

PROTECHT.ERM TERMS & CONDITIONS

INTRODUCTION

This Agreement governs the provision of Services by the Protecht Group to the Customer Group, including the Customer Group's access to and use of the Protecht.ERM Service. This Agreement is effective between You and Us as of the date You sign the Order Form.

1. DEFINITIONS AND INTERPRETATION

1.1. Definitions

In this Agreement, the following meanings apply unless the contrary intention appears:

"Additional Fees" means the fees payable for Additional Services at or not exceeding (i) the fee rate (daily, annual, fixed or other) specified in the Order Form or in any SOW, or (ii) where the fee rate is not so specified, Our then current published rates for Additional Services, and includes any additional data storage charges payable for excess data storage in accordance with **Item 2E** of the **Schedule**;

"Additional Services" means any services that are additional to the Basic Services and any Implementation Services, including any Retainer, Service Plan, Marketplace Plan, Protecht Academy Courses, Consulting Services or Optional Features and Functionality, specified in the Order Form or in any SOW, and includes the additional services specified in **Item 2** of the **Schedule**;

"Affiliate" means any entity which directly or indirectly controls, is controlled by, or is under common control with the subject entity. **"Control,"** for the purposes of this definition, means direct or indirect ownership or control of more than 50% of the voting interests of the subject entity;

"Agreement" means the contract between the Customer and Protecht, which is formed by the Customer and Protecht signing an Order Form, and includes these Terms and Conditions and all other terms and conditions expressly incorporated in and forming part of this Agreement;

"AI" means machine-based systems (including machine learning algorithms, artificial intelligence features and functionality, and large language models) that can, for explicit or implicit objectives, infer from inputs they receive how to generate outputs, such as predictions, content, recommendations or decisions that can influence physical or virtual environments and that may exhibit varying levels of autonomy and adaptiveness after deployment;

"AI Features" means AI made available as part of a Product;

"AI Output" means any output that the AI Features generate and return in response to an AI User Prompt;

"AI User Prompt" means any input by a User, whether structured or unstructured, that is intended to initiate and guide AI Features to generate an AI Output;

"Annual Subscription Fees" means the fees payable for the Services on an annual basis, including those specified in the Order Form and any SOW or Change Order Form;

"Anonymous User" means an individual who accesses, completes and submits a form for an anonymous entry enabled Register that is published by the Customer Group from the Protecht.ERM Service and who has not been supplied usernames and passwords by You (or by Us at Your request) to access and use the Protecht.ERM Service;

"Authority" means any government or semi-government statutory, public or other authority or body, in the course of regulating the Customer;

"Basic Services" means the services specified in **Item 1** of the **Schedule**;

"Business Day" means a day that is not a Saturday, Sunday or public holiday in Your location, as specified in the Order Form;

"Business Hours" means the hours of 8am to 6pm in Your location, as specified in the Order Form, during Business Days;

"Change Order Form" means a form prepared by Us documenting any mutually agreed changes in the number of units for which a subscription has been purchased;

"Commencement Date" means the date specified in the Order Form or, if no date is specified, the date the Customer signs the Order Form;

"Confidential Information" means all confidential information disclosed by the Disclosing Party to the Receiving Party, whether verbally or in writing, that is designated as confidential or that reasonably should be understood to be confidential given the nature of the information and the circumstances of disclosure. Your Confidential Information includes Your Data. Our Confidential Information includes all information related to the Services and the Proprietary Items. Confidential Information of each party includes this Agreement, business and marketing plans, technology and technical information, product plans and designs and business processes. However, Confidential Information (other than Your Data) does not include any information that:

- (a) is or becomes generally known to the public without breach of any obligation owed to the Disclosing Party;
- (b) was known to the Receiving Party prior to its disclosure by the Disclosing Party without breach of any obligation owed to the Disclosing Party;
- (c) is received from a third party without breach of any obligation owed to the Disclosing Party; or
- (d) was independently developed by the Receiving Party.

"Consulting Services" means any advisory, analytics, risk consulting, training (other than Protecht Academy Courses) or other consulting services specified in an SOW agreed between Protecht and the Customer (including when accessing services under a Service Plan or Retainer), but excluding any Implementation Services;

"Content" means the content that is supplied by the Protecht Group or a Third Party Content Provider to configure or populate the Protecht.ERM Service and that is available to Users as part of the Services, but excluding Your Data;

"Customer" means the person described as the 'Customer' in the Order Form;

"Customer Group" means the Customer and each Affiliate of the Customer, and **"Customer Group Entity"** means an entity in the Customer Group;

"Customer Hardware" means the hardware provided by You in order for Users to access and use the Protecht.ERM Service with the configuration specified in **Item 4** of the **Schedule**;

"Customer Internet Connection" means the internet connection provided by You in order for Users to access and use the Protecht.ERM Service with the configuration specified in **Item 4** of the **Schedule**;

"Customer Software" means the software provided by You in order for Users to access and use the Protecht.ERM Service with the configuration specified in **Item 4** of the **Schedule**;

"Data Entry User" means a User with access to and use of the Protecht.ERM Service limited to the functionality specified in the Order Form or, if no functionality is specified, the following default functionality: (i) entering data in a Register and viewing the data entered by that User, (ii) responding to compliance questions, (iii) responding to key risk indicator data requests, and (iv) updating their own action items. Data Entry Users are also able to view launchpads assigned to their role;

"Data Processing Addendum" or **"DPA"** means the addendum to this Agreement of that name which is available at the following link: https://www.protechtgroup.com/terms-conditions/protecht.DPA_v1.4_a9I6PL34;

"Disclosing Party" means the party disclosing or making available its Confidential Information;

"Documentation" means all manuals, help files and other documents supplied by Us to You relating to the Software in any format, which We may update at any time to reflect updates to the Protecht.ERM Service; provided, however, that We will not make any update to the Documentation to introduce new obligations or limitations that are materially detrimental to customers;

"Downtime" means any period in any relevant Month when access to the Protecht.ERM Service is disrupted or unavailable;

"Early Termination Fee" has the meaning given in clause 10.2(b);

"Extension Period" has the meaning given in clause 10.1(c);

"Force Majeure Event" means, in relation to a party, any failure by that party to perform its obligations under this Agreement as a result of a cause beyond its reasonable control, including any: act of God; act of a public enemy; act of any military, civil or regulatory authority; act of terrorism; civil unrest; change in any law or regulation; act of government; fire, flood, earthquake, storm or other like event; disruption to or outage of any communications, energy or other utility network or facility (including outages on the internet); strikes or other labor dispute or industrial action; epidemic, pandemic or public health emergency; supply chain disruptions, including any failure by a third party supplier of products or services (including the Third Party Hosting Provider) to perform its supply obligations, as a result of a cause beyond its reasonable control; or any other cause beyond its reasonable control, whether similar or dissimilar to any of the foregoing;

"Full User" means a User with access to all data and functionality, limited only by the permissions granted to that User by You (or by Us at Your request);

"Implementation Fee" means the fee payable for the Implementation Services specified in the Order Form;

"Implementation Services" means, subject to **Item 3** of the **Schedule**, any advisory, analytics or other services relating to implementation of Your instance of the Protecht.ERM Service specified in a project plan agreed between Protecht and the Customer;

"Initial Period" has the meaning given in clause 10.1(a);

"Insolvent" means becoming insolvent, or entering in to administration or having a controller appointed, or being placed in receivership, in receivership and management, in liquidation, in provisional liquidation, under administration, wound up, subject to any arrangement with creditors, assignment or composition, protected from creditors under any statute, dissolved (other than to carry out a reconstruction while solvent) or being otherwise unable to pay debts when they fall due or having something with the same or a similar effect appointed under the laws of any jurisdiction;

"Intellectual Property Rights" means all current and future registered and unregistered rights protected by statute, common law or equity anywhere in the world, including patents, patentable information, copyright, designs, user interfaces, formats, reports, semiconductor and circuit layouts, trademarks, trade secrets, know-how, inventions and discoveries, licenses and other rights to possess and use the works and subject matter of all other intellectual property rights, trading names and domain names, but excluding Moral Rights;

"LMS" means the Learning Management Software that is used to deliver learning and development content to Users;

"Malicious Code" means viruses, worms, time bombs, trojan horses and other harmful or malicious code, files, scripts, agents or programs;

"Marketplace" means the online platform for packages of Content libraries and pre-configured templates, including a collection of pre-configured forms, registers, reports and dashboards, inclusive of taxonomies and workflows, for the Protecht.ERM Service;

"Marketplace Plan" means a plan for access to Marketplace for which a fee is payable annually in advance;

"Marketplace Terms and Conditions" means the terms and conditions governing access to and use of Marketplace, which are available at the following link:

https://www.protechtgroup.com/terms-conditions/protecht.marketplace_v2.0_ANm3Cq4h;

"Material" means tangible and intangible information, documents, reports, software (including source code and object code), inventions, data and other materials in any media whatsoever;

"Modern Slavery Laws" means any law which prohibits modern slavery and which is applicable or otherwise in force in the jurisdiction in which You or We, as applicable, are registered or conduct business or in which the activities relevant to this Agreement are to be performed, or which imposes modern slavery reporting obligations on one or both parties;

"Month" means calendar month;

"Moral Rights" means the right of integrity of authorship, the right of attribution of authorship and the right not to have authorship falsely attributed, and rights of a similar nature anywhere in the world;

"Non-Scheduled Downtime" has the meaning given in clause 6.1(c);

"Optional Features and Functionality" means non-standard features and functionality of the Protecht.ERM Service that are not made available to all subscribers to the Protecht.ERM Service, and includes: (i) packages of Content libraries and pre-configured templates for the Protecht.ERM Service available through Marketplace; and (ii) AI Features;

"Order Form" means an order for Services incorporating these Terms and Conditions;

"Personal Data" and **"Privacy Laws"** have the meanings given in the DPA;

"Personnel" of a person means individuals who are the officers, employees, contractors or agents of that person;

"Product" means any 'software as a service' or other product supplied by the Protecht Group, including the Protecht.ERM Service;

"Proprietary Items" means the Services and all underlying software, documents, content and other Materials used for the provision of the Services, including the Software, Documentation and Content, the object code and the source code for the Software, the visual expressions, user experience (including feedback from Users, Anonymous Users and the Customer and all developments of new and modifications, revisions, updates, releases, refinements, improvements and enhancements to existing products and services using that feedback), formats (including screen, form, register, report, dashboard and other formats), layouts, workflows, implementation, integration and other design features of the Software and any configuration of the Software, all ideas, methods, algorithms, formulae and concepts used in developing and/or incorporated into the Software, Documentation or Content, all future modifications, revisions, updates, releases, refinements, improvements and enhancements of the Software, Documentation or Content, all derivative works based upon any of the foregoing, all copies of the foregoing and all Intellectual Property Rights and Moral Rights in relation to any of the foregoing, and includes the Trademarks (as defined in clause 9.4);

"Protecht" means the member of the Protecht Group identified on the Order Form;

"Protecht Academy Courses" means the courses of learning and development content delivered through the service known as 'Protecht Academy';

"Protecht Academy Terms and Conditions" means the terms and conditions governing access to and use of Protecht Academy Courses, which are available at the following link: https://www.protechtgroup.com/terms-conditions/protecht.academy_v2.2_A31198zE;

"Protecht Group" means Protecht and each Affiliate of Protecht and **"Protecht Group Entity"** means an entity in the Protecht Group;

"Protecht.ERM Service" means the provision by Us of online cloud-based enterprise risk management software as a service, including access to and use of the Software, the Documentation and the Content by Users;

"Receiving Party" means the party receiving or gaining access to Confidential Information of the Disclosing Party;

"Register" means a distinct grouping of forms that allow capturing of data. Examples include incidents, breaches, customer complaints or conflicts of interest;

"Retainer" means access to a defined level of additional advisory and analytics services for which a fee is payable annually in advance;

"Scheduled Downtime" has the meaning given in clause 6.1(a);

"Service Plan" means a plan for access to an enhanced level of services to be provided by Us to You for which a fee is payable annually in advance;

"Services" means the Basic Services, the Additional Services and the Implementation Services, and which, for the avoidance of doubt, includes access to and use of the Protecht.ERM Service;

"Software" means the enterprise risk management software known as Protecht.ERM, developed and owned or licensed by Us, as may be modified, revised and updated from time to time;

"Statement of Work" or "SOW" means a statement of work prepared by Us documenting any mutually agreed Additional Services that are to be provided by Us to You in connection with this Agreement, and includes any Change Order Form;

"Taxes" has the meaning given in clause 5.5;

"Term" means, subject to clause 10, the Initial Period and all Extension Periods;

"Third Party Content" means Content that is supplied by a Third Party Content Provider for use as part of the Protecht.ERM Service;

"Third Party Content Provider" means a third party supplier of Content to the Protecht Group or the Customer Group;

"Third Party Content Provider Terms and Conditions" means, in relation to particular Third Party Content, the terms and conditions (if any) from time to time of the applicable Third Party Content Provider relating to that Third Party Content which are accessible on or through the following page of the Protecht Group website: https://www.protechtgroup.com/terms-conditions/protecht.TPCP_v1.0_G951spX3;

"Third Party Hosting Provider" means Amazon Web Services or any other provider of hosting services used by Us in the delivery of the Protecht.ERM Service, with such hosting being provided at Your election in Australia, the United Kingdom, the European Union, or the United States;

"User" means an individual who is authorized by You to access and use the Protecht.ERM Service, for whom a subscription has been purchased under this Agreement, and who has been supplied with a username and password by You (or by Us at Your request), but excluding any Anonymous Users;

"Vendor" means a supplier to the Customer Group; and **"Active Vendor"** means a Vendor who is being assessed by the Customer Group for whom a subscription for Vendor Users to access and use a Vendor Portal has been purchased under this Agreement;

"Vendor User" means a User with access to and use of the Protecht.ERM Service limited to the functionality specified in the Order Form or, if no functionality is specified, the following default functionality: Accessing a Vendor Portal to perform the tasks determined by the Customer Group;

"Vendor Portal" means a website provisioned by the Protecht Group to enable Vendor Users to access and use the Protecht.ERM Service;

"We," "Us" or "Our" means Protecht;

"You" or "Your" means the Customer; and

"Your Data" means all electronic data or information entered into the Protecht.ERM Service by Users and Anonymous Users in the course of accessing and using the Protecht.ERM Service.

1.2. Interpretations

In this Agreement:

- (a) Headings do not affect the interpretation of this Agreement.
- (b) A person includes:
 - (i) an individual, a partnership, a joint venture, a body corporate (which includes a company, a corporation, an incorporated association, a co-operative, a credit union and a building society), an unincorporated association and a government or statutory body or authority; and
 - (ii) the person's legal personal representative, successors, assigns and persons substituted by novation.
- (c) Unless the context otherwise requires:
 - (i) words in the singular include the plural and vice versa;
 - (ii) a reference to a gender includes a reference to the other genders;
 - (iii) the words "including", "for example" and other similar words do not limit what is included; and

- (iv) if a word or term is defined, its other grammatical forms have corresponding meanings.
- (d) A reference to:
 - (i) legislation includes all subordinate legislation under it and includes that legislation and subordinate legislation as amended or replaced;
 - (ii) an obligation includes a warranty or representation and a reference to a failure to comply with an obligation includes a breach of warranty or representation;
 - (iii) a right includes a benefit, remedy, discretion or power;
 - (iv) this or any other document includes the document as novated, amended or replaced and despite any change in the identity of the parties;
 - (v) writing includes any mode of representing or reproducing words in tangible and permanently visible form, and includes fax transmissions and emails;
 - (vi) Your configuration of the Protecht.ERM Service includes any configuration that is done with Our assistance through the provision of Implementation Services or Consulting Services, as well as any configuration that is done without Our assistance;
 - (vii) this Agreement includes the schedule to this Agreement; and
 - (viii) clauses and the schedule are to the clauses of the schedule to this Agreement and references to items are to items of the schedule to this Agreement.
- (e) A reference to a law: (i) includes any constitutional provision, treaty, decree, convention, statute, legislation, judgment, rule of common law or principle of equity and any subordinate legislation, regulation, and rule, ordinance, proclamation or by-law made under that law; and (ii) is to that law as amended, consolidated, supplemented or replaced.
- (f) If the date on or by which any act must be done is not a Business Day, the act must be done on or by the next Business Day, and where time is to be calculated by reference to a day or event, that day or the day of that event is excluded.

2. PROTECHT.ERM SERVICE

2.1 Access to and use of Protecht.ERM Service

- (a) Users have a limited, non-exclusive and non-transferable right to access and use the Protecht.ERM Service during the Term in accordance with the Documentation and this Agreement. Access to and use of the Protecht.ERM Service by Users is limited to the number of Users specified in the Order Form unless otherwise agreed by the parties in writing. Access to and use of the Protecht.ERM Service by Vendor Users is limited to the number of Active Vendors specified in the Order Form unless otherwise agreed by the parties in writing. Access to and use of the Protecht.ERM Service by Data Entry Users and Vendor Users is limited to the functionality specified in the Order Form or, if no functionality is specified, to the default functionality specified in the definitions of those terms.
- (b) Anonymous Users have a limited, non-exclusive and non-transferable right to access, complete and submit forms published by the Customer Group from the Protecht.ERM Service during the Term in accordance with the Documentation and this Agreement. The number of Registers accessed by Anonymous Users is limited to the number of Registers specified in the Order Form unless otherwise agreed by the parties in writing. There is also a limit on the number of forms that may be submitted by Anonymous Users for each Register, with additional fees being payable if this limit is exceeded, as specified in **Item 2F** of the **Schedule**.
- (c) Users and Anonymous Users may only access and use the Protecht.ERM Service for the Customer Group's internal business purposes in the ordinary course of its business operations.
- (d) Access to and use of the Protecht.ERM Service may be subject to other limitations specified in this Agreement or any SOW, such as the limits on disk storage space or on

the number of calls the Customer Group is permitted to make to Our help desk specified in the **Schedule**.

2.2 Features and functionality

- (a) Your subscription will include: (i) all standard features and functionality (including new features and functionality) of the Protecht.ERM Service that are made available to all subscribers to the Protecht.ERM Service (**Standard Features and Functionality**); and (ii) all refinements to and improvements in Standard Features and Functionality introduced through a release made available to all subscribers to the Protecht.ERM Service.
- (b) We may offer You the opportunity to subscribe for Optional Features and Functionality at additional charges. Any subscription to Optional Features and Functionality will include all refinements to and improvements in those Optional Features and Functionality introduced through a release made available to subscribers to those Optional Features and Functionality.
- (c) You agree that Your subscription under this Agreement is neither contingent on the delivery of any future features or functionality nor, to the maximum extent permitted by applicable law, dependent on any oral or written representations made by Us regarding future features or functionality. Nothing in this clause 2.2(c) excludes Your right to bring claims for misrepresentation.
- (d) If We make any change to the existing features or functionality of the Protecht.ERM Service that materially and adversely affects the ability of customers to use the Protecht.ERM Service and We fail to implement a reasonable workaround within 180 days after receiving written notice from You describing, in reasonable detail, the relevant change and why it is materially and adversely affecting the ability of customers to use the Protecht.ERM Service, You may exercise Your right to terminate this Agreement in accordance with clause 10.3(a)(i).

3. SERVICES

3.1 Provision of the Services

During the Term, We will:

- (a) provide the Basic Services;
- (b) provide any Additional Services, as agreed by You and Us in writing;
- (c) provide any Implementation Services, as agreed by You and Us in writing;
- (d) make available sufficient and suitably experienced and qualified resources to provide the Services and perform the Services with due care and skill;
- (e) ensure that We have and will maintain all applicable licenses, approvals, certifications and authorizations necessary to provide the Services; and
- (f) use commercially reasonable efforts to meet the service level objectives specified in **Item 6** of the **Schedule** for any technical or operational assistance described in **Item 1D** of the **Schedule**.

You acknowledge and agree that We may engage suppliers to provide Us with products and services that are used by Us to provide the Services.

3.2 Provision of AI Features

- (a) We may provide AI Features as part of a Product. At Your written request: (i) We will enable those AI Features for You; and (ii) should You wish to disable those AI Features at any time, We will do so.
- (b) We will: (i) provide You with general information about AI Features that is reasonably requested by You; (ii) implement reasonable measures to identify and mitigate harmful bias in AI Features. If You identify potentially discriminatory AI Output, You may report it to Us and We will investigate and take appropriate corrective action where appropriate and feasible; and (iii) ensure that AI Features comply with AI-related laws and regulations that apply to Us.

- (c) You acknowledge and agree that AI is continuously evolving, which means that We may change, update or discontinue AI Features as AI technology and associated legal and regulatory requirements evolve.

3.3 Increasing units

Any increase in the number of Users (including Full Users, Data Entry Users or Vendor Users), Registers (for Anonymous Users), Active Vendors, platform instances or other units for which a subscription has been purchased under this Agreement must be mutually agreed using a Change Order Form or SOW that is signed by both parties. Changes to Our fees in connection with any such increase will be as specified in the applicable Change Order Form or SOW, will be payable annually in advance on each anniversary of the Commencement Date, and will be prorated for the period (if any) to the next anniversary of the Commencement Date.

4. YOUR OBLIGATIONS

4.1 Information and assistance

You must:

- (a) promptly provide Us with all technical and other information reasonably required for Us to provide the Services, including any additional or updated information that could be reasonably expected to affect the provision of access to or use of the Protecht.ERM Service by Users or Anonymous Users, such as any anticipated or actual substantial changes in the number of Anonymous Users;
- (b) promptly provide Us with all information, documentation and assistance reasonably required for Us to diagnose and resolve any technical problems or operational faults with access to and use of the Protecht.ERM Service by Users and Anonymous Users;
- (c) cooperate with Us as reasonably necessary for Us to provide the Services and perform Our other obligations under this Agreement; and
- (d) promptly provide all other resources required for Users and Anonymous Users to access and use the Protecht.ERM Service during the Term.

We will rely on the information You provide without making independent inquiries and We are not responsible or liable for inaccuracies, illegality or omissions in such information.

4.2 Specified configuration

- (a) You are responsible, at Your expense, for procuring, maintaining and updating the Customer Hardware, Customer Software and Customer Internet Connection (including data links) in accordance with the configurations We specify, which are currently as set out in **Item 4** of the **Schedule**. We are not responsible or liable for the Customer Hardware, Customer Software and Customer Internet Connection (including data links) or for any access or performance related issues arising out of any failure or delay by You to maintain and update the Customer Hardware, Customer Software or Customer Internet Connection (including data links) in accordance with this provision. However, clause 2.2(d) may apply to any change to the configuration of the Customer Hardware, Customer Software or Customer Internet Connection We specify.
- (b) We will only provide support to You if You are using internet browsers that We notify You are supported, including those specified in **Item 4** of the **Schedule**. We will withdraw support of older versions of internet browsers concurrently with withdrawal of support by the internet browser supplier.
- (c) We are not responsible for any delays, delivery failures, or any other loss or damage resulting from the transfer of data over communications networks and facilities, including the internet, and You acknowledge that the Protecht.ERM Service may be subject to limitations, delays and other problems inherent in the use of such communications facilities. The Protecht.ERM Service is provided to You using the Customer Internet Connection and the quality and availability of the Protecht.ERM Service may be affected from time to time by technical faults in the network of Your internet service provider. The Protecht Group is not responsible for access limitations caused by Your internet service provider or for Your use of the Protecht.ERM Service being suspended, interrupted or not available due to issues caused by Your internet service provider. You are responsible for all costs charged by Your internet service

provider in relation to Your internet service and Your access to and use of the Protecht.ERM Service.

4.3 Acceptance of responsibility

- (a) You must ensure that Your Data is of a nature that the Customer Group is legally entitled to have and use. You accept that We are merely providing You with 'software as a service' that is a shell or platform for the storage and processing of Your Data and You must ensure that Your Data will be of an appropriate nature that will be legal for the Customer Group to store and process. You also acknowledge that We are merely making the Protecht.ERM Service available to You for You to configure and for Users and Anonymous Users to access and use it at Your discretion to process Your Data as You would like. We make no representation about the way that Your Data is processed, except where We provide templates (which You may choose to use exercising Your own judgments about their appropriateness for You). We do not make any representation about whether the results that are attained from using the Protecht.ERM Service will be appropriate for the Customer Group. You are responsible for any liability that arises from Your Data or the Customer Group or any User or Anonymous User storing or processing Your Data (including inappropriate data) in the Protecht.ERM Service and/or using the Protecht.ERM Service for purposes that breach this Agreement or any applicable laws.
- (b) This provision applies to the maximum extent permitted by applicable law. You agree that:
 - (i) You are responsible for Your configuration of the Protecht.ERM Service (including any defects caused by Your configuration of the Protecht.ERM Service, such as broken templates and workflow rules) and any additional configuration of the Protecht.ERM Service required as a result of Your configuration of the Protecht.ERM Service (including following a release of refinements to, improvements in or new features or functionality of the Protecht.ERM Service or through subscribing to Optional Features and Functionality).
 - (ii) Given the nature of the Protecht.ERM Service and its flexibility including it being a platform to build online data capture forms and notwithstanding the existence of templates that are available for use, how You configure the Protecht.ERM Service to suit the legitimate business purposes of the Customer Group will determine what use it may have to the Customer Group and the usefulness of any data that it processes for the Customer Group.
 - (iii) The Protecht.ERM Service is not a substitute for sound process, procedures and human action, however if used appropriately it could be a useful tool notwithstanding that We make no representations as to its suitability. We disclaim all liability with respect to any potential results that the Customer Group may gain from the Protecht.ERM Service and encourage the Customer Group to review its own processes, engage appropriate external experts and rely on its own inquiries in formulating the most appropriate ways for it to use the Protecht.ERM Service.
 - (iv) Apart from any training We provide to the Customer Group, We will not be providing the Customer Group with any advice or guidance, and You take full responsibility for the Customer Group's own actions and omissions.
- (c) We may make non-substantive or non-material substantive changes to Content, and remove out-of-date Content, from time to time without giving You notice. We will use commercially reasonable efforts to give You notice of any material substantive changes to Content or removal of Content that is not out-of-date. However, it is possible that Third Party Content Providers may make changes to or remove Third Party Content without giving any notice. To the maximum extent permitted by applicable law, We do not make any promise or give any assurance that any specific Content will be included or available. For example, We may remove Third Party Content if Our contract with a Third Party Content Provider expires or terminates. However, clause 2.2(d) may apply to any change We make to Content, except where Our contract with a Third Party Content Provider terminates as a result of a cause beyond Our reasonable control. We are not

engaged in providing legal, accounting, taxation, financial or other professional services. Content is general information only with respect to its subject matter and does not constitute professional advice, nor is it conveyed or intended to be conveyed in the course of any adviser-client relationship. As such, any fiduciary relationship between You and any member of the Protecht Group is expressly excluded. The Protecht Group is not responsible for any opinion that may be given in Content, which is the opinion of the individual giving it and not of the Protecht Group. You are solely responsible for any decisions made or advice given in reliance on or as a result of the use of any Content.

- (d) You acknowledge and agree that AI Features provide automated predictions, content, recommendations and decisions based on AI, that AI Output may contain errors, inaccuracies or omissions, and that AI Features are not a substitute for professional judgment, expertise or human oversight. You also acknowledge and agree that, due to the nature of AI, other customers may receive AI Output that is similar or identical to AI Output generated for You, provided that any such AI Output will not be generated with the use of Your AI User Prompts. To the maximum extent permitted by applicable law, We do not warrant that the AI Output will be complete, accurate, reliable, or suitable for Your specific use case.

4.4 Other responsibilities

- (a) You:
 - (i) are responsible for access to and use of the Protecht.ERM Service by each User and Anonymous User and must ensure that each User and Anonymous User only accesses and uses the Protecht.ERM Service in accordance with the Documentation, this Agreement and all applicable laws;
 - (ii) are responsible for compliance by each Customer Group Entity and each User and Anonymous User with the Documentation, this Agreement and all applicable laws and You are liable for any breach of or failure to comply with the Documentation, this Agreement or any applicable laws by any Customer Group Entity or any User or Anonymous User;
 - (iii) are responsible for the accuracy, quality and legality of Your Data and for the means by which the Customer Group acquired Your Data;
 - (iv) must review and validate each AI Output before relying on or implementing that AI Output and You must maintain appropriate human oversight over AI Output. You remain solely responsible for compliance with applicable laws, regulations and all risk management decisions and strategies notwithstanding Your use of any AI Feature;
 - (v) must ensure that each Customer Group Entity uses commercially reasonable efforts to prevent unauthorized access to or use of the Protecht.ERM Service, and You must notify Us promptly of any such unauthorized access or use; and
 - (vi) must provide at least 60 days advance notice of any Consulting Services requested under any Retainer, Service Plan or Marketplace Plan. Provided that We supply the requested services within a reasonable period after that 60 day notice period, You acknowledge and agree that any remaining services that are unused at the end of each subscription year of a Retainer, Service Plan or Marketplace Plan will expire at the end of that subscription year and will not be carried forward to the following subscription year.
- (b) You must ensure that each Customer Group Entity does not do or attempt to do any of the following:
 - (i) allow any person to access or use the Protecht.ERM Service, except as expressly permitted by this Agreement;
 - (ii) allow any person (or their Personnel), other than an Anonymous User, that supplies, sells or re-sells any product or service in competition with the Protecht Group to access or use the Protecht.ERM Service;
 - (iii) sell, transfer, market, rent, lease, license, sublicense, copy, reproduce, record, transmit, publish, distribute or otherwise commercially exploit the Protecht.ERM

- Service, except as expressly permitted by this Agreement or a Third Party Content Provider (in relation to their Third Party Content);
- (iv) use the Content separately from (that is, except as part of) the Protecht.ERM Service;
 - (v) use the Protecht.ERM Service to store or transmit infringing, libelous, inappropriate, malicious, unlawful or tortious material, or to store or transmit any material in violation of any applicable laws or any Intellectual Property Rights, Moral Rights or other rights of any person;
 - (vi) store in or transmit to the Protecht.ERM Service any Malicious Code;
 - (vii) (I) reverse engineer, extract, replicate or create derivative works based on AI Features; (II) use AI Features (or Our Proprietary Items or Our Confidential Information) to develop, train or improve any AI; (III) use AI Features in any manner or for any purpose that infringes, misappropriates or otherwise violates any Intellectual Property Rights, Moral Rights or other rights, or that violates applicable laws or regulations; (IV) input false or misleading information to manipulate AI Output; or (V) represent AI Output as authoritative without appropriate review and validation;
 - (viii) other than in the ordinary course of ordinary use of the Protecht.ERM Service, interfere with or disrupt the integrity or performance of the Protecht.ERM Service or its related systems or networks, including links to or integrations with Third Party Content Providers or LMSs, or the data of any other person that is being stored in or processed by the Protecht.ERM Service;
 - (ix) gain any unauthorized access to or engage in any unauthorized use of the Protecht.ERM Service or its related systems or networks, including links to or integrations with Third Party Content Providers or LMSs; or
 - (x) otherwise access or use the Protecht.ERM Service in violation of any applicable laws or in a manner not expressly permitted by this Agreement.
- (c) We reserve the right, without liability or prejudice to Our other rights, to suspend access to the Protecht.ERM Service:
- (i) if any Customer Group Entity or any User or Anonymous User fails to comply with a material provision of the Documentation, this Agreement (including clauses 2.1, 4.1, 4.2, 9.3 and this clause 4.4) or any applicable laws and, if that failure is capable of being cured, You do not cure that failure within a reasonable period of time after receipt of a written notice from Us specifying that time period, describing the failure and requesting that it be cured;
 - (ii) to the extent and only for so long as is reasonably necessary to mitigate or prevent a security threat or issue;
 - (iii) to the extent and only for so long as is reasonably necessary to comply with any applicable laws or the lawful directions of any government authority; or
 - (iv) if any Customer Group Entity or any of their Personnel does anything that infringes or misappropriates any Proprietary Items.

4.5 Other terms and conditions

- (a) If a Marketplace Plan is specified in the Order Form or an SOW, You agree to be bound by the Marketplace Terms and Conditions, which will be incorporated in and form part of this Agreement.
- (b) If Protecht Academy Courses are included as part of the Services then You agree to be bound by the Protecht Academy Terms and Conditions, which will be incorporated in and form part of this Agreement.
- (c) You may choose to use Our Services in conjunction with Third Party Content (including Third Party Content that is available through Marketplace). Any use of Third Party Content is subject to any applicable Third Party Content Provider Terms and Conditions. If Third Party Content is used, You agree to be bound by any applicable Third Party Content Provider Terms and Conditions, which will be incorporated in and form part of this Agreement.

5. FEES AND PAYMENTS FOR SERVICES

5.1 Fees

You agree to pay to Us, within 30 days after the date You receive Our invoice:

- (a) the Implementation Fee, payable on the Commencement Date or as otherwise specified in the Order Form;
- (b) the Annual Subscription Fees for the Basic Services, payable annually in advance during the Term, commencing on the Commencement Date and then on each anniversary of the Commencement Date, or as otherwise specified in the Order Form or an SOW or Change Order Form;
- (c) the Additional Fees, payable in advance or as otherwise specified in the Order Form or an SOW; and
- (d) any other fees specified in the Order Form or an SOW, or as otherwise agreed in writing by the parties from time to time.

5.2 Reimbursable expenses

You agree to reimburse Us, on a monthly basis within 30 days after the date You receive Our invoice, for the cost of all reasonable out-of-pocket expenses that are pre-approved by You and incurred by Us in providing the Services, including travel and living expenses, courier charges and printing costs.

5.3 Annual price adjustment

The Annual Subscription Fees, and any other fees or rates agreed in writing by the parties from time to time, will be automatically increased each year on each anniversary of the Commencement Date at a rate determined by Us but not to exceed 5%. We will use reasonable endeavors to inform You in advance of any increase in fees or rates under this clause 5.3.

5.4 Payments

You must pay all amounts payable to Us under this Agreement by direct credit to Our nominated bank account as specified in Our invoices, or as otherwise notified by Us to You.

5.5 Taxes

Unless otherwise stated, Our fees do not include any taxes, levies, duties or similar governmental assessments of any nature, including value-added, sales, use or withholding taxes, assessable by any local, state, provincial, federal or foreign jurisdiction (collectively, "**Taxes**"). You are responsible for paying all Taxes associated with Your purchases hereunder. If We have the legal obligation to pay or collect Taxes for which You are responsible, the appropriate amount will be invoiced to and paid by You, unless You provide Us with a valid tax exemption certificate authorized by the appropriate taxing authority. For clarity, We are solely responsible for taxes assessable against Us based on Our income, property and employees.

5.6 Overdue charges

Subject to clause 5.8, if any payment is not received from You by the due date, then at Our discretion, We may charge You interest at the rate of 1% per Month (pro-rated daily) or the maximum rate permitted by law, whichever is lower, on the outstanding balance, compounding monthly, from the date such payment was due until the date paid. We may also charge You any reasonable costs We incur in taking reasonable steps to collect payment from You.

5.7 Suspension

Subject to clause 5.8, We reserve the right to suspend the Services, including access to and use of the Protecht.ERM Service, if any of Your payments to Us are more than 1 Month overdue. We will give You at least 7 days' prior notice that Your account is overdue before We suspend the Services.

5.8 Payment disputes

We will not exercise Our rights under clause 5.6 (Overdue charges) or 5.7 (Suspension) if You are reasonably disputing the applicable charges in good faith and are reasonably cooperating diligently to resolve the dispute.

6. AVAILABILITY

6.1 Downtime

- (a) We will use commercially reasonable efforts to provide at least 8 hours prior written notice to You of any scheduled or routine Downtime ("**Scheduled Downtime**") and We will use commercially reasonable efforts to limit Scheduled Downtime to a time outside of Business Hours.
- (b) We will use commercially reasonable efforts to ensure the Protecht.ERM Service is available on a continuous basis and meets a service level availability target of 99.5%, excluding the Downtime exceptions in clause 6.3.
- (c) In case there is any disruption of access to the Protecht.ERM Service, other than the Scheduled Downtime notified to You under clause 6.1(a), ("**Non-Scheduled Downtime**") that We do not know about, You must notify Us as soon as practicable of any Non-Scheduled Downtime.

6.2 Non-Scheduled Downtime credits

Subject to clauses 6.3 and 6.4, We will reimburse You for Non-Scheduled Downtime in the form of credits in accordance with **Item 7** of the **Schedule**. Subject to clause 10.3, payments of such credits will be Your sole and exclusive remedy for any Non-Scheduled Downtime.

6.3 Exceptions

Despite clause 6.2, We are not responsible or liable to reimburse You for any Downtime arising from any one or more of the following:

- (a) faults caused by any Customer Hardware, Customer Software, Customer Internet Connection or any of Your other equipment, applications, networks, systems or gateways, or the acts or omissions of any Customer Group Entity or any of their respective Personnel (other than acts or omissions contemplated by this Agreement), or the acts or omissions of Your internet service providers, data exchange carriers or other third party suppliers of products or services;
- (b) where access to the Protecht.ERM Service is suspended under clause 5.7 or where access to the Protecht.ERM Service is suspended under clause 4.4(c);
- (c) attacks by Malicious Code, except to the extent that the attack could have been prevented by Us complying with Our security obligations under this Agreement;
- (d) Scheduled Downtime, as notified to You in accordance with clause 6.1(a);
- (e) emergency maintenance of the Protecht.ERM Service or its related systems or networks, including links to or integrations with Third Party Content Providers or LMSs, to respond to security threats, of which We will give You as much notice as possible in the circumstances;
- (f) occurrence of any Force Majeure Event;
- (g) disruptions to or outages of any communications, energy or other utility networks or facilities, including outages on the internet; or
- (h) supply chain disruptions, including any failure by a third party supplier of products or services (including the Third Party Hosting Provider) to perform its supply obligations, as a result of a cause beyond Our reasonable control.

6.4 Credit claim

- (a) To claim a credit for Non-Scheduled Downtime under clause 6.2, You must:
 - (i) submit to Us a written request detailing the dates, times and description of the Non-Scheduled Downtime; and
 - (ii) ensure You submit the request to Us within 180 days after the end of the Month in which the relevant Non-Scheduled Downtime occurred.
- (b) If We approve Your request, approved credits will be applied against Our next invoice. The value of any approved credits that have not been applied against an invoice on expiry or termination of this Agreement will be refunded.
- (c) If We dispute Your request, no credits will be applied until the dispute is resolved.

- (d) Notwithstanding anything to the contrary herein, the total value of credits that may be applied in any relevant Month will not exceed one twelfth (1/12th) of the Annual Subscription Fee paid by You for the subscription year in which that Month occurs (prorated where that Month straddles two subscription years).

7. LIABILITY

7.1 Force Majeure

Neither party will be liable for, nor will it be considered in breach of this Agreement due to, any failure to perform its obligations under this Agreement as a result of a Force Majeure Event, provided that the other party is notified of the Force Majeure Event and its expected duration.

7.2 Mutual indemnity

Each party indemnifies the other party and its Affiliates from and against all losses, liabilities, damages, costs and expenses (including reasonable legal costs and expenses), whether in contract, tort (including negligence), breach of statutory duty, strict liability, misrepresentation, restitution or otherwise, arising from or in connection with:

- (a) any fraudulent or criminal conduct by the indemnifying party or any of its Affiliates or their respective Personnel; and
- (b) any infringement or misappropriation of the Intellectual Property Rights of the other party or any of its Affiliates, including any infringement or misappropriation of any Proprietary Items, by the indemnifying party or any of its Affiliates or their respective Personnel.

7.3 Third party claims

- (a) Subject to clause 7.3(c), We will defend the Customer Group against any claim, demand, suit, or proceeding made or brought against any Customer Group Entity by a third party alleging that access to or use of the Protecht.ERM Service by Users or Anonymous Users in accordance with the Documentation and this Agreement infringes or misappropriates the Intellectual Property Rights or Moral Rights of that third party (but excluding any claim, demand, suit or action to the extent it relates to Your Data or Third Party Content or Your configuration of the Protecht.ERM Service) (a "**Claim Against You**"), and will indemnify and hold the Customer Group harmless from and against any damages, costs and expenses (including reasonable legal costs and expenses) finally awarded by a court of competent jurisdiction against any Customer Group Entity as a result of, or for any amounts paid by any Customer Group Entity under a court-approved settlement of, a Claim Against You, provided that You:
 - (i) do not admit liability for the Claim Against You;
 - (ii) promptly give Us written notice of the Claim Against You;
 - (iii) give Us sole control of the defense and settlement of the Claim Against You at Our expense (provided that We may not settle any Claim Against You unless the settlement unconditionally releases the Customer Group of all liability); and
 - (iv) provide all reasonable assistance to Us, at no cost to You.
- (b) In the event of a Claim Against You, or if We reasonably believe the Protecht.ERM Service may infringe or misappropriate the Intellectual Property Rights or Moral Rights of a third party, We may at Our discretion and at no cost to You:
 - (i) subject to this Agreement, modify the Protecht.ERM Service so that it no longer infringes or misappropriates;
 - (ii) obtain a right for the continued use of the Protecht.ERM Service by the Customer Group in accordance with this Agreement; or
 - (iii) terminate Your User subscriptions for the Protecht.ERM Service upon 90 days written notice and refund to You any prepaid fees on a pro-rata basis from the effective date of termination until the end of the Term.
- (c) You will defend the Protecht Group against any claim, demand, suit or proceeding made or brought against any Protecht Group Entity by a third party (including any User

or Anonymous User, or any customer, supplier, regulator, Personnel or other stakeholder of the Customer Group) alleging that:

- (i) access to or use of the Protecht.ERM Service by Users or Anonymous Users that is not in accordance with the Documentation and this Agreement;
- (ii) Your configuration of the Protecht.ERM Service; or
- (iii) Your Data or Third Party Content,

infringes or misappropriates the Intellectual Property Rights, Moral Rights or other rights of that third party, creates a cause of action by that third party against a Protecht Group Entity, or violates any law (including that Your Data or Third Party Content is illegal, malicious, defamatory, offensive or otherwise inappropriate) (a "**Claim Against Us**"), and will indemnify and hold the Protecht Group harmless from and against any damages, costs and expenses (including reasonable legal costs and expenses) finally awarded by a court of competent jurisdiction against any Protecht Group Entity as a result of, or for any amounts paid by any Protecht Group Entity under a court-approved settlement of, a Claim Against Us; provided that We:

- (i) do not admit liability for the Claim Against Us;
 - (ii) promptly give You written notice of the Claim Against Us;
 - (iii) give You sole control of the defense and settlement of the Claim Against Us at Your expense (provided that You may not settle any Claim Against Us unless the settlement unconditionally releases the Protecht Group of all liability); and
 - (iv) provide all reasonable assistance to You, at no cost to Us.
- (d) This clause 7.3 states the indemnifying party's sole liability to, and the indemnified party's exclusive remedy against, the other party and their Affiliates for any type of claim described in this clause 7.3.

7.4 Limitations of liability

- (a) Nothing in this Agreement limits or excludes the liability of a party for: (i) fraudulent or criminal conduct (including fraudulent misrepresentation), gross negligence or willful misconduct, death or personal injury caused by negligence, or any other liability to the extent it cannot be excluded or limited by applicable law; (ii) any liability under clause 7.2 or clause 7.3; (iii) fees payable by You under this Agreement, including the Annual Subscription Fees, any Implementation Fee and any Additional Fees; and (iv) infringement or misappropriation of Proprietary Items.
- (b) SUBJECT TO CLAUSE 7.4(a), THE TOTAL AGGREGATE LIABILITY OF EACH PARTY AND THEIR AFFILIATES AND THEIR RESPECTIVE PERSONNEL, WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE), BREACH OF STATUTORY DUTY, STRICT LIABILITY, MISREPRESENTATION, RESTITUTION OR OTHERWISE, ARISING FROM OR IN CONNECTION WITH THIS AGREEMENT WILL NOT EXCEED AN AMOUNT EQUAL TO THE TOTAL FEES PAID BY YOU TO US UNDER THIS AGREEMENT IN THE 12 MONTH PERIOD COMMENCING ON THE COMMENCEMENT DATE OR AN ANNIVERSARY OF THE COMMENCEMENT DATE DURING WHICH A CLAIM IS MADE AGAINST THAT PARTY (OR IF THERE IS MORE THAN ONE CLAIM OR A SERIES OF RELATED CLAIMS DURING WHICH THE FIRST OF THOSE CLAIMS IS MADE AGAINST THAT PARTY).
- (c) SUBJECT TO CLAUSE 7.4(a), NEITHER PARTY NOR THEIR AFFILIATES OR THEIR RESPECTIVE PERSONNEL ARE LIABLE FOR ANY (i) LOSS OF PROFITS OR REVENUE, (ii) LOSS OF BUSINESS, BUSINESS INTERRUPTION OR LOSS OF BUSINESS OPPORTUNITY, (iii) DEPLETION OF GOODWILL OR SIMILAR LOSS, (iv) PURE ECONOMIC LOSS, OR (v) SPECIAL, INDIRECT, INCIDENTAL, EXEMPLARY, PUNITIVE OR CONSEQUENTIAL DAMAGES, CHARGES, LOSSES OR EXPENSES ARISING FROM OR IN CONNECTION WITH THIS AGREEMENT, EVEN IF A PARTY HAS BEEN ADVISED OF THAT POSSIBILITY AND NOTWITHSTANDING THE FAILURE OF ESSENTIAL PURPOSE OF ANY REMEDY.
- (d) If You reside in Australia and are a 'consumer' for the purposes of the Australian Consumer Law ("**ACL**"), then if the Services fail to meet any consumer guarantee under the ACL, and the total amount paid by You for the Services under this Agreement is less than the statutory minimum, Our liability to You for failure to meet such consumer guarantee is limited, to the extent permitted by law, to (at Our election) supplying the Services again or paying for the cost of having the Services supplied again.

- (e) You acknowledge and agree that We have based Our pricing on and entered into this Agreement in reliance upon the limitations of liability in this clause 7.4 and the disclaimers and exclusions in clause 7.5 and that those terms form an essential basis of the bargain between the parties. If applicable law limits the application of the provisions of this clause 7.4 or clause 7.5, Our liability will be limited to the maximum extent permitted by applicable law.

7.5 Disclaimers and exclusions

- (a) Except as expressly provided by this Agreement, and to the maximum extent permitted by applicable law:
 - (i) NEITHER PARTY GIVES ANY WARRANTIES OF ANY KIND, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, AND EACH PARTY SPECIFICALLY DISCLAIMS ALL IMPLIED CONDITIONS, WARRANTIES AND RIGHTS, INCLUDING ANY WARRANTIES OF MERCHANTABILITY, SATISFACTORY QUALITY, ACCURACY, NON-INFRINGEMENT OR FITNESS FOR A PARTICULAR PURPOSE, OR ANY IMPLIED WARRANTY ARISING FROM STATUTE, COURSE OF DEALING, COURSE OF PERFORMANCE, OR USAGE OF TRADE; AND
 - (ii) WITHOUT LIMITING CLAUSE 7.5(a)(i), THE PROTECHT.ERM SERVICE IS PROVIDED TO YOU ON AN "AS IS" BASIS AND WE DO NOT WARRANT THAT (A) THE PROTECHT.ERM SERVICE AND ITS RELATED SYSTEMS AND NETWORKS, INCLUDING LINKS TO AND INTEGRATIONS WITH THIRD PARTY CONTENT PROVIDERS AND LMSs, WILL BE UNINTERRUPTED OR ERROR-FREE, (B) THE PROTECHT.ERM SERVICE, THE SOFTWARE, DOCUMENTATION OR CONTENT, OR THE INFORMATION OBTAINED BY THE CUSTOMER GROUP THROUGH THE PROTECHT.ERM SERVICE WILL MEET THE CUSTOMER'S REQUIREMENTS, OR (C) THE PROTECHT.ERM SERVICE AND ITS RELATED SYSTEMS AND NETWORKS, INCLUDING LINKS TO AND INTEGRATIONS WITH THIRD PARTY CONTENT PROVIDERS AND LMSs, WILL BE COMPLETELY SECURE ALL OF THE TIME AND FREE FROM ANY WEAKNESS IN THE COMPUTATIONAL LOGIC (FOR EXAMPLE, CODE) FOUND IN SOFTWARE OR HARDWARE COMPONENTS THAT WHEN EXPLOITED RESULTS IN A NEGATIVE IMPACT TO CONFIDENTIALITY, INTEGRITY, OR AVAILABILITY.
- (b) To the maximum extent permitted by applicable law, all claims against a party must be notified by the other party in writing within 12 Months after the date the first party becomes aware of the cause of action arising and any claims made after the 12 Month period are strictly excluded and will not be considered.
- (c) To the maximum extent permitted by applicable law, the Protecht Group is not responsible for, and disclaims all liability for, the accuracy, reliability, currency, completeness or usefulness of Third Party Content. This provision does not affect the liability of any Third Party Content Provider for any warranty given by the Third Party Content Provider, to the extent any warranty is given.
- (d) To the maximum extent permitted by applicable law, the liability of either party to the other party, whether in contract, tort (including negligence), breach of statutory duty, misrepresentation, restitution or otherwise in connection with this Agreement, for any loss, liability, damage, cost or expense will be reduced to the extent that the other party contributed to that loss, liability, damage, cost or expense. In addition, in no event will the Protecht Group have any liability under this Agreement for any performance problem, claim of infringement or other matter to the extent attributable to (i) any unauthorized or improper access to or use of the Protecht.ERM Service by Users or Anonymous Users, (ii) any third party products or services used by You in conjunction with the Protecht.ERM Service, (iii) use of any industry standard protocol, such as an authentication or encryption protocol, in the Protecht.ERM Service, or (iv) any breach of this Agreement by any Customer Group Entity or any User or Anonymous User.
- (e) To the maximum extent permitted by applicable law, the Protecht Group is not responsible for, and disclaims all liability for: (i) decisions made or actions taken (or not taken) by You based on AI Output; (ii) business losses resulting from Your reliance on AI Output; (iii) errors, inaccuracies or omissions in AI Output; and (iv) interruptions or unavailability of AI Features.

7.6 Insurance

We will maintain during the Term:

- (a) public liability insurance in an amount of not less than AUD20 million per occurrence and in the aggregate;
- (b) professional indemnity insurance in an amount of not less than AUD10 million per claim and in the aggregate;
- (c) cyber risk insurance in an amount of not less than AUD5 million in the aggregate; and
- (d) any insurance, including workers compensation and employer's liability insurance, that We must hold under applicable law.

We will provide You with certificates of currency for Our insurance if requested by You to do so (no more than once annually). This obligation will be satisfied by making the certificates of currency available through Our 'security portal'.

8. CONFIDENTIALITY, YOUR DATA, DATA PROTECTION AND INFORMATION SECURITY

8.1. Confidentiality

- (a) The Receiving Party must, at all times, use the same degree of care that it uses to protect the confidentiality of its own Confidential Information of like kind (but in no event less than reasonable care) and agrees, subject to clause 8.1(b):
 - (i) not to disclose or use any Confidential Information of the Disclosing Party for any purpose other than for the purpose of performing its obligations or enforcing its rights under this Agreement;
 - (ii) except as otherwise authorized by the Disclosing Party in writing, to limit access to Confidential Information of the Disclosing Party to those of its and its Affiliates' Personnel who need such access for the purpose of performing its obligations under this Agreement and who have signed confidentiality agreements with the Receiving Party containing protections, or are otherwise subject to confidentiality protections, that are not substantively less stringent than those in this Agreement; and
 - (iii) not to disclose the terms of this Agreement to any third party, other than its Affiliates and their legal counsel and accountants, without the other party's prior written consent.
- (b) The Receiving Party may disclose Confidential Information of the Disclosing Party if it is compelled to do so by any applicable law or legal process or any regulator acting with lawful authority, provided the Receiving Party gives the Disclosing Party prior notice of that compelled disclosure (to the extent legally permitted) and reasonable assistance, at the Disclosing Party's cost, if the Disclosing Party wishes to contest the disclosure. If the Receiving Party is compelled by any applicable law or legal process or any regulator acting with lawful authority to disclose the Disclosing Party's Confidential Information as part of an investigation by any Authority or any legal proceeding to which the Disclosing Party is a party, and the Disclosing Party is not contesting the disclosure, the Disclosing Party will reimburse the Receiving Party for its reasonable cost of compiling and providing secure access to that Confidential Information. In this provision, a reference to "any applicable law or legal process or any regulator acting with lawful authority" means the law, legal process or lawful authority in any jurisdiction in which the Receiving Party or any of its Affiliates operates.
- (c) You agree that, in relation to any obligation to assist, co-operate or provide information or access to documents, including in connection with any right of audit or inspection, under this Agreement:
 - (i) that right or obligation is qualified in relation to any supplier by the terms of Our agreement with that supplier;
 - (ii) We are only obliged to disclose information or documents to the extent that information or those documents are reasonably available to Us and You do not otherwise have access to that information or those documents;
 - (iii) We have no obligation to disclose information or documents:
 - (A) relating to any other customer or where disclosure would violate any law or be in breach of any obligation of confidence;
 - (B) not relating to the Services or this Agreement; or

- (C) attracting legal professional privilege;
- (iv) some information and documents may be available:
 - (A) in summary form only;
 - (B) through Our 'security portal'; or
 - (C) for inspection only (not copy) at Our premises; and
- (v) all information and documents will be disclosed on a strictly confidential "need to know" basis.

8.2. Your Data

- (a) As between You and Us, We agree that title to Your Data will remain exclusively with You.
- (b) We will:
 - (i) not (A) modify Your Data, (B) disclose Your Data except as compelled by any applicable law or any regulator acting with lawful authority in accordance with clause 8.1(b) or as expressly permitted under this Agreement or in writing by You, (C) sell or in any way transfer Your Data to a third party, or (D) access or use Your Data except to provide the Services, including to prevent or address service or technical problems or at Your request in connection with customer support matters, or as otherwise permitted under this Agreement or with Your consent;
 - (ii) as soon as reasonably practicable after receipt (but if and only to the extent We are legally permitted to do so), notify You in writing if We receive any request from any Authority in respect of Your Data, and You must, at Your cost and expense, provide all information, cooperation and assistance reasonably required by Us to enable Us to comply with any such request; and
 - (iii) as soon as reasonably practicable after becoming aware (but if and only to the extent We are legally permitted to do so), notify You of any actual or potential investigations by any Authority in relation to Your Data, and You must, at Your cost and expense, provide all information, cooperation and other assistance reasonably required by Us in connection with that actual or potential investigation.
- (c) Subject to Us complying with Our obligations in relation to Your Data under this Agreement, including the DPA:
 - (i) in the event of any loss or damage to Your Data, Your sole and exclusive remedy against Us is for Us to use reasonable commercial efforts to restore the lost or damaged data from the latest back-up of such data maintained by Us in accordance with clause 8.4(d); and
 - (ii) We will not be responsible for any loss, destruction, alteration or disclosure of Your Data caused by any third party, unless that third party is appointed by Us as a sub-processor, in which case We will remain liable in accordance with the DPA.
- (d) You acknowledge and agree that the Protecht Group may use system generated data (including any descriptive, structural or administrative metadata) that is created in connection with Your access to or use of the Protecht.ERM Service or the operation or performance of the Protecht.ERM Service (**Metadata**), including for the purposes of: (a) improving and developing Our products and services; and (b) conducting analytics and creating utilization insights to support Our engagement with You, including in connection with Your utilization of available features and functionality and Your enterprise risk management maturity.
- (e) You may, at any time during the Term and at no cost to you, download: (i) Your Data in a comma separated value (.CSV) format file; and (ii) Your attachments and other documents in their native format, in each case using standard export functionality available in the Protecht.ERM Service. If You request Our assistance to do so, or You request an alternative format, We may, at Our discretion, charge You, and You agree to pay Us, a fee for that assistance or alternative format calculated on a time and materials basis at Our then current published rates for Additional Services.
- (f) You acknowledge and agree that:

- (i) You may provide an AI User Prompt for the purpose of receiving AI Output from AI Features and You warrant that You own or have the relevant legal grounds, consent or permission to use the AI User Prompt;
- (ii) AI Features may process Your Data and Third Party Content to provide customized AI Output and improve AI Features for Your use;
- (iii) We may use conversations between Users and AI Features, including AI User Prompts and AI Output, to better understand feedback received from Users (including in the context of providing support or other Services) and use that feedback to enhance the features and functionality and optimise the performance of a Product (including AI Features). We may also use Metadata derived from AI Features to enhance the features and functionality and optimise the performance of a Product (including AI Features). However, We will not use Your Data to train AI Features; and
- (iv) We reserve the right to take appropriate action (including throttling or temporarily suspending Your access to AI Features, or other measures reasonably necessary to maintain service quality for all customers) should We reasonably determine Your usage of AI Features is unfair or unacceptable, such as where: (i) it exceeds typical usage patterns; or (ii) it fails to comply with any usage restrictions in the Agreement (including clause 4.4(b)(vii) of this Agreement). We will monitor usage patterns across Our customer base to determine what is typical, which may change as those patterns evolve. We will provide You with reasonable notice before We exercise rights under this clause 8.2(f)(iv), except where reasonably necessary to mitigate or prevent a security threat or issue or to comply with any applicable laws or regulations or the lawful directions of any governmental authority.

8.3. Data protection

Each party undertakes to process Personal Data in accordance with, and otherwise comply with, their obligations under the DPA, the terms of which are incorporated into and form part of this Agreement.

8.4. Information security

Without limiting any other provision of the Agreement, We will:

- (a) implement and maintain appropriate administrative, physical and technical security safeguards in the provision of the Services at least consistent with the requirements of ISO 27001 for the protection, security, confidentiality and integrity of Your Data while it resides in the Protecht.ERM Service, which is hosted by Our Third Party Hosting Provider. We will maintain appropriate governance and oversight arrangements of Our Third Party Hosting Provider at least consistent with the requirements of ISO 27001. However, You remain liable for granting and limiting access to Your Data, and You must undertake technical and operational safeguards to protect the integrity of access to Your Data and We encourage You to regularly engage Your own experts to undertake penetration testing of Your systems and hardware as We are not liable for any unauthorized access originating from or conducted through Your systems and hardware;
- (b) regularly test Our systems and procedures, including penetration testing by accredited third parties, and permit such security audits as may be lawfully required by any Authority at Your cost and expense on a time and materials basis at Our then current published rates for Additional Services;
- (c) at Your written request, but subject to clause 8.1(c):
 - (i) provide You with access through Our 'security portal' to relevant details of Our information security program and information security posture; and
 - (ii) respond to reasonable and relevant queries that are not addressed by the resources available through Our 'security portal'.We may, at Our discretion, charge You, and You agree to pay Us, a fee for that assistance calculated on a time and materials basis at Our then current published rates for Additional Services; and
- (d) use commercially reasonable efforts to meet the backup and disaster recovery objectives specified in **Item 5** of the **Schedule**.

9. OUR PROPRIETARY ITEMS

9.1 Proprietary Items

You acknowledge that the Proprietary Items are proprietary to the Protecht Group (or, in the case of items licensed to the Protecht Group, its licensors) and have substantial commercial value to the Protecht Group (and, in the case of items licensed to the Protecht Group, its licensors). All right, title and interest in and to and all other ownership rights in all Proprietary Items remain exclusively with the Protecht Group (and, in the case of items licensed to the Protecht Group, its licensors), even with respect to such items that were created by the Protecht Group specifically for or on behalf of the Customer Group. You acknowledge that the restrictions in this Agreement are reasonable and necessary to protect the legitimate business interests of the Protecht Group (and, in the case of items licensed to the Protecht Group, its licensors). You acknowledge that this Agreement does not grant the Customer Group any rights other than as expressly set out in this Agreement. You agree to notify Us in writing if the Customer Group becomes aware of any unauthorized use of any Proprietary Items.

9.2 Disclosure and use restrictions

You must ensure that each Customer Group Entity and their Personnel hold all Proprietary Items in strict confidence. You must ensure that each Customer Group Entity and their Personnel take all steps reasonably necessary to preserve the confidentiality of Proprietary Items. You must ensure that no Customer Group Entity or any of their Personnel does anything that infringes or misappropriates any Proprietary Item. You must ensure that no Customer Group Entity or any of their Personnel, directly or indirectly, communicates, publishes, displays, loans, gives or otherwise discloses any Proprietary Item to any person, or permits any person to have access to or view or come into possession of any Proprietary Item, except as authorized under this Agreement. You are liable for any breach of this Agreement by any person who obtains access to or possession of any Proprietary Item from or through any Customer Group Entity or any of their Personnel.

9.3 Further use restrictions

You must not, and You must not permit any other person to, do or attempt to do any of the following:

- (a) use any Proprietary Item or Confidential Information of the Protecht Group for any purpose or in any manner not specifically authorized by this Agreement;
- (b) modify, alter, adapt, translate or create derivative works based upon or inspired by the Software, Documentation or Content, or combine or merge any part of the Software, Documentation or Content with or into any other software, documentation or content;
- (c) refer to or otherwise use any Proprietary Item or any Confidential Information as part of any effort to develop software, documentation, content or other Materials having functional attributes, visual expressions or other features substantially similar to those of the Software, Documentation, Content or any other Materials of the Protecht Group;
- (d) remove, erase or tamper with any copyright or other proprietary notice printed or stamped on, affixed to, or encoded or recorded in any Proprietary Item;
- (e) sell, transfer, market, rent, lease, license, sublicense, copy, reproduce, record, transmit, publish, distribute or otherwise commercially exploit any Proprietary Item, or grant to any person, including any outsourcer, vendor, consultant or partner, any right to do any of these things, except as expressly permitted by this Agreement;
- (f) reverse engineer, decrypt, decompile, disassemble, create, recreate or otherwise discover the source code of the Software, except to the extent You may be expressly permitted to decompile under applicable law; or
- (g) use the Protecht.ERM Service to conduct any type of service bureau or time-sharing operation.

9.4 Brand

All trademarks, service marks, trade names, and logos, including page headers, custom graphics, button icons, and scripts (collectively, the "**Trademarks**") used and displayed on or in the Protecht.ERM Service are registered and unregistered trademarks, service marks and/or

trade dress of the Protecht Group or its licensors, and You must not, and You must not permit any other person to, copy, imitate or use the Trademarks, in whole or in part, for any purpose. No license or other right to use any Trademark used or displayed on or in the Protecht.ERM Service is granted to You.

10. TERM & TERMINATION

10.1 Term

Subject to termination under this clause 10:

- (a) The minimum term of this Agreement is 3 years, commencing on the Commencement Date ("**Initial Period**").
- (b) Either party may terminate this Agreement effective at the end of the Initial Period or an Extension Period by not less than 60 days' written notice to the other party. The parties will review the terms of this Agreement prior to that 60 day period and We will use reasonable endeavors to: (i) remind You of Your right to terminate this Agreement under this clause 10.1(b); and (ii) inform You of any proposed increase in fees or rates under clause 5. on the next anniversary of the Commencement Date, in each case before that 60 day period commences.
- (c) If neither party terminates this Agreement in accordance with clause 10.1(b), the Agreement will automatically extend for further periods of 1 year on the same terms, subject to any increase in fees or rates under clause 5.3, or as otherwise agreed in writing (each period of 1 year being an "**Extension Period**").

10.2 Termination for convenience

- (a) Subject to clause 10.2(b), You may terminate this Agreement, without cause, by giving Us not less than 60 days' written notice, effective on the anniversary of the Commencement Date next occurring after the end of that 60 day period.
- (b) During the Initial Period, termination under clause 10.2(a) is conditional on You paying to Us 80% of all unpaid fees for the remainder of the Initial Period ("**Early Termination Fee**"). Following receipt of a notice to terminate in accordance with clause 10.2(a), We will promptly issue You with an invoice for the Early Termination Fee. If the Early Termination Fee is not paid within the 60 day period under clause 10.2(a), You may not exercise Your right to terminate under clause 10.2(a) and the parties agree that this Agreement will continue in full force and effect, except that clause 10.2(a) will not apply, which means You will not have the right to terminate under clause 10.2(a) for the remainder of the Term.
- (c) The parties agree that the payment of the Early Termination Fee is not a penalty but a genuine pre-estimate of the loss likely to be suffered by Us in the event that You terminate the Agreement without cause.

10.3 Termination for cause

- (a) If either party:
 - (i) breaches any material term of this Agreement which is incapable of remedy;
 - (ii) breaches any material term of this Agreement which is capable of remedy (including failure to pay any amount when due under this Agreement) and does not cure the breach within 30 days after receipt of written notice from the other party describing the breach in detail and requesting that it be rectified; or
 - (iii) becomes Insolvent or suspends or ceases (or threatens to suspend or cease) to carry on all or a substantial part of its business or its financial position deteriorates so far as to reasonably justify the opinion that its ability to give effect to the terms of the Agreement is in jeopardy,then, in addition to any other rights it has under law or equity, the other party may, at its discretion, terminate this Agreement by written notice with immediate effect, unless such termination is prohibited by applicable law.
- (b) If:
 - (i) any Non-Scheduled Downtime occurs for more than 120 hours in a Month; or

- (ii) We suspend access to the Protecht.ERM Service in accordance with clause 4.4(c)(ii) or clause 4.4(c)(iii) for more than 30 consecutive days,
- then You may terminate this Agreement by written notice to Us with immediate effect.
- (c) If a Force Majeure Event prevents a party from performing its obligations under this Agreement for more than 90 consecutive days, the other party may terminate this Agreement by written notice to the first party with immediate effect.

10.4 Effect of termination

On expiration or termination of this Agreement:

- (a) each party will retain all rights and remedies that have accrued before expiration or termination and, in particular, You will remain liable to pay all amounts due and payable by You under this Agreement, except that, if You terminate this Agreement under clause 10.3, We will refund to You any prepaid fees on a pro-rata basis from the effective date of termination until the end of the Term;
- (b) You must:
 - (i) discontinue all access to and use of the Protecht.ERM Service by Users and Anonymous Users; and
 - (ii) promptly return to Us or destroy all Proprietary Items that are in the possession or control of any Customer Group Entity or any of their Personnel;
- (c) each party must promptly return to the other party or destroy all Confidential Information of the other party that is in the possession or control of the first party. The obligation to return or destroy Confidential Information will not apply: (i) to Confidential Information held in archive or back-up systems under general systems archiving or backup policies; or (ii) to the extent the Receiving Party is required by law to retain Confidential Information. The confidentiality obligations as set out in clause 8.1 will continue to apply to the Receiving Party with respect to any such Disclosing Party's retained Confidential Information;
- (d) clause 8.2(e) will survive and continue to apply for a period of 30 days after the effective date of expiration or termination of this Agreement; and
- (e) We will have no obligation to store, process or return any of Your Data after the period of 30 days after the effective date of expiration or termination of this Agreement and will thereafter, unless and to the extent required to retain any of Your Data by applicable law, delete all of Your Data in the Protecht.ERM Service or otherwise in Our possession or under Our control.

10.5 Survival following termination

Clauses 5, 7.2-7.6, 8, 9, 10.4, 10.5, 11 and 12 will survive expiration or termination of this Agreement.

11. PROTECHT CONTRACTING ENTITY, GOVERNING LAW, JURISDICTION AND NOTICES

11.1 Protecht contracting entity, governing law and jurisdiction

- (a) The Protecht Group Entity entering into this Agreement is as defined as 'Protecht' in clause 1.1.
- (b) This Agreement and any dispute or claim arising out of or connected with this Agreement or its subject matter or formation (including tortious and other non-contractual disputes or claims) will be governed by and construed in accordance with the laws of the jurisdiction specified in the following table (in the row relating to the Protecht Group Entity defined as 'Protecht' in clause 1.1), without reference to: (i) any conflicts of law principle that would apply the substantive laws of another jurisdiction to the parties' rights or duties; (ii) the 1980 United Nations Convention on Contracts for the International Sale of Goods; or (iii) other international laws.
- (c) Each party irrevocably submits to the courts with exclusive jurisdiction specified in the following table (in the row relating to the Protecht Group Entity defined as 'Protecht' in clause 1.1) and courts of appeal from them in respect of any proceedings arising out of or in connection with this Agreement. Each party irrevocably waives any objections to

the venue of any legal process on the basis that the process has been brought in an inconvenient forum.

Protecht contracting entity	Protecht address	Governing law	Exclusive jurisdiction
Protecht.ERM Pty Ltd (ABN 50 158 878 347)	Level 11, 580 George St Sydney NSW 2000 Australia	New South Wales	New South Wales
Protecht Limited (CRN 11545041)	77 New Cavendish Street The Harley Building London W1W 6XB United Kingdom	England and Wales	England and Wales
Protecht Group Inc.	1110 N Virgil Ave PMB 95227 Los Angeles, CA 90029 United States of America	Delaware	Dover, Delaware

11.2 Notices

All notices that are required or permitted under this Agreement must be in writing. All notices to You must be sent to Your address as specified in the Order Form. All notices to Us must be sent to Our address as specified in the table in clause 11.1 (in the row relating to the Protecht Group Entity defined as 'Protecht' in clause 1.1). Any notice given by mail will be deemed to have been given on the earlier of the date of actual receipt or, if sent by prepaid, certified or registered post, 5 Business Days (or 10 Business Days if sent to or from another country) from the date it is sent. Any notice may be given by email and is taken to be received at the time sent unless the sender is notified, by a system or person involved in the delivery of the email, that the email was not successfully sent. Either party may change its address for notices by giving written notice of the new address to the other party in accordance with this clause 11.2. For the purposes of this clause 11.2, an invoice will be regarded as a notice, an invoice issued through an online accounting platform such as Xero or uploaded into an online invoicing platform such as Ariba will be regarded as having been given by email, and the address for invoices may be different than the address for other notices.

12. GENERAL PROVISIONS

12.1 Compliance with laws

Each party is responsible for complying with all laws applicable to that party in connection with this Agreement. Neither party is responsible to the other party for the other party's breach of applicable laws.

12.2 Export compliance

The Services and other technology We make available, and derivatives thereof, may be subject to export laws of various jurisdictions. Each party represents that neither it nor any of its Affiliates is listed on any embargoed, sanctioned or denied-party list, including on such lists of Australia, New Zealand, the United Kingdom, the European Union, the United States, Canada or the United Nations. You must not permit Users or Anonymous Users to access or use the Protecht.ERM Service from any such embargoed or sanctioned country or in violation of any applicable export law.

12.3 Anti-corruption

Neither party has received or been offered any illegal or improper bribe, kickback, payment, gift or thing of value from an employee or agent of the other party in connection with this

Agreement. Reasonable gifts and entertainment provided in the ordinary course of business do not violate this restriction. If either party learns of any violation of this restriction, that party will use reasonable efforts to promptly notify the other party in accordance with clause 11.2 of this Agreement.

12.4 Modern Slavery

We will not knowingly engage in any conduct or omission which may violate any Modern Slavery Laws and, subject to Our obligations and requirements of confidentiality, We will provide You with any relevant information or documentation reasonably required solely for the purpose of enabling You to comply with Your obligations under Modern Slavery Laws.

12.5 Right to use Your logo and name

With Your prior written approval, and only to the extent of naming You as a user of the Services, We have a right to use Your logo and name in any promotional material, newsletters or blogs.

12.6 Relationship of the parties

The parties are independent contractors. This Agreement does not create a partnership, franchise, joint venture, agency, fiduciary or employment relationship between the parties.

12.7 Parties and assigns

This Agreement will bind, benefit and be enforceable by and against each party and their respective successors and permitted assigns. Neither party may assign any of its rights under this Agreement, nor delegate any of its obligations under this Agreement, without the prior written consent of the other party, which consent will not be unreasonably withheld in the case of an assignment by Us to a purchaser of, or successor to, all or substantially all of Our business.

12.8 Third-party beneficiaries

Except for the Affiliates and licensors of each party (where expressly indicated) and the successors and permitted assigns of each party, and to the maximum extent permitted by applicable law, this Agreement does not confer rights on any other person or give rise to any rights (including under any applicable law) to enforce any term of this Agreement.

12.9 Dispute resolution

The parties agree to attempt to resolve disputes informally by referring the matter in dispute to their authorized representative within 5 Business Days after the dispute arises. If the dispute remains unresolved after 3 Business Days, then both parties will escalate the dispute to a member of their senior leadership team with executive responsibility within 1 Business Day. The parties will use reasonable efforts to resolve the dispute through negotiations or other agreed procedures without limiting either party's right to seek interlocutory relief, if necessary.

12.10 Entire understanding

This Agreement, including the schedule to this Agreement and all terms and conditions expressly incorporated in and forming part of this Agreement, constitutes the entire agreement between the parties and supersedes all prior and contemporaneous agreements, proposals or representations, written or oral, concerning its subject matter. The following order of precedence will apply to resolve any conflict or inconsistency between the terms and conditions of this Agreement: (i) the Order Form; (ii) these Terms and Conditions, (iii) the schedule to these Terms and Conditions; (iv) the DPA; (v) the Marketplace Terms and Conditions; (vi) the Protecht Academy Terms and Conditions; and (vii) the Third Party Content Provider Terms and Conditions.

12.11 Waiver

No waiver of any breach of this Agreement will be effective unless in writing and signed by an authorized representative of the party against whom enforcement is sought. No waiver of any breach of this Agreement, and no course of dealing between the parties, will be construed as a waiver of any subsequent breach of this Agreement. No failure or delay by a party to exercise any right or remedy provided under this Agreement or by law will constitute a waiver of that or any other right or remedy, nor will it prevent or restrict the further exercise of that or any other

right or remedy. No single or partial exercise of such right or remedy will prevent or restrict the further exercise of that or any other right or remedy.

12.12 Severability

A determination that any provision of this Agreement is invalid or unenforceable will not affect the other provisions of this Agreement. Any provision of this Agreement which is invalid or unenforceable in any jurisdiction will as to that jurisdiction only be read down or severed to the extent of that invalidity or unenforceability. The remaining provisions of this Agreement which are self-sustaining and capable of separate enforcement without regard to the read down or severed provision in that jurisdiction are and will continue to be valid and enforceable in accordance with their terms.

12.13 Amendment

This Agreement can only be amended by an agreement in writing that clearly sets out that it amends this Agreement and is signed by the parties to this Agreement.

12.14 Execution and counterparts

This Agreement may be executed in any number of counterparts and all such counterparts taken together will be deemed to constitute one and the same instrument. Each party agrees that this Agreement may be signed by electronic means.

SCHEDULE

Item 1: BASIC SERVICES

Nature of Services

Limits and Availability of Services

A. Service provision.

We will use all reasonable efforts during Business Hours to provision Your instance of the Protecht.ERM Service within 14 days after the Commencement Date.

B. Access to, and use of, the Protecht.ERM Service:

In the case of Users and Anonymous Users, all hours, subject to Downtime.

1. Up to the number of Users specified in the Order Form or as otherwise agreed by the parties in writing.

In the case of Anonymous Users, there is a maximum limit of 1,000 forms per annum for each Register that may be submitted by Anonymous Users.

2. If applicable, up to the number of Registers for Anonymous Users specified in the Order Form.

3. For the number of platform instances specified in the Order Form.

As otherwise provided by this Agreement, including clauses 2 and 4 of this Agreement.

C. Help desk telephone assistance in relation to the use of the Protecht.ERM Service (in the nature of answering "how to" questions).

10 hours per Month during Business Hours for the first 3 Months of the Initial Period.

2 hours per Month during Business Hours after the first 3 Months of the Initial Period.

D. Reasonable telephone support to assist in the resolution of any technical problems or operational faults with Customer's access to the Protecht.ERM Service.

During Business Hours as reasonably requested by Customer.

E. Data storage provided for files and attachments stored within the Protecht.ERM Service.

Data storage of up to 100 GB is included with Your subscription.

Item 2: ADDITIONAL SERVICES

Nature of Services

Limits and Availability of Services

A. All services set out in **Item 1** of the **Schedule** in excess of the specified limits set out there.

Subject to available capacity, during Business Hours as reasonably requested by Customer.

B. Access to, and use of:

1. Any Optional Features and Functionality specified in the Order Form or in any SOW.

All hours, subject to Downtime.

2. If applicable, up to the number of Active Vendors specified in the Order Form or in any SOW.

As otherwise provided by this Agreement, including clauses 2 and 4 of this Agreement.

C. Any Retainer, Service Plan or Marketplace Plan specified in the Order Form or in any SOW.

As provided by this Agreement, including clauses 2 and 4 of this Agreement.

D. If Consulting Services are requested by the Customer, the scope of those services will be agreed under an SOW and will be provided by Us for an additional fee calculated on a time and materials basis at Our then current published rates for Additional Services.

Subject to available capacity, during Business Hours as reasonably requested by Customer.

E. Excess data storage for files and attachments stored within the Protecht.ERM Service.

You will be charged an annual fee at the rate of US\$10 (converted to the currency in which prices are expressed in the Order Form at the prevailing exchange rate on the date of conversion, except where that currency is United States currency) plus applicable Taxes for each GB in excess of 100 GB.

F. Anonymous Users.

A fee is payable at the rate of US\$0.10 (converted to the currency in which prices are expressed in the Order Form at the prevailing exchange rate on the date of conversion, except where that currency is United States currency) plus applicable Taxes for each form submitted in excess of the maximum limit of 1,000 forms per annum for each Register that may be submitted by Anonymous Users.

Item 3: IMPLEMENTATION SERVICES AND CONSULTING SERVICES

Commencement The Implementation Services will commence on the date on or after the Commencement Date agreed between Protecht and the Customer.

Completion You must notify Us of any residual issues with the Implementation Services before the date that is 60 days after the 'system go-live' milestone ("**Notification Deadline**"). The Implementation Services will be regarded as complete on the later of: (i) the Notification Deadline, and (ii) if any residual issues with the Implementation Services notified by You to Us before the Notification Deadline have not been resolved by the Notification Deadline, when those issues have been resolved.

Modifications Where You have elected to use Our standard templates, there are no modifications permitted. Where the parties have agreed to implement modifications to Our standard templates (or to create bespoke formats), Our pricing (and hence Our fee) is based on one set of modifications after Your design document review and another set of modifications after Your end user testing. If You request further modifications, We may at Our discretion charge You, and You agree to pay Us, for those further modifications on a time and materials basis at the applicable rates for Additional Services.

Variations If the parties agree to any variations to agreed modifications to Our standard templates (or bespoke formats), or the process documented in the agreed project plan for the Implementation Services or the SOW for the Consulting Services, as applicable, We may at Our discretion charge You, and You agree to pay Us, for those variations on a time and materials basis at the applicable rates for Additional Services.

Iterations We are prepared to accommodate 2 iterations (being 1 draft and 1 final version) of any agreed modifications to Our standard templates (or bespoke formats) within the agreed price. If there are any additional iterations (other than any iterations required to resolve an issue with the Implementation Services or the Consulting Services, as applicable), We may at Our discretion charge You, and You agree to pay Us, for those additional iterations on a time and materials basis at the applicable rates for Additional Services.

Item 4: SPECIFIED CONFIGURATION**Customer Hardware**

Processor: 2GHz or higher.
Memory: 8GB or higher.
Video Resolution: 1280x1024 or higher.

Customer Software

Currently supported versions of Microsoft Edge, Google Chrome, Safari or Firefox.
Currently supported versions of Microsoft 365 (Excel, Word & PowerPoint).
Currently supported versions of Adobe Acrobat.
Currently supported versions of iOS and Android.

Customer Internet Connection

Minimum 10 Mbps.

Item 5: BACKUPS AND DISASTER RECOVERY OBJECTIVES**Backups**

Backups will be daily in accordance with Our Backup Policy. Backup procedures will be managed by Our Third Party Hosting Provider. Backups will be stored in an alternative availability zone from the production system.

Disaster recovery

The disaster recovery site is to be located at a physically separate datacenter with recovery point objective of 5 minutes and recovery time objective of 60 minutes. The disaster recovery site will be a full mirror image of the production environment with continuous synchronization and 5 minute latency target.

Item 6: SERVICE LEVEL OBJECTIVES

Priority type	Time to respond target	Resolution target	Examples
Low priority	24 Business Hours	120 hours	Feedback Non-essential system set-up changes No compliance or cash flow Impact
Medium priority	8 Business Hours	72 hours	Notification of image/data capture issues/trends Noncritical general, operational and technical inquiries
High priority	4 Business Hours	48 hours	Software issue affecting multiple Users and issues affecting business operation, which prevents a small group of Users from accessing or using the Protecht.ERM Service or where the module functionality is restricted but a feasible workaround exists
Critical priority	2 Business Hours	24 hours	Business critical issues that prevent the majority of Users from accessing or using the Protecht.ERM Service or where the module functionality is materially restricted with no feasible workaround

Item 7: NON-SCHEDULED DOWNTIME CREDITS

Downtime	Credits
Less than 4 hours	Nil
Between 4 and 24 hours	5% of one twelfth (1/12th) of the Annual Subscription Fee paid by You for that subscription year
More than 24 hours	10% of one twelfth (1/12th) of the Annual Subscription Fee paid by You for that subscription year