, trade secrets, trade names, trade marks (whether registered or unregistered), or any other rights or licences in respect of the Services or the Documentation.

8.2 PureCyber confirms that it has all the rights in relation to the Services and the Documentation that are necessary to grant all the rights it purports to grant under, and in accordance with, the terms of this Agreement.

8.3 The Customer:

8.3.1 shall own all right, title and interest in and to all of the Customer Data (which may include Customer Personal Data), and the Customer shall have sole



responsibility for the legality, reliability, integrity, accuracy and quality of the Customer Data;

- 8.3.2 grants to PureCyber and its subcontractors, for the Term, a non-transferable, non-exclusive, royalty free licence to use, disclose and copy the Customer Data to provide the Services; and
- 8.3.3 warrants that use of the Customer Data in accordance with clause 8.3.2 will not infringe any third party's Intellectual Property Rights.
- 8.4 The Customer shall not (and shall ensure that the Authorised Users shall not) in any manner damage or impair any of PureCyber's and its licensors' Intellectual Property Rights.
- 8.5 The Customer shall notify PureCyber immediately if it becomes aware of any breach of the PureCyber's Intellectual Property Rights by any third party.
- 8.6 PureCyber shall be fully entitled to use any skills, techniques, concepts or know-how acquired, developed or used in the course of performing the Services in any way it deems fit and any improvements to PureCyber's existing products and/or service made or developed during the course of the Services, subject to the obligations of confidentiality detailed in this Agreement.
- 8.7 The Customer shall indemnify PureCyber, its Affiliates, and their respective officers, directors, and employees ("**PureCyber Indemnified Parties**") against all claims, losses, damages, costs (including all legal fees) and expenses incurred by or awarded against PureCyber arising out of or in connection with any breach by the Customer of its obligations under this clause 8.

9 DATA PROTECTION

- 9.1 For the purposes of this clause 9, the terms **controller**, **processor**, **data subject**, **personal data**, **personal data breach** and **processing** shall have the meaning given to them in the UK GDPR.
- 9.2 Both parties will comply with all applicable requirements of Applicable Data Protection Laws. This clause 9 is in addition to, and does not relieve, remove or replace, a party's obligations or rights under Applicable Data Protection Laws.



- 9.3 The parties have determined that, for the purposes of Applicable Data Protection Laws, PureCyber shall process the Customer Personal Data as processor on behalf of the Customer.
- 9.4 Should the determination in clause 9.3 change, the parties shall use all reasonable endeavours to make any changes that are necessary to this clause 9 and Schedule 1.
- 9.5 Without prejudice to the generality of clause 9.2, the Customer will ensure that it has all necessary appropriate consents and notices in place to enable lawful transfer of PureCyber of the Customer Personal Data to PureCyber and/or the lawful collection of the same by PureCyber for the duration and purposes of this Agreement.
- 9.6 In relation to the Customer Personal Data, Schedule 1 sets out the scope, nature and purpose of processing by PureCyber, the duration of the processing and the types of personal data and categories of data subject.
- 9.7 Without prejudice to the generality of clause 9.2, PureCyber shall, in relation to Customer Personal Data:
- 9.7.1 process that Customer Personal Data only on the documented instructions of the Customer unless PureCyber is required by Applicable Laws to otherwise process that Customer Personal Data. Where PureCyber is relying on Applicable Laws as the basis for processing Customer Processor Data, PureCyber shall notify the Customer of this before performing the processing required by the Applicable Laws unless those Applicable Laws prohibit PureCyber from so notifying the Customer on important grounds of public interest. PureCyber shall inform the Customer if, in the opinion of PureCyber, the instructions of the Customer infringe Applicable Data Protection Laws;
 - 9.7.2 implement technical and organisational measures to protect against unauthorised or unlawful processing of Customer Personal Data and against accidental loss or destruction of, or damage to, Customer Personal Data, which the Customer has reviewed and confirms are appropriate to the harm that might result from the unauthorised or unlawful processing or accidental loss, destruction or damage and the nature of the data to be protected, having regard to the state of technological development and the cost of implementing any measures;



- 9.7.3 ensure that any personnel engaged and authorised by PureCyber to process Customer Personal Data have committed themselves to confidentiality or are under an appropriate statutory or common law obligation of confidentiality;
 - 9.7.4 assist the Customer insofar as this is possible (taking into account the nature of the processing and the information available to PureCyber), and at the Customer's cost and written request, in responding to any request from a data subject and in ensuring the Customer's compliance with its obligations under Applicable Data Protection Laws with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators;
 - 9.7.5 notify the Customer without undue delay on becoming aware of a personal data breach involving the Customer Personal Data;
 - 9.7.6 at the written direction of the Customer, delete or return Customer Personal Data and copies thereof to the Customer on termination of this Agreement unless PureCyber is required by Applicable Law to continue to process that Customer Personal Data. For the purposes of this clause 9.7.6 Customer Personal Data shall be considered deleted where it is put beyond further use by PureCyber;
 - 9.7.7 maintain records to demonstrate its compliance with this clause 9; and
 - 9.7.8 not transfer any Customer Personal Data outside the UK without the Customer's prior written consent (not to be unreasonably withheld or delayed).
- 9.8 The Customer provides its prior, general authorisation for PureCyber to:
- 9.8.1 appoint processors to process the Customer Personal Data, provided that PureCyber:
 - 9.8.1.1 shall ensure that the terms on which it appoints such processors comply with Applicable Data Protection Laws, and are consistent with the obligations imposed on PureCyber in this clause 9;
 - 9.8.1.2 shall remain responsible for the acts and omission of any such processor as if they were the acts and omissions of PureCyber; and
 - 9.8.1.3 shall inform the Customer of any intended changes concerning the addition or replacement of the processors, thereby giving the



Customer the opportunity to object to such changes provided that if the Customer objects to the changes and cannot demonstrate, to PureCyber's reasonable satisfaction, that the objection is due to an actual or likely breach of Applicable Data Protection Law, the Customer shall indemnify PureCyber for any losses, damages, costs (including legal fees) and expenses suffered by PureCyber in accommodating the objection.

10 CONFIDENTIALITY

10.1 Each party undertakes that it shall not at any time during this Agreement, and for a period of five years after termination or expiry of this Agreement, disclose to any person any confidential information concerning the business, affairs, customers, clients or suppliers of the other party, except as permitted by clause 10.2.

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

10.2.1 to its employees, officers, representatives, contractors, subcontractors or advisers who need to know such information for the purposes of exercising the party's rights or carrying out its obligations under or in connection with this Agreement. Each party shall ensure that its employees, officers, representatives, contractors, subcontractors or advisers 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 the 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 LIMITATION OF LIABILITY

11.1 Except as expressly and specifically provided in this Agreement:

11.1.1 the Customer assumes sole responsibility for results obtained from the use of the Services and the Documentation by the Customer, and for conclusions drawn from such use. PureCyber shall have no liability for any damage caused by errors or omissions in any information, instructions or scripts provided to PureCyber by the Customer in connection with the Services, or any actions taken by PureCyber at the Customer's direction;



- 11.1.2 the Customer assumes sole responsibility for backing-up the Customer Data and in no event shall PureCyber be responsible for any loss, destruction, alteration of Customer Data;
- 11.1.3 PureCyber shall have no liability for any damage caused as a result of the Customer failing to follow any instructions and/or advice provided by PureCyber as part of the Services;
- 11.1.4 PureCyber shall have no liability for any damage caused as a result of any act or omission of any third party service provider;
- 11.1.5 all warranties, representations, conditions and all other terms of any kind whatsoever implied by statute or common law are, to the fullest extent permitted by applicable law, excluded from this Agreement; and
- 11.1.6 the Services and the Documentation are provided to the Customer on an “as is” basis.
- 11.2 Neither party may benefit from the limitations and exclusions set out in this clause in respect of any liability arising from its deliberate default.
- 11.3 Nothing in this clause 11 shall limit the Customer’s payment obligations under this Agreement.
- 11.4 Nothing in this Agreement limits any liability which cannot legally be limited, including liability for:
 - 11.4.1 death or personal injury caused by negligence;
 - 11.4.2 fraud or fraudulent misrepresentation; and
 - 11.4.3 breach of the terms implied by section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession).
- 11.5 Subject to clauses 11.1 to 11.4, each party’s total liability to the other party shall not exceed the total charges paid by the Customer to PureCyber in the 12-month period immediately preceding the date the claim arose. Where a claim arises in the first 12 months of the Agreement, each party’s liability shall be capped at the total fees paid or payable for the first 12 months;



11.6 Subject to clauses 11.1 to 11.4, this clause 11.6 specifies the types of losses that are excluded:

- 11.6.1 loss of profits;
- 11.6.2 loss of sales or business;
- 11.6.3 loss of agreements or contracts;
- 11.6.4 loss of anticipated savings;
- 11.6.5 loss of use or corruption of software, data or information;
- 11.6.6 loss of or damage to goodwill; and
- 11.6.7 indirect or consequential loss.

12 TERMINATION

12.1 Without affecting any other right or remedy available to it, either party may terminate this Agreement with immediate effect by giving written notice to the other party if:

- 12.1.1 the other party commits a material breach of any term of this Agreement and (if such breach is remediable) fails to remedy that breach within a period of 30 days after being notified in writing to do so;
- 12.1.2 the other party suspends or ceases, or threatens to suspend or cease, carrying on all or a substantial part of its business; or
- 12.1.3 the other party's financial position deteriorates so far as to reasonably justify the opinion that its ability to give effect to the terms of this Agreement is in jeopardy.

12.2 Without affecting any other right or remedy available to it, either party may terminate this Agreement:

- 12.2.1 subject to clause 12.3, during the Initial Term, on giving not less than 60 days' written notice to the other party, such notice to expire on the last day of the Initial Term; or
- 12.2.2 during the Extended Term, on giving not less than 28 days' written notice to the other party, such notice to expire on the last day of a calendar month.



12.3 In the event that the Initial Term is for a term of 12 months or more, the Customer shall be entitled to terminate the Agreement, on giving not less than 60 days' written notice to PureCyber, such notice to expire on the first anniversary of the Commencement Date.

12.4 Without affecting any other right or remedy available to it, PureCyber may suspend the provision of any or all of the Services and/or terminate this Agreement with immediate effect by giving written notice to the Customer if:

12.4.1 the Customer fails to pay any amount due under this Agreement on the due date for payment; or

12.4.2 there is a change of Control of the Customer.

13 OBLIGATIONS ON TERMINATION AND SURVIVAL

13.1 Obligations on termination or expiry

On termination or expiry of this Agreement or an Order:

13.1.1 the Customer shall immediately pay to PureCyber all of PureCyber's outstanding unpaid invoices and interest and, in respect of the Services supplied but for which no invoice has been submitted, PureCyber may submit an invoice, which shall be payable immediately on receipt;

13.1.2 all licences granted under this Agreement shall immediately terminate and the Customer shall immediately cease all use of the relevant Services and/or the Documentation;

13.1.3 except for Customer Personal Data (which shall be governed by clause 9), and following completion of the Customer's obligations set out in this clause 13, PureCyber shall destroy or otherwise dispose of any of the Customer Data in its possession;

13.1.4 the Customer shall promptly (and in any event, within 14 days) return all of PureCyber's Hardware. If the Customer fails to do so, then PureCyber may enter the Customer's premises and take possession of PureCyber's Hardware. Until PureCyber's Hardware has been returned or repossessed, the Customer shall be solely responsible for its safe keeping.

13.2 Survival



13.2.1 Any provision of this Agreement that expressly or by implication is intended to come into or continue in force on or after termination or expiry of this Agreement shall remain in full force and effect.

13.2.2 Termination or expiry of this Agreement shall not affect any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination or expiry, including the right to claim damages in respect of any breach of the agreement which existed at or before the date of termination or expiry.

14 FORCE MAJEURE

14.1 **Force Majeure Event** means any circumstance not within a party's reasonable control including, without limitation:

14.1.1 acts of God, flood, drought, earthquake or other natural disaster;

14.1.2 epidemic or pandemic;

14.1.3 terrorist attack, civil war, civil commotion or riots, war, threat of or preparation for war, armed conflict, imposition of sanctions, embargo, or breaking off of diplomatic relations;

14.1.4 nuclear, chemical or biological contamination or sonic boom;

14.1.5 any law or any action taken by a government or public authority, including without limitation imposing an export or import restriction, quota or prohibition;

14.1.6 collapse of buildings, fire, explosion or accident;

14.1.7 any labour or trade dispute, strikes, industrial action or lockouts (other than in each case by the party seeking to rely on this clause, or companies in the same group as that party); and/or

14.1.8 interruption or failure of utility service.

14.2 Provided it has complied with clause 14.3, if a party is prevented, hindered or delayed in or from performing any of its obligations under this Agreement by a Force Majeure Event (**Affected Party**), the Affected Party shall not be in breach of this Agreement or otherwise liable for any such failure or delay in the performance of such obligations. The time for performance of such obligations shall be extended accordingly.



14.3 The Affected Party shall:

- 14.3.1 as soon as reasonably practicable after the start of the Force Majeure Event, notify the other party in writing of the Force Majeure Event, the date on which it started, its likely or potential duration, and the effect of the Force Majeure Event on its ability to perform any of its obligations under the Agreement; and
- 14.3.2 use all reasonable endeavours to mitigate the effect of the Force Majeure Event on the performance of its obligations.

15 ASSIGNMENT AND OTHER DEALINGS

- 15.1 Neither party shall assign, transfer, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any of its rights and obligations under this Agreement without the prior written consent of the other party, such consent not to be unreasonably withheld or delayed.

16 VARIATION

No variation of this Agreement shall be effective unless it is in writing and signed by the parties (or their authorised representatives).

17 WAIVER

- 17.1 A waiver of any right or remedy under this Agreement or by law is only effective if given in writing and shall not be deemed a waiver of any subsequent right or remedy.
- 17.2 A failure or delay by a party to exercise any right or remedy provided under this Agreement or by law shall not constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict any further exercise of that or any other right or remedy. No single or partial exercise of any right or remedy provided under this Agreement or by law shall prevent or restrict the further exercise of that or any other right or remedy.

18 RIGHTS AND REMEDIES

The rights and remedies provided under this Agreement are in addition to, and not exclusive of, any rights or remedies provided by law.



19 SEVERANCE

- 19.1 If any provision or part-provision of this Agreement is or becomes invalid, illegal or unenforceable, it shall be deemed deleted, but that shall not affect the validity and enforceability of the rest of this Agreement.
- 19.2 If any provision or part-provision of this Agreement is deemed deleted under clause 19.1 the parties shall negotiate in good faith to agree a replacement provision that, to the greatest extent possible, achieves the intended commercial result of the original provision.

20 ENTIRE AGREEMENT

- 20.1 This Agreement constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.
- 20.2 Each party agrees that it shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in this Agreement. Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in this Agreement.

21 CONFLICT

If there is an inconsistency between any of the provisions of this Agreement and the provisions of the Schedules, the provisions of this Agreement shall prevail. If there is any inconsistency between any of the provisions in an Order and this Agreement, the provisions of the Order shall prevail.

22 NO PARTNERSHIP OR AGENCY

- 22.1 Nothing in this Agreement is intended to, or shall be deemed to, establish any partnership or joint venture between any of the parties, constitute any party the agent of another party, or authorise any party to make or enter into any commitments for or on behalf of any other party.
- 22.2 Each party confirms it is acting on its own behalf and not for the benefit of any other person.



23 THIRD PARTY RIGHTS

- 23.1 Except for the PureCyber Indemnified Parties, PureCyber and the Customer, this Agreement does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Agreement.

24 NOTICES

- 24.1 Any notice or other communication given to a party under or in connection with this Agreement shall be in writing and shall be:

24.1.1 delivered by hand or by pre-paid first-class post or other next Business Day delivery service at its registered office (if a company) or its principal place of business (in any other case); or

24.1.2 sent by email to the email address, as set out in the Order.

- 24.2 Any notice or communication shall be deemed to have been received:

24.2.1 if delivered by hand, at the time the notice is left at the proper address;

24.2.2 if sent by pre-paid first-class post or other next Business Day delivery services, at 9.00 am on the second Business Day after posting; or

24.2.3 if sent if sent by email, at the time of transmission, or, if this time falls outside business hours in the place of receipt, when business hours resume. In this clause 24.2.3, **business hours** means 9.00am to 5.00pm Monday to Friday on a day that is not a public holiday in the place of receipt.

- 24.3 This clause does not apply to the service of any proceedings or any documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

25 COUNTERPARTS

- 25.1 This Agreement may be executed in any number of counterparts, each of which shall constitute a duplicate original, but all the counterparts shall together constitute the one agreement.



26 GOVERNING LAW

This Agreement and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation shall be governed by and construed in accordance with the law of England and Wales.

27 JURISDICTION

Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with this Agreement or its subject matter or formation.

Schedule 1

Summary of Customer Personal Data Processing

Subject matter, nature and purpose of the processing:	PureCyber shall process the Customer Personal Data for the purposes of providing the Services to the Customer.
Duration:	for the Term of the Agreement.
Types of Customer Personal Data processed:	IP addresses; host names; file names; email addresses; and any other types of personal data that may be contained in the data controller's network.
Categories of Data Subject:	employees including volunteers, agents, temporary workers, independent contractors; Customer clients, prospects; suppliers, vendors; advisors, consultants and other professional experts; Customer officers, directors; and any other categories of data subjects that may be contained in the Customer's network.