



**IB BOOST LTD**

P | +44 (0)118 230 1337  
E | [tenders@ibboost.com](mailto:tenders@ibboost.com)  
W | [www.ibboost.com](http://www.ibboost.com)

# TERMS AND CONDITIONS

Cloud Software and Support

THIS AGREEMENT is between **IB BOOST LTD** a limited liability company organised under the laws of England and Wales, Company number 07027475, whose registered office is located at 86-90 Paul Street, London, EC2A 4NE, UK (the “**Supplier**”), and the individual, partnership, organisation or company purchasing Goods and/or Services from the Supplier (the “**Buyer**”).

Now, therefore, the parties hereto agree as follows:

## 1. DEFINITIONS

The following definitions shall have the corresponding meanings ascribed below. Additional definitions appear throughout the substantive provisions of this Agreement, and its schedules and attachments. Definitions within these Terms and Conditions shall be used in this Agreement where any conflict exists with the Framework Agreement or Schedule unless explicitly stated to the contrary, and where terms are not defined in this clause they take their meaning from the Framework Agreement or Schedule, as is appropriate:

- 1.1. “**Agreement**” means these Terms and Conditions and any Annexes. This Agreement forms part of the Supplier Terms as defined in the Framework Agreement, under which Services and Deliverables will be provided under Schedules;
- 1.2. “**Business Day**” means any day other than a Saturday, Sunday, bank or other public holiday in England;
- 1.3. “**Charges**” means the fees payable by Buyer to Supplier in respect of the Services;
- 1.4. “**Buyer Material**” means all information, data, software and other materials provided by Buyer to Supplier for use in the performance of the Services, the use of which is licensed under the terms specified in Annex A to this Agreement;
- 1.5. “**Confidential Information**” means, with respect to either party (i) any information disclosed by such party to the other party in connection with this Agreement, whether disclosed prior to, on, or after the Effective Date, which is either marked as confidential (or words of similar import) or is of a nature or disclosed in such a manner as would put a reasonable person on notice as to the confidential or proprietary nature of the information, and, (ii) this Agreement and its terms. A disclosing party’s Confidential Information also includes, without limitation: (a) information received by the disclosing party from third parties that the disclosing party is obligated to treat as confidential; and, (b) information disclosed to the receiving party by the disclosing party’s affiliates, agents, and contractors, provided that such information as described in sub-clauses (a) and (b) of this sentence would otherwise fall within the definition of Confidential Information;
- 1.6. “**Deliverables**” means the deliverables provided by the Supplier to the Buyer pursuant to the provision of the Services, as may be described in a Schedule;
- 1.7. “**Effective Date**” means the date of signing of this Agreement or the date of signing the Schedule;
- 1.8. “**Framework Agreement**” means the respective G-Cloud Framework Agreement under which Services will be provided under a respective Schedule, and to which this Agreement will apply;
- 1.9. “**Intellectual Property Rights**” means all intellectual property, including patents, utility models, trade and service marks, trade names, domain names, right in designs, copyrights, moral rights, topography rights, rights in databases, trade secrets, in all cases whether or not registered or registrable and including registrations and applications for registration of any of these and rights to apply for the same, and all rights and forms of protection of a similar nature or having equivalent or similar effect to any of these anywhere in the world;
- 1.10. “**New Material**” means all Intellectual Property Rights created by Supplier for Buyer in connection with the Services, but excluding all Supplier Material, Buyer Material and any Open Source Software;

- 1.11. **"Open Source Software"** means any software, libraries or code licensed under any form of open-source licence meeting the Open Source Initiative's Open Source Definition (<https://www.opensource.org/docs/definition.php>), or another licence with equivalent right to use the library without charge and with the ability to make changes, if required, in the way it is used, as used in connection with the Services as specified in any Schedule and Supplier shall notify Buyer of any new or additional Open Source Software required under the applicable Schedule;
- 1.12. **"Party"** means the Buyer or the Supplier, and **"Parties"** means both the Buyer and the Supplier together or as the context requires;
- 1.13. **"Personnel"** means employees of the Party, or any subcontractor(s), affiliates, joint venture partners, or team members, and consultants engaged by any of these entities assisting execution of a Schedule;
- 1.14. **"Project"** means the work undertaken to carry out Services and provide the Deliverables as specified within the applicable Schedule;
- 1.15. **"Services"** means the services to be provided by the Supplier as specified in the applicable Schedule;
- 1.16. **"Schedule"** means a Call-Off Agreement and any variations or change notes that are mutually acceptable written statement of work for a Project under the terms of the Framework Agreement that Buyer and Supplier enter into from time to time hereunder, each of which shall, when executed by both Parties, form a part of this Agreement and become subject to the terms and conditions of this Agreement;
- 1.17. **"Software"** means the software comprising Supplier Material and any Open Source Software that may be utilised in providing the Services for the Buyer, that may store data or information owned by the Buyer, and may be run in a cloud computing environment, controlled by either the Supplier, Buyer or a mutually agreed third party and licensed under the terms defined in Annex A to this Agreement;
- 1.18. **"Supplier Material"** means all Intellectual Property Rights owned by Supplier which existed before the Effective Date (including any Intellectual Property Rights arising in any modifications, enhancements, improvements and updates thereto which are created by the Supplier in connection with the provision of the Services under this Agreement) and all Intellectual Property Rights owned by Supplier which have come into existence, otherwise than in connection with this Agreement, after the Effective Date (including any developments, modifications, updates and enhancements thereto), in each case which may be used in the provision of the Services and/or included in the Deliverables;
- 1.19. **"Supplier Material"** means all Intellectual Property Rights owned by Supplier which existed before the Effective Date (including any Intellectual Property Rights arising in any modifications, enhancements, improvements and updates thereto which are created by the Supplier in connection with the provision of the Services under this Agreement) and all Intellectual Property Rights owned by Supplier which have come into existence, otherwise than in connection with this Agreement, after the Effective Date (including any developments, modifications, updates and enhancements thereto), in each case which may be used in the provision of the Services and/or included in the Deliverables;
- 1.20. **"Trial"** means a version of the Software or the licences to the Software (as appropriate) intended for time-limited, business-purpose-limited use to evaluate the Software, where both parties agree there is no obligation for either party to agree to a further subscription term on any terms;
- 1.21. **"Trial Services"** means the services to be provided by the Supplier on a trial basis for the evaluation of purchasing Services for the applicable Schedule, with or without cost or term obligation.
- 1.22. In this Agreement:
- 1.22.1. unless the context otherwise requires, the singular includes the plural and vice versa, and the masculine gender shall include the feminine and vice versa;
- 1.22.2. headings are inserted for convenience only and shall not affect the interpretation of any provision of Services under this Agreement;

1.22.3.unless the context otherwise requires, all references to a particular clause shall be a reference to that clause in this Agreement; and

1.22.4.unless the contrary intention appears, words denoting persons shall include any individual, partnership, company, corporation, joint venture, trust, association, organisation or other entity, in each case whether or not having separate legal personality.

## **2. SCOPE OF SERVICES**

2.1. Buyer hereby agrees to retain Supplier to perform the Services set forth in the applicable Schedule, and Supplier agrees to perform such Services for Buyer, subject to the terms and conditions set forth in this Agreement. In the event of conflict between this Agreement and an Schedule, the provisions of such Schedule for a particular Project shall prevail.

2.2. The Services shall be performed with reasonable skill and care in a manner consistent with generally accepted industry standards for identical or similar services.

2.3. Project Management:

2.3.1. For the duration of any Schedule, each party may appoint a project manager to oversee the performance of that party's obligations under any Schedule ("Project Manager"). Each of the Parties may rely on the authority of the other's Project Manager to act as a fully authorised representative of the other Party in all respects of the Schedule.

2.3.2. Project Managers may be changed by either Party on five (5) business day's written notice to the other.

2.3.3. The Project Managers under each Schedule shall be as named therein.

2.3.4. Supplier will operate in accordance with the project management methodologies and approaches agreed between the parties in each Schedule and, to the extent that specific methodologies and approaches have not been agreed between the Parties, "reasonable practice" standards of project management common in the industry.

2.3.5. Supplier's Project Manager will report in writing to Buyer's Project Manager as requested from time to time (acting reasonably), including delivery to the Buyer Project Manager of an update on Supplier's progress in relation to a Project under any Schedule including any milestones.

### **2.4. Buyer obligations**

2.4.1. Buyer shall perform its obligations as set out herein and in each Schedule, including, without limitation to: (a) provide Supplier promptly with all necessary input, resources, co-operation, information, data and access to staff and timely decision making which may be reasonably required by the Supplier for the performance of the Services; (b) ensure that all information contained in the Buyer Material shall be true, accurate and correct and Buyer shall be responsible for verifying all Buyer Material prior to its provision to the Supplier and Supplier shall bear no responsibility or liability for checking the Buyer Material prior to or during its use by the Supplier; (c) if required under a Schedule, provide Supplier with access to Buyer's premises, equipment, system and facilities as reasonably required by Supplier to perform its obligations under this Agreement.

2.4.2. Supplier shall not be liable for any loss, damage or delay or failure to provide the Services caused by or arising from Buyer's failure to comply with its obligations under this Agreement or as set out in any Schedule.

### **2.5. Third Party Components**

- 2.5.1. Supplier shall not include or make use of any third-party products or materials in connection with the Services ("Third-Party Components"), unless specified in the applicable Schedule. For the avoidance of doubt, reference to Third Party Components shall not include Open-Source Software.
- 2.5.2. Except as the Parties otherwise agree in the applicable Schedule, Buyer will be responsible for obtaining the appropriate licence(s) for such Third-Party Components and for paying applicable licence fees to the applicable third-party vendor. Supplier shall be responsible for providing reasonable assistance to Buyer for securing all such licences required from third parties for Buyer's use of any such Third-Party Components.
- 2.5.3. Any Open-Source Software included in the Deliverables may be used by the Buyer according to the terms and conditions of the specific licence under which the relevant Open Source Software is distributed, but is provided "as is" and expressly subject to the disclaimer at clause 6.1.

## **2.6. Change Note**

- 2.6.1. Buyer may request, and Supplier may recommend, changes to the Services by issuing a Change Note ("Change Note") to the other. Supplier shall not implement any change unless the authorised representatives of both Parties have agreed the proposed changes and associated costs in writing by signing a Change Note. For the avoidance of doubt, Supplier will continue to supply the Services as previously agreed unless and until a Change Note has been signed.
- 2.6.2. The parties will cooperate with each other in good faith in discussing the scope of the Change Note and as soon as practicable thereafter and to the extent applicable, the Parties will mutually prepare the Change Note (i) describing any changes to the Services, including any costs associated with the change, the revised charges, if any, of the change and a timetable for implementation. No changes to the Services shall be effective unless the parties execute a Change Note for such modifications to the Services.

## **3. CHARGES**

- 3.1. The Charges due by Buyer to the Supplier in respect of Services shall be as set out in the applicable Schedule. Buyer shall pay all Charges in accordance with the relevant Schedule or otherwise within thirty (30) days of receipt of the invoice from Supplier ("Due Date").
- 3.2. Charges shall be paid, unless otherwise stated in the Schedule, via wire transfer to Supplier's account..
- 3.3. Buyer shall pay all undisputed amounts on the Due Date. Supplier reserves the right to suspend performance of the Services until any disputed invoice has been resolved and in such case, Supplier shall have no liability to Buyer for the consequences direct or otherwise of suspending the Services.
- 3.4. Buyer will bear all currency conversion and related bank charges. The Supplier reserves the right to charge the Buyer interest on any payment not made by the Due Date. Interest will be calculated on a daily basis, both before and after any judgement, at the rate of 5 per cent per annum above the base rate from time to time of the Bank of England, for the period from the Due Date until the date on which it is actually paid. It shall be compounded quarterly and payable on demand.
- 3.5. All Charges for Services are exclusive of VAT and all other taxes or duties. Where applicable, such taxes or duties shall be charged in addition to the Charges at the rates in force at the time of application.

## **4. INTELLECTUAL PROPERTY**

- 4.1. Except for the rights expressly granted in this Agreement, nothing in this Agreement or any Schedule will serve to transfer from Supplier to Buyer any of the Supplier Material, nor any changes or modifications

made to this Supplier Material at any time, and all right, title and interest in and to the Supplier Material will remain exclusively with Supplier and/or Supplier's licensors.

- 4.2. Except for the rights expressly granted in this Agreement or any Schedule, nothing in this Agreement will serve to transfer from the Buyer to Supplier any of the Buyer Material, and all right, title and interest in and to the Buyer Material will remain exclusively with Buyer and/or its licensors.
- 4.3. Subject to payment of the Charges in respect of the applicable Project, Supplier grants to the Buyer a non-exclusive, perpetual, non-transferable and non sub-licensable licence to use such Supplier Materials included in the Deliverables provided under the applicable Project, for the Buyer's own internal business purposes and solely to the extent necessary to receive the benefit of the Services and/or Deliverables. For the avoidance of doubt, Buyer shall not (i) modify, amend, enhance, sell, sub-licence, provide services to third parties or otherwise transfer the right to use the Supplier Materials or (ii) when dealing with software, decompile, disassemble, reverse engineer or attempt in any manner to derive any source code version of the Supplier Materials.
- 4.4. On receipt of all the Charges in respect of the applicable Project, Supplier shall assign to the Buyer the New Material, free from all encumbrances and with full title guarantee.
- 4.5. For the delivery of any Trial Services, the Supplier shall not assign to Buyer any New Material. All rights in New Material created in respect of Trial Services shall vest entirely in the Supplier.
- 4.6. Notwithstanding the provisions of clause 4.3 above, Supplier shall retain the right to use its general knowledge and experience, as well as any generic development methods, know-how, procedures, processes, tools and techniques owned or developed by Supplier in the course of performing the Services and/or Deliverables under this Agreement, but only to the extent that such items do not constitute, contain, or embody any Buyer Confidential Information.
- 4.7. All usage of Supplier Intellectual Property Rights is under the terms of the software licence agreement specified in Annex A to this Agreement.
- 4.8. Where New Material is related to software utilising Supplier Material it may have a dependency at run-time or compile-time on Supplier Material to provide the necessary functionality that requires a valid licence and right to use Supplier Material that may include a cost for purchase of a licence from the Supplier, unless explicitly agreed in writing in a Schedule providing a licence to use Supplier Software that New Material having such a dependency is not permissible in the Deliverables. Parties acknowledge that should a licence for continued use of Supplier Material or Services not be procured that New Material may not provide any functionality and Supplier shall have no obligation to make available Supplier Material or other Intellectual Property Rights in order for the Buyer to continue using the New Material.

## **5. CONFIDENTIAL INFORMATION**

### **5.1. Confidentiality**

- 5.1.1. Both during and after the term of this Agreement, the receiving party of any Confidential Information shall not use the disclosing party's Confidential Information other than to perform its obligations and exercise its rights under this Agreement. Nothing shall prevent Supplier from using the knowledge and know-how gained in providing the Services in any combination or permutation for any other purpose.
- 5.1.2. The receiving party shall hold the disclosing party's Confidential Information in strict confidence and take all precautions necessary to safeguard the confidentiality of the disclosing party's Confidential Information, including those taken by the receiving party to protect its own Confidential Information but in no event shall such efforts and precautions be less than a reasonable standard of care.
- 5.1.3. The receiving party will have no confidentiality obligation with respect to any portion of the disclosing party's Confidential Information that (i) the receiving party independently developed before receiving the Confidential Information from the disclosing party, as established by the written records of the

receiving party, (ii) the receiving party lawfully obtained from a third party under no obligation of confidentiality, (iii) is or becomes available to the public other than as a result of an act or omission of the receiving party or any of its personnel.

5.1.4. Receiving party may make disclosures of Confidential Information to the minimum extent legally required, in accordance with a judicial or other governmental order, provided receiving party shall (A) give disclosing party reasonable written notice prior to disclosure pursuant to such order (unless prohibited by such order), (B) use diligent efforts to limit disclosure and to obtain confidential treatment or a protective order and allow the disclosing party to participate in the proceeding, and (C) comply with any applicable protective order or equivalent.

**5.2. Disclosure and Use Restriction:** Unless expressly permitted under this Agreement, or otherwise in writing, the receiving party will not disclose or use, in whole or in part, the disclosing party's Confidential Information, including disclosure to or use by any person, except the receiving party's personnel and sub-contractors who require access to perform the receiving party's obligations under this Agreement and that are subject to obligations of confidentiality, non-disclosure, and restriction on use, during and after the term of their employment no less restrictive than those contained herein and that would apply, by their own terms, to the disclosing party's Confidential Information that is so disclosed to any such personnel. Receiving party shall be liable for all acts and omissions of such personnel.

### **5.3. Unauthorised Use or Disclosure**

5.3.1. The parties acknowledge that any unauthorised use or disclosure of the disclosing party's Confidential Information may cause irreparable damage to the disclosing party and that the disclosing party shall be entitled to equitable relief, including injunctive relief and specific performance, in the event of any breach of the provisions of this clause 5 (Confidential Information). Such remedies shall not be deemed to be the exclusive remedies for a breach of this clause 5 (Confidential Information), but shall be in addition to all other remedies available at law or in equity.

5.3.2. If an unauthorised use or disclosure occurs, the receiving party will promptly notify the disclosing party and take, at its expense, all steps necessary to recover the disclosing party's Confidential Information and to prevent its subsequent unauthorised use or dissemination, including availing itself of actions for seizure and injunctive relief. If the receiving party fails to take these steps in a timely and adequate manner, the disclosing party may take them at the receiving party's expense, and the receiving party will provide the disclosing party with its reasonable cooperation in such actions that the disclosing party may request.

## **6. WARRANTIES**

**6.1. Disclaimer:** All warranties, representations, guarantees, conditions and terms other than those expressly set out in this Agreement or any Schedule and whether express or implied by statute, common law, trade usage or otherwise and whether written or oral, are hereby expressly excluded to the fullest extent permissible by law.

**6.2. Mutual Warranties:** Each Party hereby warrants to the other party as follows: (i) it has the full right, power and authority to execute, deliver and perform this Agreement in accordance with its terms; (ii) this Agreement has been duly executed and delivered by or on behalf of such party and constitutes a legal, valid and binding obligation of such party, enforceable against such party in accordance with its terms; and (iii) no consent, approval, authorization or order of any person or entity (including any court or governmental entity) is required for the execution delivery or performance of this Agreement by such party, and neither the execution, delivery nor performance of this Agreement by such party will (A) conflict with, or result in a breach of, or constitute a default under, or result in a violation of, any organisational document of such party or any agreement or instrument to which such party is subject or by which it is bound, or (B) result in the violation of any applicable law, rule, order, or regulation to which such party is subject.

**6.3. Buyer Warranties:** The Buyer warrants and represents that it holds all permits, licences and consents necessary for the Supplier to provide the Services under this Agreement.

## **7. INDEMNIFICATION**

- 7.1. By Buyer:** Subject to the procedures set forth and to clause 7.3, Buyer shall, at its expense, defend, indemnify, and hold harmless Supplier and its officers and directors, personnel, agents, affiliates, successors and assigns from and against any losses, damages, claims, costs and expenses (including reasonable legal expenses) suffered or incurred by the Supplier arising out of or in connection with any third party claim alleging that any Buyer Material infringes any Intellectual Property Right of any third party. Notwithstanding the above, Buyer shall have no liability under this clause to the extent that any alleged infringement or claim thereof is based upon: (a) use by the Supplier of the Buyer Material in an application or environment for which it was not designed or not contemplated under this Agreement.
- 7.2. By Supplier:** Subject to the limitation of liability at clause 8.3 and the procedures set forth at clause 7.3, Supplier shall defend any claim, demand, action or proceeding against Buyer asserting that the New Material infringe any Intellectual Property Rights of any third party and shall pay any final judgements awarded or settlements entered into with such third party. Notwithstanding the above, Supplier shall have no liability under this clause 7.2 to the extent that any claim thereof is based upon: (a) compliance with Buyer Material or any instructions provided by Buyer, (b) use of New Material for a purpose for which it was not designed or not contemplated under this Agreement, or (c) modifications of such New Material by anyone other than Supplier where the unmodified version of such New Material would not be infringing. In the event that any New Material becomes the subject of a claim of infringement of any Intellectual Property Right of any third party, Supplier shall, at its expense and option either (i) procure for Buyer the right to continue using the New Material or the allegedly infringing part thereof or (ii) replace or modify such New Material to make it non-infringing, provided that the replacement or modified New Material has the same or additional functionality and comparable or better performance characteristics than the allegedly infringing New Material. If neither of the foregoing solutions is commercially practicable, Supplier may terminate this Agreement. This shall be the only liability incurred by Supplier in such a circumstance.
- 7.3.** If a claim is brought against a party that is expressly stated as being the beneficiary under clause 7.1 and or 7.2, ("**Indemnified Party**"), Indemnified Party shall provide the other party ("**Indemnifying Party**") with prompt written notice of the claim and (i) allow the Indemnifying Party the exclusive right to defend at the Indemnifying Party's own expense any such claim and to make settlements thereof at its own discretion and (ii) provide the Indemnifying Party with such assistance and information as the Indemnifying Party may reasonably require in connection with the investigation, defence or settlement of such claims.

## **8. LIMITATION OF LIABILITY**

- 8.1.** Neither party excludes or limits its liability to the other party for death or personal injury caused by its negligence or for fraudulent misrepresentation.
- 8.2.** Subject to clause 8.1, the Supplier's maximum aggregate liability (whether arising in contract, tort, including negligence, or otherwise) under or in connection with any Project will not exceed the Charges received by the Supplier from the Buyer under the applicable Project.
- 8.3.** Neither party shall be liable to the other party for any:
- 8.3.1. loss of profit;
  - 8.3.2. loss of data;
  - 8.3.3. loss of production;



8.3.4. loss of anticipated savings;

8.3.5. loss of goodwill;

8.3.6. loss of business or business opportunities; or

8.3.7. indirect, economic or consequential loss,

even if that loss or damage was reasonably foreseeable or that party was aware of the possibility of that loss or damage arising.

**8.4.** Supplier shall not be liable to the Buyer for any failure of the Services and/or Deliverables due to any integration or interoperability issues arising with any third party or Client systems or legacy systems, unless expressly set out to the contrary in an Schedule.

**8.5.** This clause 8 shall not operate to limit Buyer's ability to pay any Charges under the Agreement.

## **9. TERM AND TERMINATION**

**9.1. Term Renewal:** This Agreement will become effective, as of the Effective Date and will remain in effect until completion of all outstanding Schedules and the parties agree in writing that no further Services will be required under any such outstanding Schedule, unless earlier terminated under clause 9.2 (Termination for Cause).

### **9.2. Termination for Cause:**

9.2.1. Either party will have the right to terminate this Agreement or any Schedule, without judicial or administrative notice or resolution, immediately upon written notice to the other Party, if:

9.2.1.1. The other Party or any of its personnel breaches any material obligation under this Agreement or any Schedule and such Party fails to cure the breach to the notifying Party's satisfaction within thirty (30) days after receipt of such notice; or

9.2.1.2. The other Party ceases to conduct business in the normal course, is declared insolvent, undergoes any procedure for the suspension of payment, makes a general assignment for the benefit of creditors or a petition for bankruptcy, reorganisation, dissolution or liquidation is filed by or against it.

**9.3. Consequences of Termination:** Upon the expiration or termination of this Agreement for any reason, all rights granted to the Parties hereunder will, unless set out to the contrary in any Schedule, immediately cease, and both Parties will promptly comply with the termination obligations specified below:

9.3.1. Buyer shall pay Supplier all Charges as specified in the relevant Schedule up to and including the date of termination;

9.3.2. Supplier shall promptly deliver or destroy all copies of Buyer Material in its possession or control to Buyer.

9.3.3. Termination of this Agreement shall not be construed to waive or release any claim that a Party is entitled to assert at the time of such termination and the applicable provisions of this Agreement shall continue to apply to such claim until it is resolved.

**9.4. Term of Services:** Licences and maintenance and support costs are established on twelve-month terms for Annual plan licences to be eligible for the discounted rates and may not be terminated within the first twelve months. Thereafter the Buyer will be entitled to terminate the contract as per clause 18 of the Framework Agreement. The contract will automatically terminate after the initial contract period (24 months)

unless renewed, in writing, within 30 days before the start of any renewal period. Licences, once purchased for a period, will not be refunded. Additionally:

- 9.4.1. For services regarding cloud migration, organisation on-boarding, configuration, customisation, business process implementation or installation of the software, the notice period needed for Ending the Call-Off Contract or any order for such work relating to this Call-Off Contract is at least 30 Working Days from the date of written notice;
- 9.4.2. Due to the sensitivity of the information being hosted in the cloud, both Parties agree to operate in good faith on a continued basis and as such the Call-Off Contract encompassing the Licences, Support and Maintenance cannot be terminated without establishing an off-boarding plan, for which the Supplier would be entitled to reasonable costs for the effort involved, at the respective prevailing SFIA Rates for the service made available under the Framework Agreement. Where the Supplier can reasonably expect that data or functionality stored in the Software is solely in the Suppliers control and termination of the Agreement would irrevocably destroy or lose such data or capabilities and the Buyer has not completed the necessary steps to transfer the data or functionality by the date of termination and has not made explicit written confirmation that the destruction of data or Software is desired and intended, the Supplier shall keep providing the reasonably necessary Services and incur the reasonably necessary costs to maintain this data or functionality and the Buyer shall be responsible for payment for all such costs at the prevailing SFIA Rates;
- 9.4.3. In case of termination without cause or upon natural expiry for the end of the Term, Buyer remains responsible for all infrastructure costs under the respective cloud infrastructure account where such costs are incurred for migration or otherwise disposal of information and orderly wind-down of the cloud infrastructure hosting and the Supplier will be responsible for minimising these costs, where possible; and
- 9.4.4. The Parties acknowledge and accept that where the Supplier is the responsible legal entity for charges on a cloud account and cloud infrastructure has been provisioned on a long-term basis for the term defined in a Schedule, that the Supplier may have entered into long-term agreements to provide the cost in the Schedule and may therefore be unable to reduce infrastructure charges for termination without cause and Buyer would be responsible for payment to the Supplier for all such costs, subject to the Supplier's obligation to attempt to minimise these costs after Termination.

## **10. LOGO, PUBLICITY & MARKS**

- 10.1. Each Party hereby grants to the other Party a non-exclusive, non-transferable right to use such Party's name and logo solely to identify such Party as a business partner of the other Party.
- 10.2. Each Party will adhere to the other Party's logo, brand, and trademark usage, provided that the other Party provides sufficient information relating to such guidelines.
- 10.3. Buyer shall provide a mutually agreeable positive quote from a director or above for Supplier to use in its marketing materials.
- 10.4. No publicity or advertising shall be released by either Party in connection with the Agreement without the prior written approval of the other which shall not be reasonably withheld.
- 10.5. Notwithstanding clause 10.4, Buyer hereby authorises Supplier to make public reference to Buyer's selection of the Supplier for an applicable Schedule, including the nature of the Services offered.
- 10.6. Subject to Buyer's prior written approval, Supplier may publicly refer to the Services implemented or to be implemented and may write and publish an appropriate summary discussing the benefits to Buyer and the reasons for Supplier being selected to provide such Services as outlined in the relevant Schedule.
- 10.7. This clause 10 shall apply for Trial Services.

## 11. MISCELLANEOUS

- 11.1. Independent Parties/Third Party beneficiaries:** Buyer and Supplier are independent parties. Nothing in this Agreement will be construed to make either Party an agent, employee, franchisee, joint venturer or legal representative of the other Party. Except as otherwise provided in this Agreement, neither party will either have, or represent itself to have, any authority to bind the other Party or act on its behalf. Supplier and Buyer expressly acknowledge and agree that the Contracts (Rights of Third Parties) Act 1999 shall apply to this Agreement but only on the basis set out in this clause. No person (including, for the avoidance of doubt, any affiliate or subsidiary or any other third Party to whom any or all rights and/or obligations under this Agreement are assigned or transferred, except in accordance with the terms hereof or otherwise by written agreement of the Parties) who is not a Party to this Agreement shall acquire any rights under it or be entitled to benefit from any of its terms even if that person has relied on any such term or has indicated to any party to this Agreement its assent to any such term.
- 11.2. Force Majeure:** Neither Party will be liable for any failure or delay in performing an obligation under this Agreement that is due to causes beyond its reasonable control, such as natural catastrophes, governmental acts or omissions, laws or regulations (other than currency controls), labour strikes or difficulties, transportation stoppages or slowdowns or the inability to procure parts or material.
- 11.3. Freedom to Act:** Without in any way detracting from the duty of confidentiality as outlined in clause 5, Supplier reserves the right to act for Buyer's competitors or other clients, whose interests are or may be opposed to Buyer's.
- 11.4. Non-solicitation:** For the duration of this Agreement and for the period of twelve (12) months thereafter, neither Party shall, without the prior written consent of the other Party, actively solicit or entice away (or seek or attempt to solicit away) from the employment of the other Party any person who has been directly or indirectly involved in the Project or Services.
- 11.5. Notice:** Any notice under or in connection with this Agreement shall be in writing and shall be sent by overnight courier or certified mail (return receipt requested) to the addresses set forth in this Agreement, or to such other address which the recipient may have previously notified the other party in writing. Notice shall be deemed received upon personal delivery when sent by overnight mail, courier and certified mail or upon receipt of confirmation copy when a facsimile is sent.
- 11.6. Assignment:** Neither Party may assign or otherwise transfer this Agreement without the other's prior approval, which will not be unreasonably withheld, provided, however, that it shall not be unreasonable for either Party to withhold such consent in the event that such proposed transferee is a competitor of Supplier.
- 11.7. Entire Agreement:** This Agreement constitutes the complete and entire statement of all terms, conditions and representations of the Agreement between Buyer and Supplier with respect to its subject matter. All warranties, terms and conditions, whether express or implied, statutory or otherwise, and all representations (except for fraudulent misrepresentations), statements, negotiations, writings or understandings, whether oral or in writing, are expressly excluded and superseded except as stated in this Agreement.
- 11.8. Survival:** Sections that by their nature, or to give effect to their meaning, must survive expiration or termination of this Agreement, including clauses 3 (to the extent of any unpaid obligations) 4, 5, 7, 8, 9 and 10 shall survive any expiration or termination of this Agreement.
- 11.9. Governing Law/Dispute Resolution:** This Agreement will be governed by and interpreted, exclusively, in accordance with the laws of England and Wales. Any controversy or claim arising out of or relating to this Agreement or the existence, validity, breach or termination thereof, shall be brought in the English courts located in London, United Kingdom.

# Annex A – OCTANE Software Licence Agreement – Version 1.5.3.2401

IMPORTANT NOTICE: PLEASE READ CAREFULLY BEFORE USING THE SOFTWARE

This licence agreement ("Licence") is a legal agreement between IB BOOST LIMITED, a company registered in England and Wales (number 07027475) whose registered office is at 86 – 90 Paul Street, London, EC2A 4NE, UK ("Licensor", "us", "our" or "we") and the licensee ("Licensee" or "you") identified in the Order (as defined below) pertaining to the Software (as defined below). This Licence is effective as of the date specified in the corresponding Order ("Effective Date").

BY USING THE SOFTWARE, YOU MUST BE IN POSSESSION OF A VALID LICENCE AND YOU AGREE TO BE BOUND BY THE TERMS OF THIS LICENCE. IF YOU HAVE RECEIVED A COPY OF THE SOFTWARE OTHER THAN FROM US OR OUR APPROVED SUB-LICENSORS, YOU DO NOT HAVE THE PERMISSION TO USE THE SOFTWARE. IF YOU DO NOT AGREE TO AND FOLLOW THE TERMS OF THIS LICENCE, WE ARE UNWILLING TO LICENCE THE SOFTWARE TO YOU AND YOU MUST IMMEDIATELY CEASE USE OF THE SOFTWARE. THIS LICENCE IS GRANTED SUBJECT TO FULL PAYMENT TO THE LICENSOR OF ANY FEES AND CHARGES DUE.

NOW IT IS HEREBY AGREED AS FOLLOWS:

## 1. DEFINITIONS

**"Documentation"** means the documentation, which is supplied to the Licensee with the Software or made available through digital media including, but not limited to, the Licensor's website <https://ibboost.com>;

**"Intellectual Property Rights"** means all intellectual property rights, including patents, utility models, trade and service marks, trade names, domain names, right in designs, copyrights, moral rights, topography rights, rights in databases, trade secrets and know-how, in all cases whether or not registered or registrable and including registrations and applications for registration of any of these and rights to apply for the same, and all rights and forms of protection of a similar nature or having equivalent or similar effect to any of these anywhere in the world;

**"Offer Letter"** means a letter from the Licensor to the Licensee making an offer for Software and/or Support Days under the terms of this Licence documenting the quantity, relevant dates, cost, and containing a unique identifier and where written acceptance of the Offer Letter sent to the Licensor, as specified in the Offer Letter, is deemed sufficient to constitute an Order on those terms;

**"Open Source Software"** means any software, libraries or code licensed under any form of open source licence meeting the Open Source Initiative's Open Source Definition (<https://www.opensource.org/docs/definition.php>), , or another licence with equivalent right to use the library without charge and with the ability to make changes, if required, included or used in the Software, or with which the Software is compiled or to which it is linked or delivered to the Licensee by or on behalf of the Licensor from time to time;

**"Order"** means the relevant sales order, including the terms and conditions of any accepted Offer Letter, between the Licensor and the Licensee under the terms of which new fixed-term licences for use of the Software and Documentation will be granted in exchange for payment of the Subscription Fee;

**"Software"** means the OCTANE software suite and any programs in this suite, including ORQA, and any necessary configuration of the software product licensed by this licence (together with all updates and upgrades thereto) as described in the Order delivered to the Licensee by the Licensor, or on behalf of the Licensor with Licensor's express written authority, together with all changes, extensions or additions to such software, whether made before or after the Effective Date, and the Documentation, but excluding the Open Source Software, and whether delivered by electronic delivery of a software package to the Licensee directly, into a shared computing environment by the Licensor, or by the Licensor making available to the Licensee

the user interfaces and/or any other programmatic APIs to the software from a cloud or other computing environment as is required to meet the requirements of the Order;

**"Source Code"** means a compilable version of the source code of the software, where applicable;

**"Subscription Fee"** means the fee for the number of licences to use the Software during the Subscription Term as set out in the Order and payable to the Licensor for the licence to use the Software, which includes standard support and maintenance services for those user licences in accordance with the Licensor's standard policy in effect at the commencement date of the Subscription Term (as such term is defined in the Order), such a fee not limiting or affecting the existence or terms of any other fees or services that may be specified in the Order;

**"Subscription Term"** means the duration of the subscription as specified in the Order, or for a term of one-year from the Effective Date, or nine-months from the Effective Date for Trial Licences, if not explicitly defined in the Order;

**"Support Days"** means any included professional service working days specified in the Order as such and being included in the Subscription Fee to be used to facilitate installation or use of the Software during the Subscription Term;

**"Trial"** means a version of the Software or the Licences to the Software (as appropriate) intended for time-limited, business-purpose-limited use to evaluate the Software, where both parties agree there is no obligation for either party to agree to a further Subscription Term on any terms.

## **2. GRANT OF RIGHTS; RESTRICTIONS**

2.1. Subject to all the terms and conditions of this Licence, the Licensor hereby grants the Licensee a limited, non-exclusive, non-transferable, non-sub-licensable licence to install and use the Software for agreed internal business purposes by no more than one person concurrently during the Subscription Term for each one Licence instance issued.

2.2. Where the Licensee, or any third party authorised to do so by the Licensee under the terms of this Licence or any other agreement so permitting, modifies, improves, translates, creates derivative works of or copies the Software or Documentation ("Modifications"), such Modifications shall be considered part of the Software or Documentation (as appropriate), are subject to this Licence, and may not be published or distributed to any other party other than as specified in this Licence. For the avoidance of doubt, data created in or imported into the Software, including ORQA Model library items, by, or on behalf of, the Licensor, are not Modifications.

2.3. The Licensee assigns, by way of future assignment immediately on creation, all Intellectual Property Rights in the Modifications with full title guarantee, to the Licensor.

2.4. The Licensee shall do and execute, or arrange for the doing and executing of, each necessary act, document and thing that the Licensor may consider necessary or desirable to perfect the right, title and interest of the Licensor in and to the Intellectual Property Rights in any Modifications. Licensee shall also procure the irrevocable and unconditional waiver from all authors of all moral rights in the Modifications, to the extent permitted by law.

2.5. You may not, and you agree not to, or to enable others to, copy (except as and only to the extent permitted in this Licence), decompile, reverse engineer, disassemble, attempt to derive the Source Code of, decrypt, modify, or create derivative works of the Software or any part thereof (except as and only to the extent any foregoing restriction is prohibited by applicable law).

2.6. The Licensee agrees that its use of the Software shall comply with all other limitations, prohibitions and conditions set forth in this Licence and the respective Order including, without limitation, any restriction regarding Software usage, the modules of the Software used, the number of users, the time period of use,

the hardware (whether virtual or not) used by the Software, or the third-party software the Software may be used to interface with, link to, or otherwise use.

2.7. Any rights granted in this Licence are subject to the Subscription Fee having been paid for by the Licensee and proof of entitlement to the Licence must be retained by the Licensee and presented to the Licensor upon request.

2.8. Licensee acknowledges that to ensure the Software is correctly used according to this Licence, the Software may contain code and/or require licence keys to be installed and/or detect or prevent unauthorised use of the Software. Licensor expressly excludes any liability for any limitation in use of the Software occurring due to such a mechanism that arises due to failure of the Licensee to ensure valid licence keys are installed or other necessary operating environment checks are met.

2.9. Licensee acknowledges that various Licence types to the Software may be defined in the Order and these may place further restrictions or differentiated permitted uses according to Licence type that they will ensure users of the Software adhere to. Where the Licensee becomes aware of any usage of the Software by a user with a Licence type not permitting use of such functionality, they shall immediately notify the Licensor and assume liability for payment of the requisite Subscription Fees for the appropriate Licence type.

2.10. Nothing in this Licence serves to grant any rights to the Licensee to the Source Code of the Software.

2.11. Under no circumstances does the Licensor permit the Licensee to use the Software for the purpose of developing, extending, improving, or otherwise assisting the alteration of competing software solutions that offer similar functionality, whether developed, owned or licensed by the Licensee or a third party.

### **3. IMPLEMENTATION AND SERVICES**

3.1. The Licensor shall make available the Software into the nominated computer infrastructure environment as described in the Order, or in the absence of any other mechanism, via a downloadable link and relevant credentials that allow the Licensee to obtain the Software via an Internet connection. Where appropriate, the Licensor shall provide instructions for installation of the Software that a reasonably competent IT professional shall be able to complete.

3.2. Any Support Days included with this Licence may be used to install or configure the Software, train nominated Licensee personnel, or otherwise assist the Licensee to make use of the Software. Any time spent by the Licensor or designated agents in support of the Licensee's use of the Software will be deducted from these allocated Support Days per Subscription Term.

3.3. From time to time, the Licensee may require professional services to assist with implementation, integration, use of, or training activities relating to the Software ("Services"). The provision of such Services, whether specified in the Order as Support Days or otherwise, may be provided by the Licensor's own staff or with third-party subcontractors at the Licensor's sole discretion. Licensor remains responsible for performance of these Services.

3.4. Licensee accepts that where Licensee policies exist that act to constrain Services provided on Licensee premises or networks and these policies have not been provided to the Licensor before an Order is issued that Licensor cannot guarantee that such Services will be possible under such constraints. Where such limitations prevent provision of Services this will not affect the validity of the issue of any Licences nor the payments due for such Licences, and the Licensor will hold no liability for the inability to deliver Services in this event.

3.5. Unless otherwise specified in the Order, travel and accommodation expenses in providing any such Services at the Licensee's premises or any other Licensee-specified location are not included in the Subscription Fee and are subject to separate charges. Any additional Services beyond the Support Days and

outside the scope of support offered in the standard IB Boost support policy may be subject to additional fees ("Professional Services Fees").

3.6. Software may include telemetry capabilities enabling information about the usage of the Software by the Licensee to be sent to a Licensor-operated, or designated third party, system via encrypted communication over the internet, solely for the purposes of ensuring Licence compliance and activation, monitoring usage and service quality, and product improvement. Such information will not contain personal data and Licensee can request to see or, with the exclusion of information acting as evidence of a breach of this Licence, require to have permanently deleted, all such data collected, at any time, by written notice to the Licensor.

#### **4. PAYMENTS**

4.1. Licensee agrees to pay Licensor the Subscription Fees and any applicable Professional Services Fees (together, "Fees"), in the amounts and at the times specified in the Order.

4.2. Unless specified otherwise, all Subscription Fees due hereunder shall be invoiced in advance (or annually in the case of a renewing Licence) and Professional Services Fees will be invoiced monthly in arrears with respect to the month the services are performed. Fees will be due in full within 30 days after the date of invoice relating to the Order. The first Subscription Fees will be invoiced promptly on or after the Effective Date. Subsequent Subscription Fees will be invoiced at least 30 days prior to the anniversary of the Subscription Term, and are due in full no later than the anniversary of the Subscription Term. All payments shall be in US dollars or the currency specified in the Order and shall be made to the account specified by Licensor in the relevant invoice. Any amount not paid when due shall bear a late payment charge, until paid, at the rate of 2% per month or the maximum amount permitted by law, whichever is less. Licensee agrees to reimburse Licensor for all costs (including any related legal fees) incurred in collecting late payments.

4.3. All payments required by this Licence are exclusive of any local and foreign taxes, duties, tariffs, levies, withholdings and similar assessments (including without limitation, sales taxes, use taxes and value added taxes), and Licensee agrees to bear and be responsible for the payment of all such charges, excluding taxes based upon Licensor's net income. For Licensees receiving the Licences or Services in the UK, the current rate of UK VAT will be added to any invoiced amount and all quotes and figures of Fees are made exclusive of VAT unless otherwise stated.

4.4. Upon reasonable advance written notice, Licensor shall have the right to have an annual audit of Licensee's use of the Software to verify Licensee's compliance with this Licence. Licensee shall make its systems and all applicable books, records, and transaction logs available for such inspection during normal business hours at Licensee's principal place of business. Any such audit shall be at Licensor's expense, unless it discloses an underpayment by Licensee for the audited period in excess of 5%, in which case Licensee shall reimburse Licensor for such expenses.

#### **5. CONFIDENTIALITY**

5.1. The term Confidential Information means all trade secrets, know-how, inventions, developments, software and other financial, business or technical information of Licensor (or any of its licensors or customers) that is disclosed by or for Licensor or that is otherwise learned or accessed by Licensee, including the Software and Documentation, but not including any information that Licensee can demonstrate is (a) rightfully furnished to it without restriction by a third party without breach of any separate obligation to Licensor, (b) generally available to the public without breach of this Licence, or (c) independently developed by the Licensee without reliance on such information.

5.2. Except for the specific rights granted by this Licence, Licensee shall not possess, use, or disclose any Confidential Information without Licensor's prior written consent, and shall use reasonable care to protect the Confidential Information. Licensee may only disclose Confidential Information to its employees and contractors who have a need to know for the purposes of this Licence and who are bound by confidentiality obligations that are at least as protective as the provisions herein. Licensee shall be responsible for any breach of confidentiality by its employees and contractors. Promptly after any termination of this Licence (or at Licensor's request at any other time), Licensee shall return all tangible Confidential Information, permanently erase all Confidential Information from any storage media and destroy all information, records and materials developed from such information.

5.3. Under no circumstances shall the Licensee utilise, or permit a third party to utilise, Confidential Information for the purposes of researching, developing, extending, manufacturing, marketing, promoting, selling or distributing a product or service providing substantially similar capabilities to the Software, including but not limited to automated testing, data integration, data analysis, and robotic process automation, in competition to the Software.

## **6. PROPRIETARY RIGHTS**

6.1. Licensor has sole and exclusive ownership of all right, title, and interest (including all Intellectual Property Rights) in and to the Software, including all copyright and any other Intellectual Property Rights therein. This Licence conveys a limited licence to use the Software and shall not be construed to convey title to or ownership of the Software to Licensee. All rights in and to the Software not expressly granted to Licensee are reserved by Licensor.

6.2. All third-party intellectual property rights required by the Licensee to enable them to use the Software shall be procured by the Licensee, including but not limited to a licence to use any third-party APIs necessary to receive the benefit of the Software. Licensor shall not be liable for any delay or failure of the Licensee to procure such third-party intellectual property rights.

## **7. TERM AND TERMINATION**

7.1. This Licence shall commence on the Effective Date and shall continue until expiration of the Subscription Term or earlier if terminated in accordance with this Clause 7.

7.2. Licensor shall be entitled to immediately terminate this Licence upon written notice in the event the Licensee is or Licensor has reasons to believe that the Licensee is using the Software: (i) in contravention of any applicable law; or (ii) in breach of Clause 2.1 or 2.5; or (iii) in a manner that shall or may reasonably be deemed by the Licensor to infringe any Intellectual Property Rights or other rights of any third parties.

7.3. Either party shall be entitled to immediately terminate this Licence upon written notice to the other in the event the other (i) is in material breach of any of its obligations under this Licence; (ii) convenes a meeting of its creditors or if a proposal shall be made for a voluntary arrangement within Part 1 of the Insolvency Act 1986 or a proposal for any other composition scheme or arrangement with (or assignment for the benefit of) its creditors or if the other party is unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 or if a trustee receiver, administrative receiver or similar officer is appointed in respect of all or any part of the business or assets of the Licensee or if a petition is presented or a meeting is convened for the purpose of considering a resolution or other steps are taken for the winding up of the other party or for the making of an administration order (otherwise than for the purpose of an amalgamation or reconstruction).

7.4. Upon any termination of this Licence, (i) the rights and licences granted to the Licensee herein shall immediately terminate; (ii) the Licensee shall cease all use of the Software; and (iii) the Licensee shall, where requested, certify in writing to the Licensor its compliance with the foregoing.



7.5. Trial Licences and Trial Software versions are licenced exclusively to the Licensee on a time-limited basis for the purposes of assessing the Software for future and continued use. The Licensor reserves the right to terminate the Licence with fourteen (14) days' notice should the Licensee's usage of the Software be determined by the Licensor, at its sole discretion, not to be for that purpose.

## **8. REPRESENTATIONS AND WARRANTIES**

8.1. All warranties, representations, guarantees, conditions and terms, other than those expressly set out in this Licence whether express or implied by statute, common law, trade usage or otherwise and whether written or oral are hereby expressly excluded to the fullest extent permissible by law.

8.2. Portions of the Software may utilise, link to, be compiled with, or otherwise include Open Source Software or other copyrighted material. Use of any Software functionality that requires use of such material may only be used according to the terms and conditions of the specific licence under which the relevant material is distributed. Open Source Software provided with the Software is provided "as is" and expressly subject to the disclaimer in Clause 8.1.

8.3. The Licensee hereby represents that it shall (i) comply with all applicable local and foreign laws and regulations which may govern the use of the Software, and (ii) use the Software only for lawful purposes and in accordance with the terms of this Licence.

8.4. The Licensee hereby acknowledges that any Open Source Software is provided on a run-time classpath linking basis only and the Licensee is not to use this Open Source Software except as is required for specified use of the Software, and then solely on the terms of the respective licence of such Open Source Software, as is provided with the software.

## **9. LIMITATION OF LIABILITY**

9.1. Save in respect of Clause 9.5, the maximum aggregate liability of the Licensor with respect to any claims arising out of or in connection with this Licence whether in contract, tort (including negligence) or otherwise shall be limited to one thousand pounds sterling (£1,000.00).

9.2. Save in respect of any breach of Clause 5, in no event shall either party be liable for:

9.2.1. any special, indirect, incidental, or consequential damages;

9.2.2. loss of profits, loss of goodwill and reputation, loss of business or business benefit, loss of anticipated savings, expectation losses or waste of management time; and

9.2.3. the cost of procurement of substitute products by the Licensee even if advised of the possibility of such damages.

9.3. In no circumstances shall Licensor be liable for any losses, damages, claims, costs, or expenses incurred by the Licensee arising out of or in connection with:

9.3.1. use, possession, development, modification, or maintenance of any Open Source Software or through Licensee's breach of the licence to such Open Source Software; or

9.3.2. the Licensee using the Software in breach of the provisions of this Licence.

9.4. The Licensee also acknowledges that whilst the Software may be used in combination with third-party software, if the relevant Order and any agreement the Licensee has with the third party permits

such usage, the Licensor bears no liability, howsoever arising, for any loss, damage or cost that arises from a failure of the Software to integrate with, use or be used by third-party software.

9.5. For the avoidance of doubt, nothing in this Licence shall be deemed to exclude, restrict, or limit liability of either party (or their respective agents or sub-contractors) for death or personal injury resulting from their negligence or any liability for fraudulent misrepresentation.

## **10. GENERAL**

10.1. If any provision of this Licence or the Software thereof is declared void, illegal, or unenforceable, the remainder of this Licence will be valid and enforceable to the extent permitted by applicable law. In such an event, the parties agree to use their best efforts to replace the invalid or unenforceable provision by a provision that, to the extent permitted by the applicable law, achieves the purposes intended under the invalid or unenforceable provision.

10.2. Any failure by any party to this Licence to enforce at any time any term or condition under this Licence will not be considered a waiver of that party's right thereafter to enforce each and every term and condition of this Licence.

10.3. Neither party will be responsible for delays resulting from circumstances beyond the reasonable control of such party, provided that the non-performing party uses reasonable efforts to avoid or remove such causes of non-performance and continues performance hereunder with reasonable dispatch whenever such causes are removed.

10.4. This Licence constitutes the entire agreement and understanding between the parties with respect to the subject matter hereof and supersedes all prior agreements, oral and written, made with respect to the subject matter hereof and cannot be altered except by agreement in writing executed by an authorised representative of each party.

10.5. Neither party shall without the written consent of the other (the giving of which consent shall be at the sole discretion of that party) disclose any details of the usage of the Software by the Licensee or any Confidential Information, except that the Licensee agrees the Licensor may use its name and logo or trademarks to promote or publicly announce the existence of this licence and summary information relating to the usage of the Software, including in press releases, white papers and case studies. Licensee may provide written notice to the Licensor to prevent any such promotion at the Licensee's sole discretion.

10.6. Any notice request instruction or other document to be given hereunder shall be delivered or sent by first class post or by email or facsimile to the address of the other set out or referred to in this Licence (or such other address as may have been notified) and any such notice or other document shall be deemed to have been served and deemed to have been received (if delivered) at the time of delivery (if sent by post) upon the expiration of 48 hours after posting and (if sent by email or facsimile) upon the expiration of 12 hours after dispatch. For the purposes of this Clause 10.6 any such notices sent via email to the Licensor shall be sent to the email address [licence-notices@ibboost.com](mailto:licence-notices@ibboost.com).

10.7. This Licence is governed by and construed in accordance with English law. The Courts of England shall have exclusive jurisdiction over any disputes arising out of this Licence.