

Radar Platform Terms and Conditions

Date Published: 6th June 2024

PLEASE REVIEW THESE TERMS CAREFULLY. These Platform Terms and Conditions ("**Terms**") shall apply between the customer ("**Customer**") that has entered into an order form or similar transaction document ("**Order**" and, together with the Terms, the "**Agreement**") and Smartgate Solutions Ltd (trading as 'Radar Healthcare') ("**Radar**") for use of Radar's healthcare quality and compliance management software platform and services, as may be further described in the Order (including the modules set out in the Order, the "**Platform**") and the accompanying Services. These Terms form a binding legal agreement between Radar, to the exclusion of any Customer terms and condition, or any term which is implied by trade, custom practice or course of dealing, unless varied in writing. In the event of any conflict between these Terms and the Order, the terms of the Order will prevail.

Radar may update these Terms from time to time at its discretion. Radar will always keep the current version of these Terms posted on its website, and any updates posted at least 30 days prior to Customer's next renewal date will automatically take effect on such date unless the parties have otherwise agreed in writing.

1. Certain Definitions. Capitalised terms not otherwise defined herein will have the meanings given below:

1.1 "**Affiliate**" means an entity that controls, is controlled by, or is under common control with another entity.

1.2 "**Business Day**" means a day other than a Saturday, Sunday or public holiday in England when banks in London are open for business.

1.3 "**Confidential Information**" means information that is proprietary or confidential and is either clearly labelled as such or identified as Confidential Information in clause 10.1.

1.4 "**Data**" means the data inputted by the Customer, its Users, or the Radar on the Customer's behalf for the purpose of using the Subscription Services or facilitating the Customer's use of the Subscription Services.

1.5 "**Data Controller**", "**Data Processor**", "**Personal Data**" and "**Processing**" shall have the meanings given to them in the Data Protection Legislation.

1.6 "**Data Processing Agreement**" means Radar's data processing agreement available at <https://radarhealthcare.com/terms-and-conditions/>.

1.7 "**Data Protection Legislation**" means all applicable laws and regulations relating to data protection, privacy and information security including (without limitation) the Data Protection Act 2018 and UK GDPR and any national laws implementing, amending, or replacing as applicable from time to time.

1.8 "**Documentation**" means any User guides, manuals, and other documentation that may be provided by Radar from time to time regarding the Platform.

1.9 "**Effective Date**" means the earlier of the effective date set forth in the Order (or, if unstated, the last date of signature of the Order) or the first date on which Customer accesses the Platform.

1.10 "**Enhancements**" means any updates, upgrades, modifications, improvements, developments, new features, or other enhancements related to the Platform. Enhancements will be deemed part of the Platform upon release by Radar.

1.11 "**Fair Usage**" means the system is being used to meet the requirements set out in the specification and within the normal operating practices of the Customer.

- 1.12 **"Fees"** means the fees payable by the Customer to the Radar for the User and/or Site Subscriptions, as set out in the Order.
- 1.13 **"First Value"** means that at least 1 User is actively using any part of the software in a live environment.
- 1.14 **"Initial Subscription Term"** means the initial subscription period listed in the Order.
- 1.15 **"IP Rights"** means any rights under patent, copyright, trade secret, trademark, or other intellectual or industrial property laws worldwide.
- 1.16 **"Renewal Period"** means the period described in clause 4.1;
- 1.17 **"Services"** means the Subscription Services, Support Services and/or Ancillary Services (as applicable).
- 1.18 **"Site"** constitutes a physical location from which customer services are delivered and will have a corresponding department in Radar software are known as "sites" or "location".
- 1.19 **"Subscription Services"** means the subscription services provided by the Radar to the Customer under this Agreement.
- 1.20 **"Subscription Term"** means the Initial Subscription Term together with any subsequent Renewal Period(s).
- 1.21 **"Support & Maintenance Services"** means the maintenance and support services provided by the Radar as described at <https://radarhealthcare.com/terms-and-conditions/>.
- 1.22 **"UK GDPR"** means the General Data Protection Regulation (Regulation (EU) 2016/679) as incorporated into UK legislation by way of the European Union (Withdrawal Agreement) Act 2020 and as amended by the Data Protection, Privacy and Electronic Communications (Amendments etc) (EU Exit) Regulations 2019.
- 1.23 **"User"** and/or **"Site Subscriptions"** means the User subscriptions and/or site subscription purchased by the Customer which entitles Users to access and use the Subscription Services in accordance with this Agreement.
- 1.24 **"User(s)"** are staff members, either active or passive, which means that they can have access to a Radar login, or still interact with the Platform.

2. Platform.

2.1 **Grant.** Subject to Customer's compliance with this Agreement, Radar grants Customer a non-exclusive, non-sublicensable, and non-transferable right to access and use the Platform in accordance with the Documentation for its internal business purposes during the Term. The scope of this grant of rights is limited to the User count and types, subscription tier, and any other metrics or restrictions set forth in the Order.

2.2 **Accounts.** Customer is solely responsible for ensuring that its Users' login credentials (Usernames and passwords) remain secure and confidential and will notify Radar immediately if it suspects any unauthorised use of any User account. Customer will be fully responsible for any actions taken using its User accounts, and for any acts or omissions of its personnel. If an Order includes a User count, each individual associated with a User account will count towards such User count. User accounts may not be shared by multiple individuals, but Customer may reassign a User account to a new User if the prior User no longer requires ongoing access to the Platform. Authorised Users are limited to Customer's and its Affiliates': (a) employees; (b) service providers who access the Platform in connection with performing services for Customer or its Affiliates and are not competitors of Radar; and (c) associated or affiliated physicians, nurses, or medical practitioners. Customer's patients and

clients are not authorised Users (unless they are also an employee or service provider as described above). Customer is responsible for preventing Platform access by any non-authorised Users.

2.3 Excess Usage. If Customer's usage exceeds any of the User counts or other usage thresholds or limits in the Order, without limiting Radar's other rights and remedies hereunder, Radar may require Customer to promptly pay any applicable overage charges for excess usage to date and either: (a) reduce its ongoing usage to within the stated limits; or (b) promptly pay the applicable fees to upgrade the User count, subscription tier, or otherwise accommodate the excess usage.

2.4 Restrictions. Customer will not, and will ensure its Users do not, directly or indirectly: (a) sell, lease, license, sublicense, or otherwise make the Platform available to any third party, or use the Platform on behalf of third parties (including use in connection with any timesharing or service bureau, outsourced or similar service); (b) use manual or automated means to trawl, mine, scrape, frame, or mirror the Platform; (c) decompile, disassemble, reverse engineer, or attempt to access the Platform's source code (except as permitted by applicable law), or use the Platform to create any derivative works thereof or develop any competing offering; (d) upload, transmit, or submit any viruses, malware, or malicious code, or other harmful materials to the Platform, or otherwise interfere with the operation of the Platform; (e) attempt to hack or gain any unauthorised access to the Platform or any part thereof; (f) use the Platform for any unlawful purpose or in an unlawful manner or for any unlawful purpose; (g) remove any trademark or copyright notices contained in the Platform; (h) provide any false or misleading information or any information or data it does not have the right to provide; (i) perform any security or penetration testing, or benchmarking analysis, of the Platform without Radar's prior written consent; or (j) otherwise violate any of Radar's published policies or rules.

2.5 Enhancements. Customer acknowledges that it is entering into this Agreement on the basis of the Platform as it exists today, and not in reliance upon any requested or anticipated Enhancements. Enhancements are developed and released at Radar's sole discretion. Radar will own and retain all IP Rights in any Enhancements, even if developed under an SOW or otherwise at Customer's request.

2.6 Support and Service Levels. Radar will provide standard support services pursuant to its then-current Support, Maintenance & Hosting Guide, available at www.radarhealthcare.com/terms-and-conditions (the "**Support Guide**"). Radar will use commercially reasonable efforts to provide Platform access in accordance with the hosting levels set forth therein. Radar may update its Support Guide from time to time by publishing an updated version on its website.

2.7 Ancillary Services. "**Ancillary Services**" means any implementation, configuration and data services, consulting, training, or other professional services provided by Radar in connection with Customer's use of the Platform (excluding Platform hosting and support offerings). Radar will provide Ancillary Services as described in the Order or in any subsequent statement of work entered into between the parties hereunder ("**SOW**"). Each SOW will automatically be incorporated into this Agreement.

2.8 Co-operation. Customer is responsible for providing any information, access, or cooperation reasonably requested by Radar in order to provide any support or Ancillary Services and otherwise make the Platform available to Customer hereunder.

2.9 On-Prem Orders. Radar will host the Platform unless the Order expressly provides a license for Customer to install the Platform software on its own systems (an "**On-Prem Order**"). The following provisions apply to On-Prem Orders, notwithstanding anything to the contrary in these Terms:

(a) Grant. This provision will replace clause 2.1 as relates to any On-Prem Order. Subject to Customer's compliance with this Agreement, Radar grants Customer a non-exclusive, non-sublicensable, and non-transferable right to install and use the Platform on systems it owns or controls in accordance with the Documentation for its internal business purposes during the Term. The scope of this grant of rights is limited to

the equipment and location details, User count and types, subscription tier, and any other metrics or restrictions set forth in the Order.

(b) Service Responsibility. Customer will be responsible for: (i) obtaining appropriate Ancillary Services (e.g., installation and configuration of the Platform and Enhancements) and providing any necessary access for Radar to provide such Ancillary Services; and (ii) obtaining and maintaining any necessary equipment, hardware, software, and network connections for the proper functioning of the Platform. Radar will have no liability for any issues, errors, damages, or claims arising from Customer's failure to properly maintain or monitor the provided equipment, hardware, software, and network connections (including, without limitation, Customer's failure to authorise and enable Radar's implementation of any required or recommended Enhancements).

(c) Deletion. Upon expiration or termination of this Agreement, Customer will promptly uninstall and delete all copies of the Platform and Documentation in its possession and control and will provide written certification of the foregoing if requested by Radar.

(d) Audit. During the Term and for 2 years thereafter, Customer will permit Radar or its designated representative to audit Customer's relevant systems and records up to once per 12 months to verify Customer's compliance with this Agreement. Any such audit will be conducted at Radar's expense, except that Customer will reimburse Radar's audit costs if the audit reveals any excess (unpaid) usage by Customer.

(e) Limitation of Warranties. The limited warranty provided in clause 5.2 will only apply to warranty claims made in the first 6 months following delivery of the Platform software to Customer. In no event will Radar have any warranty obligations for any non-conformance caused by Customer's failure to properly install or configure the Platform or any Enhancements.

2.10 Third Party Software. The Platform may include certain software components licensed to Radar by third parties ("**Third Party Software**"). Notwithstanding anything to the contrary herein: (a) the Third Party Software is owned and controlled by the relevant third party, not Radar; (b) Radar will have no liability for any errors, damage, or claims arising from or caused by Third Party Software; and (c) Customer's use of Third Party Software will be subject to any applicable third-party licensing terms made available by Radar in the Documentation or otherwise.

3. Fees and Payment.

3.1 Generally. Radar will invoice Customer for the fees as described in the Order or SOW and this Agreement. Unless otherwise set forth in the Order or SOW: (a) subscription and other recurring fees will be invoiced annually in advance; (b) fixed fees for Ancillary Services will be invoiced in advance; and (c) time and materials fees for Ancillary Services will be invoiced monthly in arrears. Unless otherwise set forth in the applicable Order or SOW: (i) Ancillary Services will be charged at Radar's then-current standard day rates (which will be provided to Customer upon request); and (ii) Customer will reimburse Radar for any reasonable travel or other expenses incurred by Radar in connection with Ancillary Services which are stated in the applicable Order or SOW or have otherwise been approved in advance by Customer. Radar may increase its Subscription Fees at each anniversary of the Effective Date in line with RPI. The measure of RPI used is the "all items percentage change over 12 months" data, as published monthly by the United Kingdom Office of National Statistics..

3.2 Payment Terms. All fees are due in full (without deduction, setoff, or counterclaim) within 30 days of the invoice date. Without prejudice to any other rights and remedies of Radar, a late payment charge of 1.5% per month, or the maximum rate allowed by law (whichever is less), will be added to all overdue amounts under this Agreement (except for amounts that are subject to good faith dispute, as notified by Customer in writing before the applicable due date). Customer will be liable for any reasonable costs incurred by Radar in seeking to collect any amounts due from Customer hereunder. Where the Order stipulates payment via direct debit the Customer

shall, on the Effective Date, complete the Direct Debit mandate provided by Radar and Customer shall ensure the Direct Debit Mandate remains effective throughout the Subscription Term.

3.3 **Currency.** All fees are in pounds sterling and are non-cancellable and non-refundable, except as expressly set forth herein or in the applicable Order.

3.4 **Taxes.** All fees are exclusive of, and Customer is solely responsible for payment of, all applicable value-added, sales, use, right of use and other taxes and all applicable export and import fees, customs duties, and similar charges (other than taxes based on Radar's net income) arising from the transactions hereunder. If Customer claims a tax exemption, it will provide Radar an exemption certificate and indemnify Radar for any claims from a taxing authority arising from such purported exemption.

4. Term and Termination.

4.1 **Term; Renewal.** This Agreement will take effect on the Effective Date and will continue for the Initial Term. Unless otherwise set forth in the Order, after the Initial Term this Agreement will automatically renew for consecutive 12-month periods (each, a "**Renewal Period**" and together with the Initial Term, the "**Term**") unless either party provides written notice of non-renewal at least 90 days prior to the end of the then-current Initial Term or Renewal Period.

4.2 **Termination.** Either party may terminate this Agreement immediately for cause if the other party materially breaches this Agreement and does not cure such breach within 30 days from receipt of written notice thereof. Termination of this Agreement is without prejudice to any other remedies available to the terminating party.

4.3 **Suspension.** Radar may immediately suspend Customer's access to the Platform if: (a) Customer breaches clause 2.4 or fails to pay any amount when due (other than amounts subject to good faith dispute, as notified by Customer in writing before the applicable due date); or (b) Radar determines in good faith that such suspension is necessary to avoid possible harm to Radar's Customer's, or any third party's property, systems, or information. Radar will promptly notify Customer of the suspension and reason therefor and will restore access as soon as commercially feasible once the underlying issue is resolved.

4.4 **Effect of Termination.** Upon the expiration or termination of this Agreement, Customer's right to access the Platform will immediately end, and Customer will destroy all copies of Documentation in its possession or control. clauses 2.4, 2.9, 2.10, 3, 4.4, 5.3, 6, 7, 8, 9, 10 and 11 of these Terms will survive the termination or expiration of this Agreement. Termination or expiration of this Agreement will not affect any already-accrued obligations or liabilities (including Customer's obligation to pay all fees owed under this Agreement). Provided Customer is current in all payment obligations at the time of termination, Radar will provide commercially reasonable data extraction services at its then-current time and materials rates.

5. Warranty and Disclaimers.

5.1 **Mutual Warranties.** Each party represents and warrants to the other that: (a) it is duly organised, validly existing and in good standing under the laws of the jurisdiction of its formation or organisation and has full power and authority under applicable laws, rules or regulations to enter into and perform its obligations and engage in the activities contemplated under this Agreement; (b) its entry into this Agreement and performance hereunder does not and will not conflict with or violate any agreement or obligation it has to any third party; and (c) it is and will remain in compliance with all laws, rules, and regulations applicable to its performance hereunder.

5.2 **Limited Warranty.** Radar represents and warrants that the Platform will perform in material conformance with its Documentation. For any breach of such warranties, Radar's sole obligation and Customer's

sole remedy will be for Radar to promptly (and at no charge) repair or replace the affected Platform features, or, if the foregoing is not commercially feasible, to terminate this Agreement and refund the pro rata portion of any prepaid fees corresponding to the period after Customer first reported the non-conformance to Radar in writing. This warranty will not apply to any non-conformance caused by Customer's misuse or modification of the Platform or any failures or problems in Customer's own equipment, networks, and systems.

5.3 Disclaimer. The Platform and its output are reliant on the accuracy, completeness, and timeliness of information and data provided by Customer and relevant third-party sources, and Radar is not responsible for any such external data. To the maximum extent permitted by law, except as expressly set forth herein, Radar provides the Platform and Services "as is" and "as available" and makes no warranties, whether express, implied, or statutory regarding any of the foregoing, including any implied warranties of fitness for a particular purpose, merchantability, or non-infringement, and does not guarantee that the platform or documentation will be uninterrupted or error-free.

6. Confidential Information.

6.1 Definition. "**Confidential Information**" means any non-public information provided by one party ("**Discloser**") to the other party ("**Recipient**") hereunder that is either conspicuously identified as confidential or proprietary or should be reasonably understood to be confidential based on the nature of the information or circumstances of the disclosure. Confidential Information includes information regarding a party's technology, Platform, websites, pricing, customers, or other business, technical, or financial information. Without limiting the generality of the foregoing, Customer's Confidential Information includes the Customer Data (as defined below), and Radar's Confidential Information includes non-public information regarding the Platform, its features and performance, and the Documentation. Confidential Information does not include information that: (a) is already known to Recipient without obligation of confidentiality prior to its disclosure by Discloser; (b) is in or enters the public domain through no wrongful act of the Recipient; (c) is or was lawfully received by Recipient from a third party without confidentiality obligations; or (d) can be established by written documentation to have been independently developed by Recipient without access to the Confidential Information.

6.2 Protection. Recipient will only use Confidential Information to perform its obligations or exercise its rights under this Agreement. Recipient will not disclose Confidential Information to any individuals or entities except for its and its Affiliates' officers, employees, agents, and representatives who have a need to know such Confidential Information and who are bound by confidentiality obligations at least as protective as those set forth herein. Recipient will maintain the Confidential Information in confidence using the same degree of care as it uses to protect its own similar information (but no less than reasonable care) and will be liable for any unauthorised use or disclosure of the Confidential Information. The protections set forth herein will continue to apply to any Confidential Information disclosed during the Term for the greater of five years, or so long as such Confidential Information is protected as a trade secret under applicable law.

6.3 Compelled Disclosure. If Recipient is required by a binding order of a governmental agency or court of competent jurisdiction to disclose any Confidential Information of Discloser, Recipient will, if legally permitted, provide Discloser with prompt written notice sufficient to allow Discloser an opportunity to appear and object to such disclosure. If such objection is unsuccessful, then Recipient may produce only such Confidential Information as is required by the court order or governmental action.

6.4 Return or Destruction. At Discloser's request upon termination of this Agreement, Recipient will promptly return or destroy all Confidential Information (including any copies thereof) in its possession or control, except that Recipient may retain: (a) any copies required to be retained under applicable law and (b) copies in backup or archive media created in the ordinary course of business; provided in each case that the obligations of confidentiality hereunder will continue to apply to such retained copies.

6.5 Remedies. Each party agrees that the other party may have no adequate remedy at law if there is a breach or threatened breach of this clause 6 and, accordingly, that the non-breaching party will be entitled to seek injunctive or other equitable relief to prevent or remedy such a breach in addition to any legal remedies available to that party.

7. Intellectual Property

7.1 Reservation of Rights. Customer acknowledges that all right, title and interest in and to Platform and Documentation (including all IP Rights) belong to Radar or its relevant licensors. Rights in the Platform are licensed (not sold) to Customer hereunder, and Customer has no rights in the Platform other than as expressly granted herein.

7.2 Feedback. If Customer or its Users provide feedback, suggestions, or requests for Enhancements (collectively, “**Feedback**”), Customer hereby grants Radar an unrestricted, perpetual, irrevocable, royalty-free, worldwide license to reproduce, display, perform, modify, transmit, distribute, create derivative works of, and otherwise use the Feedback in any manner, without any right of attribution or accounting.

8. Data.

8.1 Customer Data. “**Customer Data**” means any data submitted by Customer to the Platform, including any reports or other outputs generated using such data. Customer Data is owned by the Customer and is part of Customer’s Confidential Information. In the event of any loss or damage to Customer Data in Radar’s possession, Radar’s sole responsibility will be to use commercially reasonable efforts to restore the latest backup of such Customer Data maintained by Radar in accordance with its standard procedures.

8.2 Usage Data. “**Usage Data**” means anonymised or aggregated technical or usage data relating to the use and performance of the Platform. Notwithstanding anything to the contrary herein, Usage Data is not Customer Data, and Radar may use and disclose Usage Data to improve its offerings and for other legitimate purposes, provided it will not disclose Usage Data in a manner that identifies Customer or any third-party entity or individual.

8.3 Data Protection.

(a) Each party will comply with its obligations under the Data Protection Legislation in respect of the Personal Data that it processes.

(b) Without limiting the generality of the foregoing, Radar will comply with its then-current privacy policy available at <https://radarhealthcare.com/privacy-policy>. Radar is and will remain ISO 27001 compliant throughout the Term.

(c) The parties acknowledge that for the purposes of the Data Protection Legislation, with respect to the processing of Customer Data through the Platform or Services, the Customer is the Data Controller and Radar is the Data Processor. Appendix A to the Data Processing Agreement sets out the nature, scope and purpose of processing, the duration of processing and the types of Personal Data. The terms of the Data Processing Agreement shall apply to this processing. Customer represents and warrants that it has obtained all necessary consents from the applicable data subjects in respect of any Personal Data it provides to Radar or the Platform.

(d) Radar shall process Personal Data only in accordance with the Customer’s written instructions and for the purposes authorised by the Customer.

(e) The Customer warrants that all of the Personal Data to be processed by Radar complies with the Data Protection Legislation and in particular that: (i) the Customer has a lawful basis to transfer the Personal

Data to Radar; and (ii) any Processing, in accordance with this Agreement, shall not be a breach of the Data Protection Legislation.

(f) Each party agrees to indemnify and keep indemnified the other against all direct losses, damages, costs, claims incurred by the indemnified party as a result of a breach of the Data Protection Legislation by the indemnifying party.

9. Indemnification.

9.1 By Radar. Radar will indemnify, defend, and hold Customer harmless from and against any losses, liabilities, damages, fees, costs, and expenses (including reasonable attorneys' fees) (collectively, "**Losses**") it may incur in connection with a third-party claim to the extent arising out of any allegation that the Platform infringes any third party's IP Rights. Radar will have no obligation for any claims arising out of: (a) misuse or modification of the Platform; (b) combination of the Platform with any components not provided by Radar; or (c) Customer Data (or the quality or completeness thereof) or (d) Radar's conformance with Customer's specific requirements or instructions (each, an "**Exclusion**"). If a third-party claim of infringement is threatened or occurs, Radar may seek to mitigate damages by modifying the Platform to be non-infringing, obtaining a license for Customer to use the Platform, or (if neither of the foregoing are commercially feasible) terminating this Agreement and refunding to Customer any unused, prepaid fees. The provisions of this clause 9.1 set forth Radar's exclusive liability, and Customer's exclusive remedy, for any third-party claims of infringement.

9.2 By Customer. Customer will indemnify, defend, and hold Radar harmless from and against any Losses it may incur in connection with a third-party claim to the extent arising out of an Exclusion, Customer's use of the Platform, or any medical care, direct patient care services, or other patient interactions.

9.3 Indemnification Procedures. The party seeking indemnification hereunder will: (a) give the indemnifying party prompt written notice of the claim (provided that no delay will affect the indemnifying party's obligations except to the extent materially prejudicial to it); (b) give the indemnifying party control of the defense and settlement of the claim; and (c) cooperate with the indemnifying party in defending or settling such claim, at the indemnifying party's expense. The indemnified party will have the right to participate at its own expense in the defense and settlement of any claim. Neither party may consent to the entry of any judgment or enter into any settlement that adversely affects the rights or interests of the other party without such party's prior written consent, which may not be unreasonably withheld.

10. Liability.

10.1 This clause 10 sets out the entire financial liability of Radar (including any liability for the acts or omissions of its employees, agents and sub-contractors) to the Customer:

- (a) arising under or in connection with this Agreement;
- (b) in respect of any use made by the Customer of the Services or any part of them; and
- (c) in respect of any representation, statement or tortious act or omission (including negligence) arising under or in connection with this Agreement.

10.2 Except as expressly and specifically provided in this Agreement:

- (a) the Customer assumes sole responsibility for results obtained from the use of the Subscription Services by the Customer, and for conclusions drawn from such use. Radar shall have no liability for any damage caused by errors or omissions in any information, instructions or reports provided to Radar by the Customer in connection with the Subscription Services, or any actions taken by Radar at the Customer's direction; and

(b) 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.

10.3 Nothing in this Agreement excludes the liability of Radar:

- (a) for death or personal injury caused by Radar's negligence; or
- (b) for fraud or fraudulent misrepresentation.

10.4 Subject to clause 10.2 and clause 10.3:

(a) Radar shall not be liable whether in tort (including for negligence or breach of statutory duty), contract, misrepresentation, restitution or otherwise for any loss of profits; loss of business; depletion of goodwill and/or similar losses or loss or corruption of data or information; or pure economic loss, or for any special, indirect or consequential loss; costs; damages; charges or expenses however arising under this Agreement; and

(b) Radar's total aggregate liability in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise, arising in connection with the performance or contemplated performance of this Agreement shall be limited to the total Subscription Fees paid for the User and/or Site Subscriptions during the 12 months immediately preceding the date on which the claim arose.

11. General.

11.1 Relationship. The parties are independent contractors, and nothing herein will be construed to create the relationship of employer and employee, principal and agent, partnership or joint venture, or any other fiduciary relationship.

11.2 Publicity. Radar may use Customer's names and logos in its customer lists and in other promotional materials and communications to accurately identify Customer as a customer of Radar.

11.3 Assignment. Neither this Agreement nor any rights or responsibilities hereunder may be assigned, delegated, or otherwise transferred by either party without the other party's prior written consent (not to be unreasonably withheld). Notwithstanding the foregoing, either party may transfer or assign this Agreement upon notice (but without consent) to an Affiliate or to the successor entity in the event of a merger, share sale, or sale of substantially all assets. Subject to the foregoing, this Agreement will be binding upon and will inure to the benefit of the parties and their respective successors and assigns. Radar may subcontract its obligations hereunder, provided it remains liable for its subcontractors' acts and omissions as though they were its own.

11.4 Notice. Notices will be considered properly received: (a) when delivered, if delivered in person; (b) one business day after dispatch, if dispatched by an overnight delivery service that provides signed acknowledgment of receipt; (c) three business days after deposit, if sent by certified or registered first class mail, postage prepaid, return receipt requested; or (d) upon acknowledgement of receipt, if sent by email. Notices will be sent to the addresses set forth in the Order, provided either party may update its address for notice by providing notice to the other party in accordance with this paragraph. This clause does not apply to email as a form of service of any proceedings or any documents in any legal action, or where applicable, any arbitration or other method of dispute resolution.

11.5 No partnership or agency. Nothing in this Agreement is intended to or shall operate to create a partnership between the parties, or authorise either party to act as agent for the other, and neither party shall have the authority to act in the name or on behalf of or otherwise to bind the other in any way (including, but not limited to, the making of any representation or warranty, the assumption of any obligation or liability and the exercise of any right or power).

11.6 Third party rights. This Agreement does not confer any rights on any person or party (other than the parties to this Agreement and, where applicable, their successors and permitted assigns) pursuant to the Contracts (Rights of Third Parties) Act 1999.

11.7 Force Majeure. Except for payment obligations, neither party will be liable for any delays or failures to perform to the extent due to a cause beyond such party's reasonable control, which may include natural disasters or acts of God, strikes or work stoppages, acts of war or terrorism, telecommunications disruptions, pandemics or epidemics, quarantines, or other government orders.

11.8 Severability. Should any provision of this Agreement be held to be void, invalid or inoperative, the remaining provisions of this Agreement will not be affected and will continue in effect and the invalid provision will be deemed modified or severed to the least degree necessary to remedy such invalidity.

11.9 Entire Agreement; Amendments; Waivers. This Agreement contains the entire agreement between the parties relating to the subject matter hereof and supersedes any prior agreements, oral or written, between the parties regarding the subject matter. No amendments, modifications or changes will be effective unless they are in writing and signed by authorised representatives of the parties. No waiver of a breach of any provision of this Agreement by either party will constitute a waiver of any subsequent breach of the same or any other provision hereof, and no waiver will be effective unless made in writing and signed by a duly authorised representative of the waiving party. If there is an inconsistency between any of the provisions in the Order, the main body of these Terms and the Schedules, the provisions in the main body of the Terms shall prevail unless otherwise expressly amended in the Order.

11.10 Governing law and Jurisdiction. This Agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England and Wales. Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this Agreement or its subject matter or formation (including non-contractual disputes or claims). The parties' respective representatives for the receipt of notices are, until changed by notice given in accordance with this clause, the authorised signatories of this licence.

[End of Terms]