



inploi

inploi Terms and Conditions of Business

These Terms and Conditions (the “**Terms**”) will govern your access to and use of inploi’s Services. These Terms, together with the Order Form setting out (amongst other things) the specific services to be provided to you and the fees you will incur for those services, will together form the basis of your legal relationship with inploi.

Definitions used in these Terms and not otherwise defined in an Order Form or in the body of these Terms can be found at Appendix 1, along with certain rules as to how the Contract will be interpreted, which are to be found at Appendix 2.

1. The Parties

- 1.1. Inploi Limited (“**inploi**”) is a company registered in England and Wales with company number 09674409 and with registered address at **6 Orsman Road, N1 5RA London**.
- 1.2. Throughout the Terms you will be referred to you as both “**the Company**” and “**you**”.

2. How these Terms apply

- 2.1. A completed Order Form as provided by inploi to the Company, signed on behalf of the Company (including by e-signature), will be regarded as an offer to purchase the Services.
- 2.2. This offer will be deemed to be accepted, and the Contract between the Parties, comprising the Order Form, these Terms and the Data Processing Agreement (the “**Contract**”) shall become effective, on the date the Order Form is signed on behalf of the Company (including by e-signature) (the “**Commencement Date**”).
- 2.3. Any correspondence between the Parties, whether written or oral, prior to the Commencement Date, including any quotations from inploi or offers to pay a certain price by the Company, will not be regarded as offers to enter into a contract. Inploi shall have no obligation to provide the Services and the Company shall have no right to receive the Services pursuant to an Order Form, until both Parties have created a binding Contract by signing the Order Form.
- 2.4. The Terms will apply to the exclusion of any other terms proposed by the Company or that the Company seeks to impose or incorporate, or which are implied by law, trade custom, practice or course of dealing. The Company acknowledges that inploi has provided its proposals to provide Services and committed to any agreed pricing by reference to these Terms.
- 2.5. Except as expressly and specifically provided in these Terms, all warranties, representations, conditions, and all other terms of any kind whatsoever proposed by the Company, or that the Company seeks to impose or incorporate, or which are implied by law, trade custom, practice or course of dealing, are to the fullest extent permitted by applicable law, excluded from this Contract. The Company acknowledges that the Services are provided to the Company on an “as is” basis.
- 2.6. Where so provided in the Order Form, the right to use the Services are granted to:
 - 2.6.1. the Company; and
 - 2.6.2. subject to clause 2.7, any Connected Entity as named in the Order Form.
- 2.7. If a Connected Entity stated in the Order Form is granted the right to use the Services:
 - 2.7.1. unless the context otherwise requires or unless specifically excluded, any reference to the Company and the Parties in these Terms shall be deemed a reference to any Connected

Entity, and any provision requiring the Company to do, or not to do, a thing shall apply to the Connected Entity;

- 2.7.2. the Company will be solely responsible for the Fees;
 - 2.7.3. the Company shall procure compliance of these Terms by the Connected Entity and shall be jointly and severally liable with the Connected Entity for the actions or omissions of the Connected Entity (and its Users and Representatives) as if they were the actions or omissions of the Company. Any breach of the Contract by the Connected Entity shall be deemed to be a breach of the Contract by the Company;
 - 2.7.4. the Company shall ensure that any rights or remedies arising in connection with this Contract will be actionable against inploi solely by the Company and not by any Connected Entity except that Company will be entitled to treat losses of a Connected Entity as if they are losses of the Company;
 - 2.7.5. without prejudice to inploi's right to bring a claim against a Connected Entity for breach of this Contract, the Company shall be the sole person with whom inploi needs to deal with in respect of the Services; and
 - 2.7.6. the Company represents and warrants that it is authorised by such Connected Entity to enter into this Contract, and notwithstanding clauses 2.7.5 and 2.7.3, the Company accepts that it is joint and severally liable with the Connected Entity for all obligations, duties and liabilities that apply to the Company and/or Connected Entity under the Contract.
- 2.8. Should there be any contradiction or discrepancy between these Terms, the terms of an Order Form and/or the terms of the Data Processing Agreement, the terms shall be applied in the following order of priority when interpreting the Contract:
- 2.8.1. first, the terms of the Order Form;
 - 2.8.2. second, the terms of the Data Processing Agreement;
 - 2.8.3. third, these Terms.

3. Commencement

- 3.1. This Contract shall commence in accordance with clause 2.2 on the Commencement Date and shall continue:
- 3.1.1. until the Subscription End Date set out in the Order Form; or
 - 3.1.2. if the Order Form does not stipulate a Subscription End Date, or a Length of Term, for an initial period of 36 months from the Subscription Start Date set out in the Order form,
- (in either case, the "**Initial Term**"), unless terminated earlier in accordance with clause 13 or any additional termination provisions specified in these Terms.
- 3.2. After the Initial Term, the Contract will automatically renew for successive twelve month periods (each, a "**Renewal Term**") unless (a) either Party provides the other with not less than three months' written notice prior to the beginning of any such Renewal Term electing not to renew the Contract; or (b) the Contract is otherwise terminated in accordance with these terms. The Initial Term and all Renewal Terms are referred to collectively as the "**Term**".
- 3.3. The Services may commence separately on the Subscription Start Date set out in the Order Form, and implementation of the Services may commence separately on the Implementation Start Date set out in the Order Form.

4. Provision of the Services

- 4.1. Subject to the Company paying the Fees, and it (and any Connected Entity) complying with the terms and conditions of this Contract, inploi hereby grants to the Company (and any Connected Entity):
- 4.1.1. a non-exclusive right to use each Service (and all related Documentation) as is set out in the Order Form for the Term, solely for its own internal business purposes; and
 - 4.1.2. a royalty free, non-exclusive licence for the Company (and any Connected Entity) to use, copy and modify the Documentation as necessary for the Company and any Connected Entity to enjoy the benefit of the Services.
- 4.2. In providing the Services, Inploi shall:
- 4.2.1. undertake all preparatory activities required to provide any part of the Service including, where forming part of the Service, the implementation of any sub-domain of the inploi website to serve as a portal for the Company's benefit (the "**Company Portal**");
 - 4.2.2. maintain, throughout the period in which any relevant Service is being provided, the Company Portal and ensure (subject to Force Majeure and any interruptions or downtime arising to which clause 4.3 applies) the continuous availability of the Company Portal;
 - 4.2.3. use commercially reasonable endeavours to make the Services stated in an Order Form available (subject to clause 4.3) 24 hours a day, 7 days a week, and to ensure that such Services conform to the specification set out in the Order Form and Documentation;
 - 4.2.4. use reasonable endeavours to achieve all milestones agreed with you in connection with the implementation of the Services;
 - 4.2.5. keep you advised of progress in relation to the provision of the Services and provide other relevant information, in accordance with such timelines as inploi agrees with the Company from time to time;
 - 4.2.6. provide and procure the provision of the Services in accordance with all relevant laws and regulations applicable to inploi and the provision of the Services;
 - 4.2.7. without prejudice to the generality of clause 4.2.6:
 - 4.2.7.1. ensure that inploi holds all necessary consents, permissions and licences that inploi may require to provide the Services;
 - 4.2.7.2. maintain security standards, data back up and disaster recovery arrangements that are in accordance with good industry practice;
 - 4.2.7.3. maintain all rights and licences offered, granted and hereafter to be granted under the Contract; and
 - 4.2.7.4. comply with any further obligations agreed between the Parties under any supplemental Order Forms or Change Orders agreed after the Commencement Date.
- 4.3. The availability of the Services is subject to any downtime required by inploi or any of inploi's suppliers to undertake maintenance to systems used or accessed by inploi in connection with the provision of such Services. inploi shall use reasonable endeavours to provide advance notification of such downtime. inploi is not liable for failing to provide the Services under any circumstances which reasonably require unplanned maintenance to remedy. inploi shall use reasonable endeavours to ensure any maintenance is undertaken with a view to minimising the impact on the Services to its customers as a whole.

4.4. inpoi does not warrant that the Company's use of the Services will be uninterrupted or error-free, or that the Services and/or the results obtained by the Company through its use of the Services will meet the Company's requirements. Subject to its obligations under Data Protection Laws, inpoi is not responsible for any delays, delivery failures, or any other loss or damage resulting from the transfer of Company Content over communications networks and facilities, including the internet, and the Company acknowledges that the Services and access to the Company Portal may be subject to limitations, delays, and other problems inherent in the use of such communications facilities.

5. The Company's obligations

5.1. During the Term, the Company shall provide the Company Content required by inpoi to undertake any preparatory work, including prior to any part of the Service 'going live'. Such Company Content shall be provided digitally or in such other formats as inpoi may reasonably require. The Company shall promptly review and provide comments on, and/or approvals of, any material (such as design work) prepared by inpoi while providing any of the Services where Company Content is to be used by inpoi in the course of the provision of the Services.

5.2. The Company is responsible for ensuring that it has in place, maintains throughout the duration of the Term, and pays all fees and costs related to, all necessary connections, integrations, API keys and other connectivity requirements, including to Applicant Tracking Service providers (together "**Dependencies**") necessary for inpoi to provide the Services, as notified by inpoi to the Company from time to time. The Company acknowledges that if it does not ensure the Dependencies, the Services may be adversely affected and inpoi shall not be liable for any losses suffered by the Company arising therefrom.

5.3. The Company shall cooperate with inpoi in the performance of the Services (including all preparatory work and other steps required for inpoi to provide any of the Services following the Implementation Start Date) and shall promptly:

5.3.1. granting to inpoi all access to information and Company Content as may be required by inpoi from time to time to fulfil its obligations under the Contract; and

5.3.2. carry out all administrative and other activities (including the provision of Company Content), associated with the provision of the Services that are the responsibility of the Company.

5.4. At all times during the Term, the Company shall appoint and maintain at least one individual (the "**Company Project Manager**") who shall have the responsibility and commensurate authority to work with inpoi in relation to all aspects of the Services, including implementing the requirements of an Order Form.

5.4.1. The name and contact details of the initial Company Project Manager shall be set out in the Order Form and any replacement shall promptly notified to inpoi in writing.

5.4.2. The Company Project Manager shall arrange status meetings between the Company's project team and the inpoi team to track project progress and issues, and shall consider and obtain authorisation for any additional work required that may be out of scope of any existing Order Form.

5.4.3. The Company Project Manager shall attend meetings as reasonably requested by inpoi. Additionally, the Company shall ensure that other employees participate in these meetings as necessary, based on the agreed agenda or the nature of the meetings convened.

5.4.4. The Company warrants and represents that the Company Project Manager has the authority to represent and bind the Company in all aspects relating to the Services, and

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shall assume full responsibility for the acts and omissions of the Company Project Manager.

- 5.5. The Company shall not, and shall procure that the Users shall not:
- 5.5.1. attempt to obtain, or assist third parties other than Users in obtaining, access to the Services and/or Documentation, other than as provided under these Terms; or
 - 5.5.2. introduce, or permit the introduction of, any Virus or Vulnerability into inploi's network and information systems; or
 - 5.5.3. access, store, distribute or transmit any material during its use of the Services that is unlawful, harmful, infringing, offensive, discriminatory, or which facilitates illegal activity or depicts sexually explicit images or causes damage or injury to any person or property; or
 - 5.5.4. attempt to access all or any part of the Services in order to build a product or service which competes with the Services; or
 - 5.5.5. except as may be allowed by any applicable law which is incapable of exclusion by agreement between the Parties, and except to the extent expressly permitted under the Terms: (a) attempt to copy, modify, duplicate, create derivative works from, frame, mirror, republish, download, display, transmit, or distribute all or any portion of the software and/or Documentation (as applicable) in any form or media or by any means; or (b) attempt to de-compile, reverse compile, disassemble, reverse engineer or otherwise reduce to human-perceivable form all or any part of the software included within the Services.
- 5.6. The Company shall ensure that its use of the Services comply with applicable law relating to the sending of unsolicited emails and other communications for marketing purposes, including Data Protection Law.
- 5.7. The Company shall use all reasonable endeavours to prevent any unauthorised access to, or use of, the Services and/or the Documentation and, in the event of any such unauthorised access or use, promptly notify inploi.
- 5.8. The Company acknowledges and agrees that each User must either keep a secure password for their use of the Services which must be kept confidential and secure against unauthorised access or use (including by any other User) or use a secure identity cloud solution for accessing the Services.
- 5.9. Unless expressly set out in an Order Form by reference to a Connected Entity, the rights provided under this Contract are granted to the Company only, and shall not be considered granted to any subsidiary or holding company of the Company or any other person connected to the Company.
- 5.10. The Company agrees that if it requires any Additional Support, it shall request this in writing to inploi. Any fees for Additional Support Services shall be based upon the then current Additional Support Charge Rates published by inploi from time to time, and shall be payable in accordance with clause 12.

6. Talent Attraction Service

- 6.1. Where the Company is procuring media advertising placement from inploi as part of the Company's marketing for roles (the "**Talent Attraction Service**"), the Company hereby appoints inploi as its non-exclusive agent to carry out such Talent Attraction Service on its behalf.
- 6.2. In consideration for inploi acting as agent of the Company in relation to the Talent Attraction Service, you agree to provide advance payment of the Marketing Budget, to be held by inploi in a client account on trust and as agent for the Company. inploi shall commit the Marketing Budget on



ARTICLE 6

such dates as inploi shall determine at its reasonable discretion. Any delay in the receipt of any funds from the Company constituting the Marketing Budget may delay, or cause inploi (at its discretion) to cancel, any proposed marketing activity or other aspect of the Talent Attraction Service. inploi shall retain the Marketing Budget its client account until such time as any amount is committed to any specific marketing initiative, and shall thereupon withdraw only such sums as are required to settle the relevant liability.

- 6.3. Unless expressly required by the Company and confirmed in writing to inploi, and subject to inploi exercising due care and attention and having regard to the Company's recruitment objectives as have been confirmed in writing to inploi, inploi shall have discretion in the allocation of any Marketing Budget.
- 6.4. Subject to any rights of the Company to terminate the Contract or an individual Order Form, the Company shall not withdraw the authority granted to inploi under clause 6.1 to act as your agent in relation to the procurement of media advertising placement for so long as the Talent Attraction Service is being provided.
- 6.5. inploi shall, by reference to any current Marketing Budget, maintain and make available to the Company through an online facility a record of the marketing costs incurred on behalf of the Company for any Talent Attraction Services provided. inploi shall update the online record as regularly as is reasonably practicable.
- 6.6. It is agreed that inploi acts as a disclosed agent of the Company in its dealings with third parties when providing the Talent Attraction Service, and the Company hereby indemnifies inploi in full against any liabilities that may arise whatsoever from inploi conducting social media and other activities on its behalf, unless such liability arises wholly or substantially as a result of any breach of the Terms by inploi.
- 6.7. The Company may amend any Marketing Budget at its discretion, provided that reasonable notice in writing is provided to inploi and such amendment does not require inploi to cancel any commitments already made to third parties relating to the spend of any of the Marketing Budget.

7. Company Content and Data Protection

- 7.1. Each Party shall comply with all applicable requirements of the Data Protection Law. This clause 7 is in addition to, and does not relieve, remove, or replace, the Parties' respective obligations or rights under the Data Protection Law.
- 7.2. To support the data protection compliance duties of each Party, the Parties have entered into the Data Processing Agreement. Each Party acknowledges that any Personal Data transferred or otherwise accessed via the Services and by virtue of the Parties' commercial relationship and dealings with each other conducted in accordance with the Terms was and is obtained, held, stored, deleted, shared, transferred or otherwise processed in accordance with the Data Processing Agreement.
- 7.3. The Company shall own all right, title and interest in and to all the Company Content and shall have sole responsibility for the legality, reliability, integrity, accuracy, and quality of the Company Content. The Company warrants and represents that it has the authority, including all necessary rights, licences, and permissions, to upload and use, and to permit inploi to use and process, the Company Content in accordance with the provision of the Services.
- 7.4. The Company further acknowledges that inploi's operating model is supported by the availability to inploi of Derived Data. The Company hereby grants to inploi:
 - 7.4.1. the right to create Derived Data and use the Company Content and Derived Data to improve the performance and functionality of the Services and to develop improvements, updates, upgrades and modifications;



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7.4.2. the right to track and analyse the Company's and the Users' use of the Services for the purposes of security and to help inploi improve the Services; and

7.4.3. to the extent necessary, an irrevocable worldwide, perpetual, irrevocable, royalty-free licence to use such Derived Data.

8. Use of Third Party Content

- 8.1. Subject to these Terms, inploi and the Company may use Third Party Content in the delivery or use of the Services.
- 8.2. Save as provided in clause 8.3, inploi shall not be responsible or liable to the Company for Third Party Content, or any part of the Services provided by a third party, in any way. Furthermore, inploi does not warrant the availability, operation and functionality of Third Party Content and shall not be liable in the event of any unavailability of any Third Party Content.
- 8.3. inploi warrants and represents that it has all such licenses and consents as necessary to use, and allow the Company to use, the Third Party Content to the extent necessary for inploi to perform, and the Company to enjoy the benefit of, the Services.

9. Intellectual property

- 9.1. All Intellectual Property Rights in and to the Services, the Documentation and the Derived Data shall belong to and remain vested in (or automatically upon creation, shall vest in) inploi and its licensors. Except as expressly stated herein and subject to clause 4.1, the Terms do not grant the Company, any Connected Entity or any User any rights to, under or in, any Intellectual Property Rights or any other rights or licences in respect of the Services or the Documentation.
- 9.2. To the extent that the Company's or any User's use of the Services results in any Feedback, then any and all Intellectual Property Rights in and to such Feedback shall immediately vest in and be owned by inploi.
- 9.3. inploi confirms that it has all the rights in relation to the Services and the Documentation that are necessary to grant all the rights it purports to grant under, and in accordance with, the Terms.
- 9.4. Subject to the payment of the applicable Subscription Fees by the Company, Inploi shall provide access to embedded Third Party Content to the Company under the standard licence terms provided by the relevant third parties (the "**Third-Party Licences**"), copies of which shall be provided to the Company on request, and the Company agrees to comply with the Third-Party Licences and shall indemnify and hold inploi harmless against any loss or damage which it may suffer or incur as a result of the Company's breach of such Third-Party Licences of which it was made aware, howsoever arising.
- 9.5. inploi shall defend the Company against any third party claim that the use of the Services in accordance with the Contract infringes any third party Intellectual Property Rights and shall indemnify the Company for and against any and all direct costs, losses, damages and penalties including amounts awarded against the Company in judgement or settlement of such claims, provided that:
 - 9.5.1. inploi is given prompt notice of such claim;
 - 9.5.2. the Company provides reasonable co-operation to inploi in the defence and settlement of such claim, at inploi's expense;
 - 9.5.3. inploi is given sole authority to defend or settle the claim; and
 - 9.5.4. the Company makes no admission of liability or fault itself or on behalf of inploi.

- 9.6. inploi shall not in any circumstances have any liability (including in respect of the indemnity provided under clause 9.5) if the claim is based upon:
- 9.6.1. modifications to the Services if such modifications were not made or expressly authorised in writing by inploi or were made by inploi in compliance with the Company's designs, specifications or instructions to modify; or
 - 9.6.2. use of the Services by the Company in a manner for which the Services were not designed or intended by inploi, in a manner contrary to the instructions given to the Company by Inploi, or otherwise in a manner not reasonably foreseeable by inploi; or
 - 9.6.3. the Company's combination of the Services with other products or devices not specified or supplied by Inploi, to the extent the infringement would not have resulted from the use of the Service alone.
- 9.7. If at any time a claim as mentioned in clause 9.5 is made, or in inploi's reasonable opinion is likely to be made then, in defence or settlement of such claim, inploi may (at its sole discretion):
- 9.7.1. obtain for the Company the right to continue using any elements of the Services which are affected by such claim; or
 - 9.7.2. modify, re-perform or replace those elements of the Services which are affected by the claim so they become non-infringing, provided that (i) the performance and functionality of the affected Service is at least equivalent to the performance and functionality of the original Service; (ii) the replaced, re-performed or modified elements of the Service does not have a material adverse effect on any part of the Services or the ability of inploi to meet or exceed any agreed service levels; and (iii) there is no additional cost to the Company, in which case these Terms shall apply to the replaced, re-performed or modified software; or
 - 9.7.3. terminate this Contract immediately by providing written notice to the Company, without liability to the Company or to Inploi (for breach of the Contract or otherwise), and the provisions of clause 13.4 shall apply.
- 9.8. The rights granted to the Company under this clause 9 shall accordingly be the Company's sole and exclusive remedy for any alleged infringement of any third party Intellectual Proprietary Rights.
- 9.9. The Intellectual Property Rights in the Company Content and the Company's logo, brand, trademark and such other Company Intellectual Property Rights necessary for the purpose of providing the Services, remain the sole property of the Company and/or its licensors. The Company hereby grants (or shall procure that any other owner of the relevant Intellectual Property Rights shall grant) to inploi a worldwide, non-exclusive, irrevocable, royalty-free licence during the Term to use the Company Content and the Company's logo, brand, trade mark and such other Company Intellectual Property Rights necessary for the purpose of providing the Services and for such other purposes as are set out in these Terms for the duration of the Contract. Inploi may, strictly to the extent necessary for the provision of the Services, sub-licence and transfer such Company Intellectual Property Rights to its sub-contractors, sub-processors and providers of Third Party Content.
- 9.10. Any Created Content shall be owned by and shall vest in the Company absolutely. inploi hereby assigns to the Company all existing and future Intellectual Property Rights in any Created Content deriving from the provision of the Services to the fullest extent permitted by law and free from all third party rights save for any that are licenced to the Company on a perpetual, royalty-free basis. Insofar as they do not vest automatically by operation of law or under these terms, Inploi shall hold legal title in such Intellectual Property Rights on trust for the Company.
- 9.11. The Company shall defend inploi against all or any costs, claims, damages or expenses incurred by inploi in respect of any third party claim relating to:

- 9.11.1. User's use of the Services and inploi Content under these Terms, otherwise than in accordance with the Contract;
 - 9.11.2. Company Content infringing the Intellectual Property Rights of any third party; or
 - 9.11.3. Company Content that is unlawful, incorrect or misleading, provided that:
 - 9.11.4. the Company is given prompt notice of such claim;
 - 9.11.5. inploi provides reasonable co-operation to the Company in the defence and settlement of such claim, at the Company's expense;
 - 9.11.6. the Company is given sole authority to defend or settle the claim; and
 - 9.11.7. inploi makes no admission of liability or fault itself or on behalf of the Company.
 - 9.12. Unless otherwise agreed in writing between the Parties, inploi shall be entitled to use the Company's logo on inploi's website, in new customer announcements and in other marketing material to publicise that the Company is a user of the Services, provided that such publicity does not imply any wider trading association or relationship between the Parties. Except for the purposes set out in this clause 9.12, inploi shall not use the Company's logo without the Company's prior consent.
 - 9.13. Where the Company supplies inploi with its brand guidelines, setting out any technical requirements for use of the Company's brand, trademark and such other Company Intellectual Property Rights, inploi shall use its reasonable endeavours to comply with such guidelines.
 - 9.14. Unless otherwise agreed by inploi in writing, the Company shall not use inploi's logo, brand, trademarks or such other Inploi Intellectual Property Rights without inploi's prior written consent. If inploi consents to the use of its brand by the Company for any reason, then where inploi supplies the Company with its brand guidelines, setting out any technical requirements for use of inploi's brand, trademark and such other Intellectual Property Rights, the Company shall use its reasonable endeavours to comply with such guidelines.
- 10. Use of each other's Confidential Information**
- 10.1. Each Party shall retain all right, title and interest to its own Confidential Information disclosed to the other Party.
 - 10.2. The provisions of this clause 10 shall not apply to any Confidential Information that:
 - 10.2.1. is or becomes generally available to the public (other than because of its disclosure by the receiving Party or its Representatives in breach of this clause);
 - 10.2.2. was available to the receiving Party on a non-confidential basis before disclosure by the disclosing Party;
 - 10.2.3. was, is or becomes available to the receiving Party on a non-confidential basis from a person who is not, to the receiving Party's knowledge, bound by a duty of confidentiality to the disclosing Party or otherwise prohibited (such as through a professional or regulatory requirement) from disclosing the information to the receiving Party;
 - 10.2.4. the Parties agree in writing is not confidential or may be disclosed;
 - 10.2.5. in the reasonable opinion of inploi constitutes Feedback; or

- 10.2.6. is developed by or for the receiving Party independently of the information disclosed by the disclosing Party.
- 10.3. For the duration of the Contract and for a period of three years following termination of the Contract (howsoever this may occur) each Party shall keep the other Party's Confidential Information secret and confidential and shall not:
- 10.3.1. use such Confidential Information except for the purpose of exercising or performing its rights and obligations under, or in connection with, the Terms; or
 - 10.3.2. disclose such Confidential Information in whole or in part to any third party, except as expressly permitted by clauses 10.4 to 10.6.
- 10.4. A Party may disclose the other Party's Confidential Information to those of its Representatives who are required in the course of their duties to receive it for the purpose for which it is supplied, provided that:
- 10.4.1. it informs such Representatives of the confidential nature of the Confidential Information before disclosure;
 - 10.4.2. it procures that its Representatives shall, in relation to any Confidential Information disclosed to them, comply with the obligations set out in this clause as if they were bound by the Terms; and
 - 10.4.3. at all times, it is liable for the failure of any Representatives to comply with the obligations set out in this clause 10.
- 10.5. A Party may disclose Confidential Information to the extent such Confidential Information is required to be disclosed by law, by any governmental or other regulatory authority or by a court or other authority of competent jurisdiction provided that, to the extent it is legally permitted to do so, it gives the other Party as much notice of such disclosure as possible and, where notice of disclosure is not prohibited and is given in accordance with this clause 10.5, it takes into account the reasonable requests of the other Party in relation to the content of such disclosure.
- 10.6. A Party may, if it has reasonable grounds to believe that the other Party is involved in activity that may constitute a criminal offence under the Bribery Act 2010, disclose Confidential Information to the Serious Fraud Office without first informing the other Party of such disclosure.
- 10.7. No rights or obligations in respect of a Party's Confidential Information other than those expressly stated in these Terms are granted to the other Party, or to be implied from dealings between the Parties.
- 10.8. On termination of the last Contract between the Parties, each Party shall at the request of the other Party:
- 10.8.1. destroy or return to the other Party all documents and materials (and any copies) containing, reflecting, incorporating or based on the other Party's Confidential Information;
 - 10.8.2. erase all the other Party's Confidential Information from computer and communications systems and devices used by it, including such systems and data storage services provided by third parties (to the extent technically and legally practicable); and
 - 10.8.3. certify in writing to that other Party that it has complied with the requirements of clause 10.8.1 and/or 10.8.2,
- provided in each case that a recipient Party may retain documents and materials containing, reflecting, incorporating or based on the other Party's Confidential Information to the extent required by law, any applicable governmental or regulatory authority or pursuant to reasonable

automatic archiving and back up procedures provided that in doing so the party continues to comply with the confidentiality undertakings set out in this clause 10.

- 10.9. Except as expressly agreed between the Parties in writing or stated in the Terms, neither Party makes any express or implied warranty or representation concerning its Confidential Information, including the accuracy, reliability or completeness of the same.
- 10.10. Each Party shall inform the other Party of any Security Breach as soon as is reasonably possible. The Parties agree that such breaches entitle the non-breaching Party to seek injunctive relief or specific performance, in addition to any other legal or equitable remedies available to it, without requiring proof of special damage.

11. Change Control

- 11.1. Either Party may propose changes to the scope of the Services set out in an Order Form, but no proposed changes shall come into effect until a relevant "**Change Order**" has been signed by both Parties. A Change Order shall be a document setting out the proposed changes to an Order Form, and the effect that those changes will have on the Services, the Fees, the timetable for delivery of the Services and other relevant matters.
- 11.2. If Inploi wishes to make a change to the Services it shall provide a draft Change Order to the Company.
- 11.3. If the Company wishes to make a change to the Services, it shall notify Inploi and provide as much detail as Inploi reasonably requires of the proposed changes, including the timing of the proposed change, following which Inploi shall, as soon as reasonably practicable after receiving such information, provide a draft Change Order to the Company.
- 11.4. If the Parties agree to a Change Order, they shall sign it and that Change Order shall amend the relevant Order Form. If the Parties are unable to agree a Change Order, either Party may require the disagreement to be dealt with in accordance with clause 17.

12. Fees and invoicing for the Services

- 12.1. All Fees quoted in an Order Form exclude VAT and any other taxes or levies (payable in all cases at the relevant rate prevailing at the time of invoicing).
- 12.2. All Fees are fixed for the period specified in the Order Form or, if no period is determined, for a period of twelve months.
- 12.3. At the end of each twelve month period, inploi shall be entitled to adjust the Fees for the Services contemplated in the Order Form by at least the rate of inflation, as measured by the Consumer Price Index (CPI), over the proceeding twelve month period, or 3.00%, whichever is the higher. Any adjustment shall take effect at the commencement of, and remain in effect for the duration of, the following period of twelve months.
- 12.4. Unless agreed otherwise:
- 12.4.1. Subscription Fees are invoiced and payable annually in advance;
- 12.4.1.1. While payment for Subscription Fees is due within 30 days of the invoice date, the Company acknowledges that, unless otherwise agreed in writing, the Year 1 Subscription Fee must be received prior to the Subscription Start Date as defined in the applicable Order Form. Failure to make payment by the Subscription Start Date may result in a delay to the commencement of Services. However, if the Subscription Start Date occurs within the 30-day payment window, the standard payment terms will continue to apply, and Services will not be delayed provided payment is received in full within that period;

- 12.4.2. Set Up Fees are invoiced and payable once the implementation services (as set out in the Order Form) have been supplied;
- 12.4.3. Additional Support Fees are invoiced on the last day of the calendar month in respect of which Additional Support was provided; and
- 12.4.4. any other Fees shall be invoiced and payable by the Company in accordance with the provisions of the Order Form.
- 12.5. The Company agrees and acknowledges that the Fees take account of the assumptions set out in, and specific terms of, the relevant Order Form(s) between the Parties. If inploi reasonably demonstrates that any assumption is or has become invalid, the Parties shall agree a reasonable adjustment to the relevant Fee(s).
- 12.6. Invoices will contain a description of all Fees, expenses, charges, costs (together with VAT and any other applicable taxes) and Service descriptions.
- 12.7. The Company (and not any Connected Entity) shall make all payments of Fees without set-off, withholding or deduction of, or in respect of, any amount including all taxes, unless required by law. If any such withholding or deduction is required, the Company shall, when making the payment to which the withholding or deduction relates, pay to inploi such additional amount as will ensure that inploi receives the same total amount that it should have received if no such withholding or deduction had been required.
- 12.8. Unless specifically stated otherwise in the Order Form or the relevant invoice, the Company (and not any Connected Entity) shall pay all undisputed invoice(s) within 30 days of the invoice date. In relation to any disputed invoice and subject to clause 12.9, the Company shall be entitled to withhold only such amount as (acting in good faith) the Company reasonably determines should be disputed.
- 12.9. If the Company wholly or partially disputes an invoice, it must notify inploi in writing accordingly within five Working Days of receipt of the invoice, stating the reasons for disputing the invoice in reasonable detail. The Company will pay to inploi all amounts not disputed by the Company. inploi and the Company shall use their best efforts to resolve any disputes over an invoice acting in good faith and without any undue delay. Upon resolution of a dispute pursuant to this clause 12.9, any further sum (whether the amount originally invoiced or another amount as agreed or determined) which the Company has agreed to pay, or through dispute resolution it is determined it is to pay (such sum now being an **"undisputed amount"**, shall be payable within ten Working Days of resolution of such dispute.
- 12.10. Without prejudice to any other rights and remedies of inploi, if inploi has not received payment from the Company by the due date pursuant to this clause 12 then it may, without liability (including for any damages or inconvenience caused by the suspension of the Services): (i) grant the Company a grace period (such period to be at inploi's sole discretion) in which to make the relevant payment; (ii) on not less than one week's prior notice in writing, disable the Company's access to all or part of the Services until the invoice(s) concerned are paid in full; and/or (iii) charge the Company interest on a daily basis on any overdue amounts at an interest rate of 5.00% per month, compounded monthly at the end of each calendar month, commencing on the due date and continuing until fully paid, whether before or after judgement.
- 12.11. In addition to any amount of default interest payable under clause 12.10, the Company shall indemnify inploi in respect of all additional costs, charges and disbursements incurred by inploi arising from any non-payment of sums due under any relevant Order Form and the Terms from time to time. Such charges may include amounts incurred or costs sustained by inploi arising from any requirement to remobilise resources in respect of Services which were suspended by reason of the non-payment.

13. Termination

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- 13.1. Without affecting any other right or remedy available to it, either Party may terminate the Contract with immediate effect by giving written notice to the other Party if:
- 13.1.1. the other Party commits a material breach of any of these Terms or the terms of the Order Form, or the terms of the Data Processing Agreement, which breach is irremediable or (if such breach is remediable) fails to remedy that breach within ten Working Days after being notified in writing to do so; or
 - 13.1.2. either Party suspends, ceases, or threatens (in the reasonable opinion of the notifying Party) to suspend or cease carrying on its business or a substantial part thereof; or
 - 13.1.3. either Party suffers an Insolvency Event; or
 - 13.1.4. such Party is unable to perform a material obligation under the Contract for 20 Working Days or more due to a Force Majeure Event.
- 13.2. Without affecting any other right or remedy available to the Parties, the entire Contract shall automatically terminate with immediate effect without any requirement for notice if the Data Processing Agreement is terminated by inploi without being replaced by a successor Data Processing Agreement with the Company.
- 13.3. Without prejudice to any other rights or remedies hereunder to which inploi may be entitled, including under clause 12.10, inploi may terminate this Contract with immediate effect by giving written notice to the Company if the Company fails to pay any amount due under this Contract on the due date for payment and remains in default not less than ten Working Days after being notified in writing to make such payment.
- 13.4. On termination of this Contract for any reason, and unless otherwise agreed in writing: (a) all licences granted under this Contract shall immediately terminate; (b) all Fees which are outstanding on the date of termination shall become immediately due and payable; (c) subject to clause 10.8, each Party shall return or destroy and make no further use of any Confidential Information, equipment, property and other items (and all copies of them) belonging to the other Party; (d) the Parties may agree in good faith a transition period for the Services at rates agreed between the Parties; (e) 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 this Contract which existed at or before the date of termination shall not be affected or prejudiced; and (f) any provisions of this Contract which are expressly or by implication intended to come into or continue in force on or after termination, shall continue in full force and effect.

14. Suspension of Service

- 14.1. In addition to its rights under clause 12.10, inploi may temporarily suspend or reduce the access to, or use of, the Services, with or without notice, if inploi determines (acting reasonably) that the Company's use of the Services:
- 14.1.1. is in breach of this Contract, or if inploi knows or has reasonable grounds to suspect that the Company or any Users are acting in breach of its obligations under this Contract; or
 - 14.1.2. poses a security risk to inploi, the Company or any of inploi's other customers,
- or where it is in the legitimate interests of inploi to do so (including where there is a reasonable risk that the Company will default in the payment of the Subscription Fees), and the Company shall notify the Company before the suspension takes effect or as soon as reasonably practicable thereafter.
- 14.2. If inploi suspends or materially reduces access to, or use of, the Services under clause 14.1.2 for a continuous period of over one week, the Company shall be entitled to terminate this Contract with immediate effect by giving written notice to inploi.

14.3. Where inploi suspends access to or use of some or all of the Services under clause 14.1 or clause 12.10, the Company remains responsible for all Subscription Fees.

15. Company Indemnity

15.1. The Company shall indemnify inploi (subject to the provisions of clause 16.1) against all liabilities, costs, expenses, damages and losses including interest, penalties and legal and other professional costs (calculated on a full indemnity basis) suffered or incurred by inploi out of or in connection with a wilful or negligent breach of the Terms by the Company, any Connected Entity, and any of their respective Representatives, not otherwise addressed expressly by way of indemnity under these Terms.

16. Limitation of liability

16.1. The maximum aggregate liability of each Party under or in connection with the Terms or relating to the Services, whether in contract, tort (including negligence), breach of statutory duty or otherwise, shall (subject to clauses 16.2 and 16.3) not exceed the total Fees paid by the Company during the twelve months immediately preceding the date on which the claim arose.

16.2. Neither Party is liable to the other under or in connection with the Terms and/or Contract for any:

- 16.2.1. loss of profit, revenue, savings, business, and/or goodwill, loss of or corruption of data; or
- 16.2.2. consequential, indirect, incidental, punitive, exemplary or special damages or loss of any kind, whether foreseeable or unforeseeable; or
- 16.2.3. loss caused as a result of the Services being unavailable as a result of planned downtime as notified to the Customer from time to time; or
- 16.2.4. loss arising from any failure of the Company's infrastructure and/or utilities;
- 16.2.5. loss caused as a result of the Services being unavailable due to a Force Majeure Event; or
- 16.2.6. loss caused by the failure or delay of any third party application or service or network.

16.3. Clause 16.1 shall not apply to limit a Party's liability under the Terms and/or the Contract with respect to:

- 16.3.1. the Company's obligation to pay the Fees;
- 16.3.2. the indemnities provided for at clauses 12.11 and 15.1;
- 16.3.3. breach of Data Protection Law or breach of the Data Processing Agreement;
- 16.3.4. death or personal injury;
- 16.3.5. fraud or wilful misconduct; and
- 16.3.6. any other losses or liabilities which cannot be excluded or limited by applicable law.

16.4. Except as expressly and specifically provided in this Contract or as a result of inploi's negligence, the Company assumes sole responsibility (as between it and inploi) for the output from the Services and any information or results obtained by the Company from its use of the Services.

17. Dispute resolution

- 17.1. If a dispute arises out of or in connection with the Terms or the performance, validity or enforceability of these Terms and/or the Contract ("**Dispute**"), then the Parties shall follow the procedure set out in this clause 17.
- 17.2. Either Party shall give to the other written notice of the Dispute, setting out its nature and full particulars (a "**Dispute Notice**"), together with relevant supporting documents. Following service of the Dispute Notice, the Company Project Manager and a Representative of inploi, shall attempt in good faith to resolve the Dispute.
- 17.3. If the persons referred to in clause 17.2 are for any reason unable to resolve the Dispute within five Working Days from service of the Dispute Notice, then the Dispute shall be referred to the Chief Executive Officer of inploi and the contact for the Company specified in 'The Parties' section of the relevant Order Form (or any substitute notified by the Company to inploi from time to time), who shall attempt in good faith to resolve it.
- 17.4. If those persons to whom the Dispute is escalated under clause 17.3 are for any reason unable to resolve the Dispute within 20 Working Days of it being referred to them, the Parties agree to enter into mediation in good faith to settle the Dispute in accordance with the CEDR Model Mediation Procedure. Unless otherwise agreed between the Parties within 20 Working Days of service of the Dispute Notice, the mediator will be nominated by CEDR. To initiate the mediation, a Party must give notice in writing (an "**ADR Notice**") to the other Party to the Dispute, referring the dispute to mediation, and provide a copy of the ADR Notice to CEDR.
- 17.5. Unless otherwise agreed between the Parties, the mediation will start not later than 20 Working Days after the date of the ADR Notice.
- 17.6. The commencement of mediation shall not prevent the Parties commencing or continuing court proceedings.

18. General

- 18.1. **Assignment.** The Company shall not assign, sub-license, subcontract, charge or otherwise encumber any of its rights or obligations under the Contract without the prior written consent of inploi (which shall not be unreasonably withheld, delayed or conditioned).
- 18.2. **Notices.** Any notice or other communication will be deemed to be properly given only when in writing and sent addressed to the contacts for either inploi or the Company stated or referenced in the relevant Order Form. Service of notice shall take effect at the time of delivery (or transmission in the case of an email), or, if this time falls outside of business hours in the place of receipt, when business hours resume in the place of receipt.
- 18.3. **Force Majeure Events.** Upon occurrence of a Force Majeure Event, the non-performing Party shall promptly notify the other Party of occurrence of that Force Majeure Event, its effect on performance, and how long that Party expects it to last. Thereafter the non-performing Party shall update that information as reasonably necessary. Any dates or times by which each Party is required to render performance under this Contract shall be postponed automatically to the extent that the Party is delayed or prevented from meeting them by a Force Majeure Event. During a Force Majeure Event, the non-performing Party shall use reasonable efforts to limit damages to the other Party and to resume the performance of its obligations under the Contract as soon as reasonably possible.
- 18.4. **Waiver.** No forbearance, delay or indulgence by either Party in enforcing the provisions of the Terms shall prejudice or restrict the rights of that Party, nor shall any waiver of its rights operate as a waiver of any subsequent breach; and no right, power or remedy herein conferred upon or reserved for either Party is exclusive of any other right, power or remedy available to that Party and each such right, power or remedy shall be cumulative.
- 18.5. **Severance.** If any provision or part-provision of the Terms or of any Order Form is, or becomes, illegal, unenforceable or invalid, the relevant provision is deemed to be modified to the extent

required to remedy the illegality, unenforceability or invalidity. If modification is not possible, the provision must be treated for all purposes as severed from the relevant Order Form and/or the Terms without affecting the legality, enforceability or validity of the remaining provisions of the relevant Order Form or the Terms.

18.6. **Third party rights.** Save for a Connected Entity and unless expressly stated otherwise, a person who is not a Party to this Contract shall not have any right to enforce any term of this Contract under the Contracts (Rights of Third Parties) Act 1999.

18.7. **Modern Slavery Act.** Each Party shall comply with the Modern Slavery Act 2015 (the “MSA”). Accordingly each Party undertakes, warrants and represents that neither it has, nor any of its Representatives have:

- 18.7.1. committed an offence under the MSA; or
- 18.7.2. been notified that it is subject to an investigation or prosecution relating to an alleged MSA offence; or
- 18.7.3. become aware of any circumstances within its supply chain that could give rise to an investigation relating to an alleged MSA offence or prosecution.

Each Party shall notify the other immediately in writing if it becomes aware or has reason to believe that it, or any of its Representatives have breached or potentially breached any of its obligations set out in this clause 18.7. Any breach of this clause 18.7 shall be deemed a material breach of the Terms.

18.8. **Non-solicitation.** Neither Party shall, without the other Party’s prior written consent, at any time from the Commencement Date to the expiration of twelve months after termination of this Contract, solicit or hire or attempt to employ any person in any capacity, including as an employee, consultant or subcontractor, who is, or has been, engaged as an employee or subcontractor of the other Party.

18.9. **Capacity and authority.** Each Party represents and warrants to the other that (i) it is duly organised, validly existing and in good standing under the laws of the jurisdiction in which it is incorporated; (ii) it has the requisite power and authority to execute, deliver, and perform its obligations under this Contract; and (iii) the Order form has been duly authorised, executed and delivered by such Party and constitutes a valid and binding obligation of such Party enforceable against such Party according to these Terms.

18.10. **Entire Agreement.** These Terms together with all applicable Order Forms and all documents referred to or incorporated into this Contract constitutes the entire agreement between the Parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations, and understandings between them, whether written or oral, relating to its subject matter.

18.11. **No partnership.** Subject to clause 6, the relationship between the Parties is that of independent contractors and nothing in this Contract shall be construed to create a partnership, joint venture, or agency relationship between the Parties, nor authorise any Party to make or enter into any commitments for or on behalf of the other Party. Each Party confirms it is acting on its own behalf and not for the benefit of any other person. The Parties acknowledge that the arrangements between them are non-exclusive. Nothing contained in this Contract shall prohibit either of the Parties from conducting business activities with other third parties.

18.12. **No exclusivity.** The Company has inspected the inploi website and understands the nature of the business operated by inploi. Accordingly, the Company acknowledges that inploi’s provision of the Services to the Company is non-exclusive. Nothing in the Terms or any Order Form prevents inploi from providing services similar to the Services to any other party or to conduct business involving the promotion of career and work opportunities initiated by third parties.



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- 18.13. **Variation.** Notwithstanding clause 11, inploi reserves the right to change these Terms at any time on reasonable notice in writing to the Company: (a) to reflect minor changes that do not affect the rights or obligations of the Company (for example how the Services are provided); or (b) where required due to legal or regulatory requirements, and such changes shall become effective immediately following the service of such notice. inploi also reserves the right to make more material change to these Terms at any time, by providing not less than 14 days written notice of such change to the Company. During such 14 day notice period, the Company shall have the right to refuse such changes by notifying inploi in writing. If the Company does not notify inploi in writing that it refuses such changes, then the changes shall be deemed approved and the Contract shall be amended accordingly at the end of the notice period.
- 18.14. **Governing Law and Jurisdiction.** The Terms and any relevant Order Form, together with any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with them, shall be governed by, interpreted, and construed in accordance with the laws of England and Wales and the Parties submit to the exclusive jurisdiction of the Courts of England and Wales. This leaves unimpaired the obligation of both Parties to make supreme effort to resolve disputes connected to the Terms and any relevant Order Form, as much as possible amicably and by mutual agreement.

Appendix 1

The following definitions are used in the Terms:

Additional Support

means support that is provided by inploi at the request of the Company, which is in addition to the allocated monthly quota of Standard Support made available to the Company set out in an Order Form. inploi shall record, and upon request provide details of, all hours of Additional Support provided to the Company in relation to a particular invoice.

Additional Support Charge Rate

the hourly charge rates applicable to the provision of Additional Support as set out in an Order Form, subject to any subsequent revision to such rates by inploi as provided for by clause 12.3 of the Terms.

Company Content

comprises all material, in digital or hard copy form, supplied to inploi by or on behalf of the Company for use by inploi in connection with the performance of the Services, and all subsequent updates to such material reasonably necessary to ensure that the material remains correct, accurate and up-to-date in all material respects. Company Content may include Personal Data in relation to the Company's current, prospective and past employees, contractors and other Representatives, but excludes any Derived Data.

Confidential Information

all confidential or proprietary information (however recorded or preserved) disclosed by one Party or its Representatives to the other Party and the other Party's Representatives, whether before or after the Commencement Date, including:

- (a) the terms of the Contract and all Order Forms;
- (b) any proposal to provide Services or to undertake any variation to the Services, including Enhancements to the Services not requiring amendment to the Terms;
- (c) Company Content and Created Content (but not Derived Data);
- (d) the business, affairs, customers, clients, suppliers, plans, intentions, market opportunities, operations, processes, products, services, data, software, know-how, or trade secrets of the disclosing Party;
- (e) any information that would be regarded as confidential by a reasonable business person; and
- (f) any information developed by either of the Parties in the course of the provision or receipt of the Services.

Connected Entity

an affiliate of the Company, explicitly identified in an Order Form, that is to be a recipient of Services, in addition to the Company.

Created Content

comprises all material in digital or hard copy form (not being inploi Content), created by inploi (or by a third party on behalf of inploi) specifically in connection with the Talent Attraction Services and other Services provided solely to the Company, including any modifications to Company Content, any updates and amendments of such material.

Data Processing Agreement

the master data processing agreement, entered into by the Parties on the Commencement Date, specifically governing the procurement, storage, processing, and related management of Personal Data between the Parties, as contemplated under and in compliance with the Data Protection Law.

Data Protection Law

applicable privacy and data protection laws, including the EU General Data Protection Regulation (Regulation 2016/679) ("**GDPR**"), the GDPR as defined in section 3(10) (as supplemented by section 205(4)) of the DPA 2018 ("**UK GDPR**"), the Data Protection Act 2018 ("**DPA 2018**"), and any applicable national implementing laws, regulations and secondary legislation in England and Wales relating to the processing of personal data and the privacy of electronic communications, as amended, replaced or updated from time to time, including the Privacy and Electronic Communications Directive (2002/58/EC) and the Privacy and Electronic Communications (EC Directive) Regulations 2003 (SI 2003/2426)).

Derived Data

any anonymised data which is derived from the Company's use of the Services or the processing by inploi of Company Content, which: (a) shall include usage data and any data which is processed and stored as mathematical constructs and statistical or aggregated data; and (b) shall exclude any Personal Data.

Documentation

the product specifications, integration specifications, administration guides and user manuals concerning the Services and functionality, that may be licensed for use by the Company in connection with the provision of the Services and which may be provided in hard copy and/or digital formats.

Enhancements

any changes, updates, upgrades, releases, fixes customizations, additions, translations, improvements or modifications made to, or derivative works created from, the Services or inploi Content.

Feedback

ideas, comments, translations, enhancement requests, suggestions and other feedback relating to the Services or inploi Content provided by the Company to inploi.

Fees

all fees due by the Company to inploi under these Terms and all Order Forms, including Subscription Fees, Additional Application Fees, Set Up Fees and Additional Support fees.

Force Majeure Event

any circumstance not within a Party's reasonable control including, without limitation:

- a) acts of God, flood, drought, earthquake or other natural disaster;
- b) epidemic or pandemic including any consequential circumstances including governmental action at national, regional or local level;
- c) terrorist attack, civil war, civil commotion or riots, war, threat of or preparation for war, armed conflict, imposition of sanctions, embargo, or breaking off of diplomatic relations;
- d) nuclear, chemical or biological contamination or sonic boom;

- e) any law or any action taken by a government or public authority (not within the scope of action referred to at (ii) above), including without limitation imposing an export or import restriction, quota or prohibition, or failing to grant a necessary licence or consent;
- f) collapse of buildings, fire, explosion or accident;
- g) any labour or trade dispute, strikes, industrial action or lockouts, except for action or lockout restricted to inploi's staff only;
- h) non-performance by suppliers or subcontractors;
- i) interruption or failure of utility service including any inability to access the internet whether directly through its unavailability for a material period of time or as consequence of the failure for a material period of time of a utility service;
- j) disruption to, suspension of or non-availability for any other reason to, any data centre required to be accessed in the course of the provision of the Services,

provided that any inability to make payment of monies due under this Contract or any other agreement whether between the Parties or with any third party shall not constitute a Force Majeure Event unless the reason for the non-payment is any technical failure of a payment system routinely used by the Party due to make the payment.

inploi Content

comprises all material, in digital or hard copy form, used or made available by inploi in the course of the performance of the Services, including Documentation and Enhancements, but excluding Third Party Content, Company Content, and Created Content.

Insolvency Event

means, with respect to a Party: (a) entering into a composition or arrangement with its creditors other than for the sole purpose of a solvent reconstruction; (b) an inability to pay its debts as they become due; (c) a person becoming entitled to appoint or appointing a receiver or an administrative receiver over that Party's assets; (d) a creditor or encumbrancer attaches or takes possession of the whole or any part of that Party's assets which is not discharged within 14 days; or (e) any event occurs, or proceeding is taken, in any jurisdiction that has an effect equivalent or similar to any of the events mentioned in (a) to (d) above.

Intellectual Property Rights

patents, rights to inventions, copyright and neighbouring and related rights, trade marks, goodwill and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.

Order Form

a form in which the Parties agree which of the Services Inploi is to provide to the Company, including the details of those Services and the applicable Fees, assumptions affecting the Services and the Fees, payment conditions and scope of use by the Company of the Services.

Personal Data

any data or information that constitutes personal data under any applicable Data Protection Laws.

Representatives



21/12/2023

in relation to a Party: its employees, officers, agents, representatives, sub-contractors and advisers.

Security Breach

a breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to, Personal Data and/or Confidential Information.

Set Up Fee

the fee payable by the Company to inploi and described as the "Set Up Fee" in the Order Details part of an Order Form.

Standard Support

the rendering of a certain number of hours of general assistance and recommendations concerning the use of any of the Services provided by inploi to the Company during usual Support Hours on Working Days, as is set out in an Order Form. For the avoidance of doubt, hours of Standard Support constitutes all hours of work, whether face-to-face or offline, requested by the Company or performed by inploi in the normal course of business in relation to the Services. Hours of corrective work spent rectifying errors, defects or issues in the Services that arise from causes not attributable to, or outside the control of the Company, do not form part of the Standard Support hours and shall be performed by inploi at no cost to the Company. inploi shall record, and upon request provide details of, all hours of Standard Support provided to the Company in relation to a particular invoice.

Subscription Fee

the fee payable periodically by the Company to inploi in respect of the provision of the Services as described in the Order Details part of an Order Form.

Support Hours

on each Working Day, the hours between 9:00 and 17:00.

Marketing Budget

amounts agreed between the Parties from time to time to be made available (and payable in advance into inploi's client account) under clause 6 of the Terms.

Third Party Content

third party software (including open source software), programs, applications or products, of which the Intellectual Property Rights and control rest with the third party, and which are licensed to Inploi for use by inploi to the extent necessary for inploi to perform, and the Company to enjoy the benefit of, the Services.

Training

a service consisting of a form of knowledge transfer, with the purpose of getting Users acquainted with the functionality and the proper usage of a Service, and to ensure that the Service is used in accordance with the Documentation (where available) or otherwise as intended.

User

a Representative of the Company, who has been given access to the functionality of the Services with the Company's consent or authority.

Virus



2023-10-10

any thing or device (including any software, code, file or programme) which may: (a) 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; (b) 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 (c) adversely affect the user experience, including worms, trojan horses, viruses and other similar things or devices.

Working Days

means Monday to Friday excluding any Bank and public holidays in England.

Appendix 2

The following rules of interpretation apply to these Terms and Order Forms:

- a) Clause and paragraph headings shall not affect the interpretation of the Contract.
- b) The Appendices form part of the Terms and shall have effect as if set out in full in the body of the Terms. Any reference to the Terms includes the Appendices.
- c) A reference to a company shall include any company, corporation or other body corporate, wherever and however incorporated or established.
- d) Unless the context requires otherwise, words in the singular include the plural, and in the plural shall include the singular.
- e) Unless the context requires otherwise, a reference to one gender shall include a reference to the other genders.
- f) A reference to legislation or a legislative provision is a reference to it as amended, extended or re-enacted from time to time and includes all subordinate legislation made from time to time.
- g) A reference to writing or written includes email.
- h) Any words following the terms **including, include, in particular, for example** or any other similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or terms preceding those terms.
- i) Any obligation on a Party not to do something includes an obligation not to allow that thing to be done.