



# Terms & Conditions

## Document



**COMMERCIAL IN CONFIDENCE**

## TERMS AND CONDITIONS

### 1. Interpretation

#### 1.1 The definitions and rules of interpretation in this clause apply in this Agreement.

**Account:** means an account enabling an Authorised User to access the AIVR-Dashboard.

**Agreement:** as defined in the Order Form.

**AIVR-Dashboard:** as defined in the Order Form.

**AIVR-Device:** as defined in the Order Form.

**Authorised Users:** those employees, contractors or partners of the Customer who are authorised by the Customer and Supplier to use the Solution.

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

**Commencement Date:** as defined in the Order Form.

**Commissioning:** as defined in the Order Form or a SOW.

**Commissioning Fees:** as defined in the Order Form or a SOW.

**Confidential Information:** information that is proprietary or confidential and is either clearly labelled as such or identified as Confidential Information in clause 11.5.

**Customer Data:** the video footage captured by the AIVR-Device and transmitted to the AIVR-Dashboard, including any Personal Data comprised in it, during the Subscription Term.

**Dashboard Data:** means the information and data created by the Supplier and made available to the Customer via the AIVR-Dashboard, including graphs, maps and insights.

**Data Protection Legislation:** all applicable laws and regulations from time to time in force relating to the protection of personal information, including the UK GDPR regime comprised of the Retained Regulation (EU) 2016/679 ('UK GDPR') and the Data Protection Act 2018 and any laws substituting, re-enacting or replacing any of the forgoing, as amended or updated from time to time.

**Go-live Date:** means the date on which the Commissioning has been completed and use of the Solution commences.

**Initial Subscription Term:** the initial term of this Agreement, as detailed in the Order Form.

**Intellectual Property Rights:** means copyright, patents, rights in inventions, rights in confidential information, know-how, trade secrets, trade marks, service marks, trade names, design rights, rights in get-up, database rights, rights in data, semi-conductor chip topography rights, mask works, utility models, domain names, rights in computer software and all similar rights of whatever nature and, in each case: (i) whether registered or not, (ii) including any applications to protect or register such rights, (iii) including all renewals and extensions of such rights or applications, (iv) whether vested, contingent or future and (v) wherever existing.

**Model Data:** means a dataset produced by aggregating anonymised versions of the Customer Data with equivalent datasets from the Supplier's other customers and external data sources.

**Normal Business Hours:** 9.00 am to 5.30 pm local UK time, each Business Day.

**Order Form:** means the order form at the beginning of this Agreement, detailing the main commercial terms.

**Personal Data:** means as defined in the Data Protection Legislation.

**Services:** the services provided by the Supplier to the Customer pursuant to this Agreement, including the Commissioning, and the Solution.

**Software:** the software applications, including the Supplier Models provided by the Supplier as part of the Solution.

**Solution:** as defined in the Order Form or a SOW.

**Statement of Work (SOW):** the statement of work detailing the Services and other commercial terms, in the form set out in Schedule 3 or such other form as the parties may agree in writing and signed by each parties' authorised signatory.

**Subscription Fees:** as defined in the Order Form or a SOW.

**Subscription Term:** means as detailed in clause 14.2.

**Supplier Models:** means the Supplier's machine learning and modelling techniques and algorithms.

**Terms of Use:** means the terms of use for the Solution (as updated from time to time and available at <https://view.aivr.video/terms>).

**Virus:** any thing or device (including any software, code, file or programme) which may: prevent, impair or otherwise adversely affect the operation of any computer software, hardware or network, any telecommunications service, equipment or network or any other service or device; prevent, impair or otherwise adversely affect access to or the operation of any programme or data, including the reliability of any programme or data (whether by re-arranging, altering or erasing the programme or data in whole or part or otherwise); or adversely affect the user experience, including worms, trojan horses, viruses and other similar things or devices.

#### 1.2 The table of contents, background section and any clause, schedule or other headings in this Agreement are included for convenience only and shall have no effect on the interpretation of this Agreement.

#### 1.3 Unless the context otherwise requires, reference to a 'clause' shall be to a clause of the main body of this Agreement and reference to a 'paragraph' shall be a reference to the relevant paragraph of a schedule.

#### 1.4 A reference to a 'party' includes that party's personal representatives, successors and permitted assigns.

- 1.5 A reference to a 'person' includes a natural person, corporate or unincorporated body (in each case whether or not having separate legal personality) and that person's personal representatives, successors and permitted assigns.
- 1.6 A reference to a 'company' includes any company, corporation or other body corporate, wherever and however incorporated or established.
- 1.7 Words in the singular include the plural and vice versa.
- 1.8 Any words that follow 'include', 'includes', 'including', 'in particular' or any similar words and expressions shall be construed as illustrative only and shall not limit the sense of any word, phrase, term, definition or description preceding those words.
- 1.9 A reference to 'writing' or 'written' includes any method of reproducing words in a legible and non-transitory form.
- 1.10 A reference to any law or legislation is a reference to that law or legislation as amended, recast, replaced, extended, re-enacted or consolidated from time to time.
- 1.11 A reference to legislation includes all subordinate legislation made from time to time under that legislation.
2. Additional Services and Upgrades
- 2.1 In addition to the Commissioning and the Solution detailed in the Order Form, the parties may, from time to time, order additional Services or upgrades to existing Services by agreeing a SOW as follows:
- (a) the Customer shall provide the Supplier with a request for Services, setting out the requirements and specifications of the Services which it is requesting, any desired delivery date or timetable and such other information as the Supplier may request to allow it to prepare a draft SOW;
  - (b) the Supplier shall, as soon as reasonably practicable, provide the Customer with a draft SOW; and
  - (c) the Supplier and the Customer shall discuss and agree the draft SOW as soon as reasonably practicable and, once agreed, they shall both sign a copy of it and it shall become a binding SOW, subject to the terms of this Agreement.
3. Commissioning
- 3.1 The Supplier shall provide the Commissioning to the Customer using reasonable care and skill and in accordance with the provisions of Schedule 1.
- 3.2 Risk of damage to or loss of the AIVR-Device hardware ("Goods") will pass to the Customer on delivery. Where the Supplier stores Goods on the Customer's behalf until deployment, the risk in the Goods shall pass to the Customer on receipt by the Supplier. The Supplier shall be entitled to charge a reasonable storage fee in such circumstances.
- 3.3 If the Customer purchases the Goods, title in the Goods shall transfer to the Customer when the Supplier receives payment in full of all fees and other applicable costs or expenses in relation to the Goods.
- 3.4 If the Customer hires the Goods, title in the Goods shall remain with the Supplier at all times.
4. Solution
- Set-up & Licence
- 4.1 The Supplier will create an Account for the Customer and shall provide the Customer with log-in details for the Account on or in advance of the Go-Live Date.
- 4.2 Subject to the Customer paying the Subscription Fees, the restrictions set out in this clause 4 and the other terms and conditions of this Agreement, the Supplier hereby grants to the Customer a non-exclusive, non-transferable right to permit the Authorised Users to use the Solution for supporting the Customer's internal business purposes, during the Subscription Term.
- Authorised Users
- 4.3 The Customer is responsible for Authorised Users. In relation to the Authorised Users, the Customer undertakes that:
- (a) each Authorised User shall keep a secure password for his use of the Solution, that such password shall be changed at reasonable intervals and that each Authorised User shall keep his password confidential;
  - (b) it shall permit the Supplier to monitor the Solution in order to establish the name and password of each Authorised User; and;
  - (c) if a password has been provided to any individual who is not an Authorised User, then without prejudice to the Supplier's other rights, the Customer shall promptly disable such passwords and the Supplier shall not issue any new passwords to any such individual.
- 4.4 The Solution is are provided for use by a limited number of Authorised Users, as detailed in Schedule 1 or a SOW. Additional Authorised Users can be added in accordance with Schedule 1 or a SOW.
- 4.5 If the Customer requires third party contractors or partners to have access to the Solution as Authorised Users, these must be approved by the Supplier in Schedule 1 or a SOW.

- Acceptable use of the Solution

4.6 The Customer shall not access, store, distribute or transmit any Viruses, or any material during the course of its use of the Solution that:

- (a) is unlawful, harmful, threatening, defamatory, obscene, infringing, harassing or racially or ethnically offensive;
- (b) facilitates illegal activity;
- (c) depicts sexually explicit images;
- (d) promotes unlawful violence;
- (e) is discriminatory based on race, gender, colour, religious belief, sexual orientation, disability; or
- (f) in a manner that is otherwise illegal or causes damage or injury to any person or property,

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

4.7 The Customer shall not:

- (a) except as may be allowed by any applicable law which is incapable of exclusion by agreement between the parties:
- (i) and except to the extent expressly permitted under this Agreement or any Supplier issued documentation or specification relating to the Services, attempt to copy, modify, duplicate, create derivative works from, frame, mirror, republish, download, display, transmit, or distribute all or any portion of the Software in any form or media or by any means; or
- (ii) attempt to reverse compile, disassemble, reverse engineer or otherwise reduce to human-perceivable form all or any part of the Software; or
- (b) access all or any part of the Solution in order to build a product or service which competes with the Solution; or
- (c) license, sell, rent, lease, transfer, assign, distribute, display, disclose, or otherwise commercially exploit, or otherwise make the Solution available to any third party except the Authorised Users, or
- (d) attempt to obtain, or assist third parties in obtaining, access to the Solution.

4.8 The Customer shall use all reasonable endeavours to prevent any unauthorised access to, or use of, the Solution, and in the event of any such unauthorised access or use, promptly notify the Supplier.

## 5. Supplier's delivery of Services

5.1 The Supplier shall, during the Subscription Term, provide the Services to the Customer on and subject to the terms of this Agreement and using all reasonable care and skill.

5.2 Notwithstanding clause 5.1, the Supplier does not warrant that the Customer's use of the Solution will be uninterrupted or error-free; or that the Solution and/or the information obtained by the Customer through the Solution will meet the Customer's requirements.

5.3 The Supplier shall not be deemed to be in breach of clause 5.1 to the extent any non-conformance is caused by use of the Solution contrary to the Supplier's instructions, or modification or alteration of the Solution by any party other than the Supplier or the Supplier's duly authorised contractors or agents. If the Solution does not conform with clause 5.1, the Supplier will, at its expense, use reasonable commercial endeavours to correct any such non-conformance promptly, or provide the Customer with an alternative means of accomplishing the desired performance. Such correction or substitution constitutes the Customer's sole and exclusive remedy for any breach of clause 5.1.

5.4 The Supplier is not responsible for any delays, delivery failures, or any other loss or damage resulting from the transfer of data over communications networks and facilities, including the internet, and the Customer acknowledges that the Solution may be subject to limitations, delays and other problems inherent in the use of such communications facilities.

5.5 The Supplier warrants that it has and will maintain all necessary licences, consents, and permissions necessary for the performance of its obligations under this Agreement.

5.6 Delivery of Services by the Supplier is subject to any assumptions detailed in a Schedule or a SOW.

## 6. Customer data & Dashboard Data

6.1 The Customer shall own all Intellectual Property Rights in the Customer Data.

6.2 The Customer hereby grants the Supplier a non-exclusive, royalty free licence to use the Customer Data to the extent necessary for the Supplier to deliver the Services.

6.3 The Supplier shall own all Intellectual Property Rights in and to the Model Data and Dashboard Data.

6.4 The Supplier grants the Customer a non-exclusive, perpetual, irrevocable, royalty free licence to use the Dashboard Data that has been exported from the AIVR-Dashboard during the Subscription Term.

6.5 The Supplier shall have no liability in respect of the Customer's, or any third party's, use (including any onward publication or disclosure) of the exported Dashboard Data and the Customer Data.[1] [2] [3]

## 7. Data Protection

7.1 For the purposes of this clause 7, the terms "Controller", "Processor", "Data Subject", "Personal Data" and "processing/process" shall have the meaning given to them in the Data Protection Legislation.

7.2 For the purposes of delivering the Services, the Supplier processes Personal Data ("Customer Personal Data").

7.3 The parties acknowledge that for the purposes of the Data Protection Legislation, the Customer is the Controller and the Supplier is the Processor of the Customer Personal Data. The Customer shall have sole responsibility for the legality, reliability, integrity, accuracy and quality of the Customer Personal Data provided to the Supplier.

7.4 Instructions. The Supplier shall process Customer Personal Data only to the extent, and in such a manner, as is necessary for the purposes of delivering the Services in accordance with this Agreement and the Customer's instructions from time to time and shall not process the Customer Personal Data for any other purpose.

7.5 Security. Taking into account the state of technical development and the nature of processing, the Supplier shall implement and maintain the technical and organisational measures to protect the Customer Personal Data against accidental, unauthorised or unlawful destruction, loss, alteration, disclosure or access.

7.6 Sub-processing. The Supplier shall be entitled to appoint agents, subcontractors or other suppliers to act as sub-processors in relation to the Customer Personal Data provided that it:

- (a) prior to any sub-processor carrying out any processing activities in respect of the Customer Personal Data, appoints such sub-processor under a written contract containing materially the same obligations as under this clause 7; and
- (b) remains fully liable to the Customer for all the acts and omissions of each sub-processor as if they were its own.

7.7 Personnel. The Supplier shall ensure that all employees, agents or other persons acting for the Supplier with access to Customer Personal Data:

- (a) are informed of the confidential nature of the Customer Personal Data and are subject to a binding written contractual obligation to keep the Customer Personal Data confidential;
- (b) have undertaken training in the laws relating to handling Personal Data;
- (c) are aware both of the Supplier's duties and their personal duties and obligations under such laws in relation to the Services; and
- (d) shall only have access to such part or parts of the Customer Personal Data as is strictly necessary for performance of that person's duties.

7.8 International transfers. The Supplier shall only transfer the Customer Personal Data outside of the UK if appropriate safeguards are in place.

7.9 Breach. The Supplier shall promptly inform the Customer if any Customer Personal Data is lost or destroyed or becomes damaged, corrupted, or unusable. The Supplier shall not be responsible for any loss, destruction, alteration or disclosure of Customer Personal Data caused by any third party (except those third parties sub-contracted by the Supplier to perform Services related to Customer Personal Data maintenance and back-up).

7.10 Audits. The Supplier shall, in accordance with the Data Protection Legislation, make available to the Customer such information that is in its possession or control as is necessary to demonstrate the Supplier's compliance with the obligations placed on it under this clause 7 and to demonstrate compliance with the obligations on each party imposed by Article 28 of the UK GDPR (and under any equivalent Data Protection Legislation equivalent to that Article 28), and allow for and contribute to audits, including inspections, by the Customer (or another auditor mandated by the Customer) for this purpose (subject to a maximum of one audit request in any 12 month period under this clause 7).

7.11 Assistance. The Supplier shall:

- (a) promptly provide such information and assistance (including by taking all appropriate technical and organisational measures) as the Customer may require in relation to the fulfilment of the Customer's obligations to respond to requests for exercising the Data Subjects' rights under Chapter III of the UK GDPR (and any similar obligations under applicable Data Protection Legislation); and
- (b) provide such information, co-operation and other assistance to the Customer as the Customer reasonably requires (taking into account the nature of processing and the information available to the Supplier) to ensure compliance with the Customer's obligations under Data Protection Legislation.

7.12 Deletion/return. At the end of the provision of the Services relating to the processing of Customer Personal Data, at the Customer's cost and the Customer's option, the Supplier shall either return all of the Customer Personal Data to the Customer or securely

dispose of the Customer Personal Data (and thereafter promptly delete all existing copies of it) except to the extent that any applicable law requires the Supplier to retain such Customer Personal Data.

7.13 Each party warrants that it shall comply with the Data Protection Legislation in the performance of this Agreement.

7.14 The Customer warrants to the Supplier that it has all consents or other lawful bases, and has otherwise complied with all requirements in the Data Protection Legislation, necessary for the Supplier to process the Customer Personal Data in order to deliver the Services and the Customer agrees to indemnify and keep indemnified and defend at its own expense the Supplier against all costs, claims, damages or expenses incurred by the Supplier as a result of breaching the warranty in this clause 7.14.

7.15 The Supplier agrees to indemnify and keep indemnified and defend at its own expense the Customer against all costs, claims, damages or expenses incurred by the Customer or for which the Customer may become liable due to any failure by the Supplier or its employees or agents to comply with any of its obligations under this clause 7.

## 8. Customer's obligations

The Customer shall:

(a) provide the Supplier with:

- (i) all necessary co-operation in relation to this Agreement; and
- (ii) all necessary access to such information, systems, equipment and locations as may be required by the Supplier, in order to provide the Services;
- (b) comply with all applicable laws and regulations with respect to its activities under this Agreement;
- (c) carry out all other Customer responsibilities set out in this Agreement in a timely and efficient manner. In the event of any delays in the Customer's provision of such assistance as agreed by the parties, the Supplier may adjust any agreed timetable or delivery schedule as reasonably necessary;
- (d) ensure that the Authorised Users use the Services in accordance with the terms and conditions of this Agreement and the Terms of Use and shall be responsible for any Authorised User's breach of this Agreement or the Terms of Use;
- (e) obtain and shall maintain all necessary licences, consents, and permissions necessary for the Supplier, its contractors and agents to perform their obligations under this Agreement;
- (f) ensure that its network and systems comply with the relevant specifications and assumptions provided by the Supplier from time to time; and
- (g) be solely responsible for procuring and maintaining its network connections and telecommunications links from its systems to the Supplier's data centres, and all problems, conditions, delays, delivery failures and all other loss or damage arising from or relating to the Customer's network connections or telecommunications links or caused by the internet.

## 9. Charges and payment

9.1 The Customer shall pay the Commissioning Fees and Subscription Fees in accordance with this clause 9, the Order Form or a SOW (as applicable).

9.2 The Supplier shall invoice the Customer in accordance with Schedule 1 and/or a SOW and unless specified otherwise, the Customer shall pay each invoice within 30 days after the date of such invoice.

9.3 If the Supplier has not received payment within 7 days after the due date, and without prejudice to any other rights and remedies of the Supplier:

- (a) the Supplier may, without liability to the Customer, suspend the Commissioning or disable the Customer's passwords, accounts and access to all or part of the Solution and the Supplier shall be under no obligation to provide any or all of the Services while the invoice(s) concerned remain unpaid; and
- (b) interest shall accrue on a daily basis on such due amounts at an annual rate equal to 4% over the then current base lending rate of the Supplier's bankers in the UK from time to time, commencing on the due date and continuing until fully paid, whether before or after judgment.

9.4 All amounts and fees stated or referred to in this Agreement:

- (a) shall be payable in pounds sterling;
- (b) are exclusive of value added tax, which shall be added to the Supplier's invoice(s) at the appropriate rate.

9.5 The Supplier may vary Subscription Fees on any anniversary of the Go-Live Date by giving the Customer not less than 30 days' written notice prior to such anniversary.

## 10. Proprietary rights

10.1 The Customer acknowledges and agrees that the Supplier and/or its licensors own all Intellectual Property rights in the Solution, including the Software. Except as expressly stated herein, this Agreement does not grant the Customer any rights to, or in,

patents, copyright, database right, trade secrets, trade names, trade marks (whether registered or unregistered), or any other rights or licences in respect of the Solution.

10.2 The Supplier confirms that it has all the rights in relation to the Solution that are necessary to grant all the rights it purports to grant under, and in accordance with, the terms of this Agreement.

## 11. Confidentiality

11.1 Each party may be given access to Confidential Information from the other party in order to perform its obligations under this Agreement. A party's Confidential Information shall not be deemed to include information that:

- (a) is or becomes publicly known other than through any act or omission of the receiving party;
- (b) was in the other party's lawful possession before the disclosure;
- (c) is lawfully disclosed to the receiving party by a third party without restriction on disclosure;
- (d) is independently developed by the receiving party, which independent development can be shown by written evidence; or
- (e) is required to be disclosed by law, by any court of competent jurisdiction or by any regulatory or administrative body (for the purposes of that disclosure only).

11.2 Each party shall hold the other's Confidential Information in confidence and, unless required by law, not make the other's Confidential Information available to any third party, or use the other's Confidential Information for any purpose other than the implementation of this Agreement.

11.3 Each party shall take all reasonable steps to ensure that the other's Confidential Information to which it has access is not disclosed or distributed by its employees or agents in violation of the terms of this Agreement.

11.4 Neither party shall be responsible for any loss, destruction, alteration or disclosure of Confidential Information caused by any third party.

11.5 The Customer acknowledges that details of the Services, and the results of any performance tests of the Services, constitute the Supplier's Confidential Information.

11.6 The Supplier acknowledges that the Customer Data is the Confidential Information of the Customer.

11.7 This clause 11 shall survive termination of this Agreement, however arising.

## 12. Indemnity

12.1 The Customer shall defend the Supplier, its officers, directors and employees against any claim that the Customer Data infringes the Intellectual Property Rights or other rights of any third party, and shall indemnify the Supplier for any amounts awarded against the Supplier in judgment or settlement of such claims, provided that:

- (a) the Customer is given prompt notice of any such claim;
- (b) the Supplier provides reasonable co-operation to the Customer in the defence and settlement of such claim, at the Customer's expense; and
- (c) the Customer is given sole authority to defend or settle the claim.

12.2 The Supplier shall defend the Customer, its officers, directors and employees against any claim that the Software infringes the Intellectual Property Rights of any third party, and shall indemnify the Customer for any amounts awarded against the Customer in judgment or settlement of such claims, provided that:

- (a) the Supplier is given prompt notice of any such claim;
- (b) the Customer provides reasonable co-operation to the Supplier in the defence and settlement of such claim, at the Supplier's expense; and
- (c) the Supplier is given sole authority to defend or settle the claim.

12.3 In the defence or settlement of any claim, the Supplier may procure the right for the Customer to continue using the Software, replace or modify the Software so that it becomes non-infringing or, if such remedies are not reasonably available, terminate this Agreement on 5 Business Days' notice to the Customer without any additional liability or obligation to pay liquidated damages or other additional costs to the Customer.

12.4 In no event shall the Supplier, its employees, agents and sub-contractors be liable to the Customer to the extent that the alleged infringement is based on:

- (a) a modification of the Software by anyone other than the Supplier; or
- (b) the Customer's use of the Services in a manner contrary to this Agreement or the instructions given to the Customer by the Supplier; or

- (c) the Customer's use of the Services after notice of the alleged or actual infringement from the Supplier or any appropriate authority.
- 12.5 The foregoing states the Customer's sole and exclusive rights and remedies, and the Supplier's (including the Supplier's employees', agents' and sub-contractors') entire obligations and liability, for infringement of third party Intellectual Property Rights.
13. Limitation of liability
- 13.1 This clause 13 sets out the entire financial liability of the Supplier (including any liability for the acts or omissions of its employees, agents and sub-contractors) to the Customer:
- (a) arising under or in connection with this Agreement;
  - (b) in respect of any use made by the Customer of the Services or any part of them; and
  - (c) in respect of any representation, statement or tortious act or omission (including negligence) arising under or in connection with this Agreement.
- 13.2 Except as expressly and specifically provided in this Agreement:
- (a) the Customer assumes sole responsibility for results obtained from the use of the Solution by the Customer, and for conclusions drawn from such use. The Supplier shall have no liability for any damage caused by errors or omissions in any information, Customer Data, instructions or scripts provided to the Supplier by the Customer in connection with the Services, or any actions taken by the Supplier at the Customer's direction; and
  - (b) all warranties, representations, conditions and all other terms of any kind whatsoever implied by statute or common law are, to the fullest extent permitted by applicable law, excluded from this Agreement.
- 13.3 Nothing in this Agreement excludes the liability of the Supplier:
- (a) for death or personal injury caused by the Supplier's negligence; or
  - (b) for fraud or fraudulent misrepresentation.
- 13.4 Subject to clause 13.2 and clause 13.3:
- (a) the Supplier shall not be liable whether in tort (including for negligence or breach of statutory duty), contract, misrepresentation, restitution or otherwise for any loss of profits, loss of business, depletion of goodwill and/or similar losses or loss or corruption of data or information, or pure economic loss, or for any special, indirect or consequential loss, costs, damages, charges or expenses however arising under this Agreement; and
  - (b) the Supplier's total aggregate liability in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise, arising in connection with the performance or contemplated performance of this Agreement shall be limited to an amount equal to the total Set-up Fees and Subscription Fees paid during the 12 months immediately preceding the date on which the claim arose.
14. Term and termination
- 14.1 This Agreement shall, unless otherwise terminated as provided in this clause 14, commence on the Commencement Date and shall continue for the Initial Subscription Term and, thereafter, this Agreement shall be renewed for successive periods of 12 months or any other agreed term (each a Renewal Period), unless either party gives the other at least 90 days' written notice of its intention not to renew, prior the end of the Initial Subscription Term or a Renewal Period. The Initial Subscription Term together with any subsequent Renewal Periods shall constitute the Subscription Term.
- 14.2 Without affecting any other right or remedy available to it, either party may terminate this Agreement with immediate effect by giving written notice to the other party if:
- (a) the other party fails to pay any amount due under this Agreement on the due date for payment and remains in default not less than 30 days after being notified in writing to make such payment;
  - (b) the other party commits a material breach of any other term of this Agreement which breach is irremediable or (if such breach is remediable) fails to remedy that breach within a period of 30 days after being notified in writing to do so;
  - (c) the other party suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 ;
  - (d) the other party commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors other than for the sole purpose of a scheme for a solvent amalgamation of that other party with one or more other companies or the solvent reconstruction of that other party;

- (e) a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of that other party other than for the sole purpose of a scheme for a solvent amalgamation of that other party with one or more other companies or the solvent reconstruction of that other party;
- (f) an application is made to court, or an order is made, for the appointment of an administrator, or if a notice of intention to appoint an administrator is given or if an administrator is appointed, over the other party;
- (g) the holder of a qualifying floating charge over the assets of that other party has become entitled to appoint or has appointed an administrative receiver;
- (h) a person becomes entitled to appoint a receiver over the assets of the other party or a receiver is appointed over the assets of the other party;
- (i) a creditor or encumbrancer of the other party attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of the other party's assets and such attachment or process is not discharged within 14 days;
- (j) any event occurs, or proceeding is taken, with respect to the other party in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clause 14.2(c) to clause 14.2(i) (inclusive);
- (k) the other party suspends or ceases, or threatens to suspend or cease, carrying on all or a substantial part of its business.

14.3 The Supplier may terminate this Agreement immediately by written notice to the Customer in the event that the Customer undergoes a change of control (as defined in section of the Corporation Tax Act 2010 sections 719 – 722).

14.4 On termination of this Agreement for any reason:

- (a) all licences granted under this Agreement shall immediately terminate;
- (b) each party shall return and make no further use of any equipment, property and other items (and all copies of them) belonging to the other party;
- (c) the Supplier may destroy or otherwise dispose of any of the Customer Data not exported by the Customer; and
- (d) any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination, including the right to claim damages in respect of any breach of the Agreement which existed at or before the date of termination shall not be affected or prejudiced.

15. Force majeure

The Supplier shall have no liability to the Customer under this Agreement if it is prevented from or delayed in performing its obligations under this Agreement, or from carrying on its business, by acts, events, omissions or accidents beyond its reasonable control, including, without limitation, strikes, lock-outs or other industrial disputes (whether involving the workforce of the Supplier or any other party), failure of a utility service or transport or telecommunications network, act of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, storm or default of any suppliers or sub-contractors, provided that the Customer is notified of such an event and its expected duration.

16. Conflict

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

17. Variation

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

18. Waiver

No failure or delay by a party to exercise any right or remedy provided under this Agreement or by law shall constitute a waiver of that or any other right or remedy, nor shall 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 shall prevent or restrict the further exercise of that or any other right or remedy.

19. Rights and remedies

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

20. Severance

20.1 If any provision (or part of a provision) of this Agreement is found by any court or administrative body of competent jurisdiction to be invalid, unenforceable or illegal, the other provisions shall remain in force.

20.2 If any invalid, unenforceable or illegal provision would be valid, enforceable or legal if some part of it were deleted, the provision shall apply with whatever modification is necessary to give effect to the commercial intention of the parties.

21. Entire agreement

21.1 This Agreement, and any documents referred to in it, constitute the whole agreement between the parties and supersede any previous arrangement, understanding or agreement between them relating to the subject matter they cover.

21.2 Each of the parties acknowledges and agrees that in entering into this Agreement it does not rely on any undertaking, promise, assurance, statement, representation, warranty or understanding (whether in writing or not) of any person (whether party to this Agreement or not) relating to the subject matter of this Agreement, other than as expressly set out in this Agreement.

## 22. Assignment

22.1 The Customer shall not, without the prior written consent of the Supplier, assign, transfer, charge, sub-contract or deal in any other manner with all or any of its rights or obligations under this Agreement.

22.2 The Supplier may at any time assign, transfer, charge, sub-contract or deal in any other manner with all or any of its rights or obligations under this Agreement.

## 23. No partnership or agency

Nothing in this Agreement is intended to or shall operate to create a partnership between the parties, or authorise either party to act as agent for the other, and neither party shall have the authority to act in the name or on behalf of or otherwise to bind the other in any way (including, but not limited to, the making of any representation or warranty, the assumption of any obligation or liability and the exercise of any right or power).

## 24. Third party rights

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

## 25. Notices

25.1 Any notice required to be given under this Agreement shall be in writing and shall be delivered by hand, sent by pre-paid first-class post or recorded delivery post to the other party at its address set out in this Agreement, or such other address or email addresses as may have been notified by that party for such purposes.

25.2 A notice delivered by hand shall be deemed to have been received when delivered (or if delivery is not in Normal Business Hours, at 9 am on the first business day following delivery). A correctly addressed notice sent by pre-paid first-class post or recorded delivery post shall be deemed to have been received at the time at which it would have been delivered in the normal course of post. A notice sent by email shall be deemed to have been received 1 Business Day after the day it was sent.

## 26. Governing law

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

## 27. Jurisdiction

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

This Agreement has been entered into on the date stated at the beginning of it.

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