

DS-KEYWORDS – TERMS OF USE

THIS SAAS AGREEMENT (THE “AGREEMENT”) IS MADE BETWEEN DSI COMPLIANCE LIMITED, A COMPANY INCORPORATED AND REGISTERED IN ENGLAND AND WALES WITH COMPANY NUMBER 11854630 WHOSE REGISTERED OFFICE IS AT QUADRANT HOUSE, 4 THOMAS MORE SQUARE, LONDON, ENGLAND, E1W 1YW (THE “PROVIDER”), AND YOU (THE “CUSTOMER”). EACH A “PARTY” AND TOGETHER THE “PARTIES”.

BY ACCEPTING THIS AGREEMENT YOU AGREE TO THE FOLLOWING TERMS AND CONDITIONS SET OUT IN THIS AGREEMENT GOVERNING YOUR USE OF THE SERVICES. IF YOU ARE ENTERING INTO THIS AGREEMENT ON BEHALF OF A COMPANY OR OTHER LEGAL ENTITY, YOU REPRESENT THAT YOU HAVE THE AUTHORITY TO BIND SUCH ENTITY TO THESE TERMS AND CONDITIONS, IN WHICH CASE THE TERMS “YOU” OR “YOUR” SHALL REFER TO SUCH ENTITY. IF YOU DO NOT HAVE SUCH AUTHORITY, OR IF YOU DO NOT AGREE WITH THESE TERMS AND CONDITIONS, YOU MUST NOT PROCEED AND MAY NOT USE THE SERVICE.

1. Definitions and construction

- 1.1. In this Agreement the following expressions shall apply (save where the context otherwise requires):

“Affiliate”	means each and any Subsidiary or Holding Company of a party and each and any Subsidiary of a Holding Company of a party.
“Commencement Date”	means the date on which this Agreement is executed between the parties to it.
“Conduct Legislation”	means the Modern Slavery Act 2015 and the Bribery Act 2010 and all replacement and modifying legislation and regulations pertaining thereto.
“Customer Data”	means all data processed by the Provider or otherwise provided to the Provider pursuant hereto including, but not limited to, any Personal Data.
“Customer Equipment”	means such hardware and software as may be specified on the Website or elsewhere which the Customer is required to have in use in order to use and enable the Services to be provided in accordance with this Agreement.

“Data Controller”	shall have the meaning of ‘data controller’ set out in Article 4(7) of the UK GDPR.
“Data Processor”	shall have the meaning of ‘data processor’ set out in Article 4(8) of the UK GDPR.
“Data Protection Legislation”	means, for such time as they are in force in England and Wales, the DPA, the UK GDPR and all related legislation which may supplement, amend, implement or replace them and which relates to the protection of individual’s rights in their personal data and the protection of their privacy.
“DPA”	means the Data Protection Act 2018.
“Downtime”	means a period during Service Hours during which there is total loss of the Services.
“Extension Period”	means a period of one calendar year commencing at the end of the Initial Period or at the end of the previous Extension Period.
“Fee”	means the fee payable by You in consideration of Your receipt of the Services, which shall be calculated by reference to the volume of service received in each month as specified in Schedule 1..
“Initial Period”	means a period of one calendar year commencing on the Commencement Date.
“Intellectual Property Rights”	means all copyrights, patents, database rights, registered and unregistered design rights, trademarks and service marks and applications for any of the foregoing, together with all trade secrets, know-how, rights to confidence and other intellectual and industrial property rights in all parts of the world and for the full term thereof including all rights to renew the same.
“Month”	means a calendar month and “monthly” shall be construed accordingly.

“Outage”	means an instance of Downtime.
“Personal Data”	has the meaning set out in Article 4(1) of the UK GDPR, and for the purposes of this Agreement means Personal Data provided by one party to this Agreement to the other.
“Processing” and “Process”	have the meaning set out in Article 4(2) of the UK GDPR.
“Seat”	means a unique user account allocated to an individual User, which enables that User to commence a Session and to access the Services. Seats may be offered with various functionality, such as by designating certain Seats as having ‘Administrator’ privileges and others as having ‘Regular’ privileges.
“Session”	means an individual live session, during which an individual User accesses the Service using the unique access credentials specific to their allocated Seat.
“Service Hours”	means the hours during which the Services are to be provided, which unless otherwise specified in an applicable Service Level shall be 09:00 – 17:00 GMT. References to "hour(s)" and "minute(s)" in this Agreement will, unless otherwise indicated, be taken only to refer to the elapse of time during Service Hours.
“Service Interruption”	means a period during Service Hours during which there is partial loss of the Services.
“Service Levels”	means, where applicable, the levels of performance to which the Services are to be provided to the Customer by the Provider; which where applicable shall be identified and described on the Website or elsewhere.
“Services”	means the services provided by the Provider to the Customer under the terms of this Agreement.
“Software”	means the software used by the Provider to provide the Services which is either the Provider’s proprietary

“System Management Regulations”

software or third party software licensed to the Provider.

means regulations introduced by the Provider from time to time for the better management of the Services and which may include (but are not limited to):

- (i) Defining minimum specifications for equipment used by the Customer to interface with the Services (including, but not limited to, routers, firewalls and PCs);
- (ii) regulations to ensure that the network through which the Services are provided is not overloaded and that the security and integrity of the network is maintained and including regulations which arise from the need to comply with regulations of any data centre facility engaged by the Provider in connection with the Services; and
- (iii) regulations to ensure that any database or other applications which form part of the Services are used to the best effect and within their capacities.

“Tier”

means a band of pricing applicable to the volume of data processed by the Customer, which will determine the Fee that will be charged to that Customer for their use of the Services each Month as set out in Schedule 1.

“Term”

means the effective term of this Agreement (which shall include the Initial Period and all subsequent Extension Periods).

“UK GDPR”

has the meaning given to it in section 3(10) (as supplemented by section 205(4)) of the DPA 2018.

“User”

means an individual user which accesses the Services with a unique log in name and password.

- 1.2. The headings in this Agreement do not affect its interpretation. Save where the context otherwise requires, references to clauses and schedules are to clauses and schedules of this Agreement.
- 1.3. Unless the context otherwise so requires:
 - 1.3.1. references to the Provider and the Customer include their permitted successors and assigns;
 - 1.3.2. references to statutory provisions include those statutory provisions as amended or re-enacted;
 - 1.3.3. references to any gender include all genders;
 - 1.3.4. words in the singular include the plural and in the plural include the singular.
- 1.4. In the event of any conflict between the terms and conditions of this Agreement and any provision of any schedule, the terms and conditions of this Agreement shall prevail.
- 1.5. **Holding company** shall be construed in accordance with section 1159 of the Companies Act 2006.
- 1.6. **Subsidiary** shall be construed in accordance with section 1159 of the Companies Act 2006.

2. Provision of Services and Licences

- 2.1. The Provider agrees with effect from the Commencement Date, in consideration of the continued timely payment of the Fee by the Customer, to supply the Services and licence the Software on a non-exclusive basis pursuant to the terms and conditions of this Agreement.
- 2.2. Receipt of the Services will require the use by the Customer of the Software on a SaaS basis, accordingly the Customer's licence to use the Software is subject to the following conditions:
 - 2.2.1. **Non-Exclusivity:** the licence is non-exclusive and the Provider shall remain entitled to grant similar or identical licences to use the Software to third parties without restriction;
 - 2.2.2. **Transferability:** the licence is non-transferable or sub-licensable, and the Customer shall not permit or purport to transfer the licence to any third party (nor offer the Software on a bureau basis) without first obtaining explicit written permission from the Provider to do so;
 - 2.2.3. **Purpose:** the Software may only be used by the Customer in order to conduct analysis of its own data, processes and operations;
 - 2.2.4. **Duration:** the licence shall endure for the full Term of this Agreement, after which the Customer's right to use or have access to the Software shall end.

- 2.3. The Customer acknowledges that the Provider may at any time, and without notice, incorporate licence management software into the Software for the purposes of ensuring that licence rights are not exceeded.
- 2.4. The Customer accepts that it shall in no circumstances be permitted to:
- 2.4.1. reproduce, edit, create derivative works of, sell or in any way commercially exploit any part or aspect of the Software;
 - 2.4.2. outsource the Services or Software provided under this Agreement to third parties;
 - 2.4.3. attempt to decompile (as defined in section 50B of the Copyright, Designs and Patents Act 1988) the Software (including any underlying software or any part of it) that is used to provide the Services, except and only to the extent that such restriction is prohibited pursuant to section 50B of the Copyright, Designs and Patents Act 1988; and
 - 2.4.4. to observe, study or test the functioning of the Software (including any underlying software or any part of it) that is used to provide the Services, except and only to the extent that such restriction is prohibited pursuant to section 50BA of the Copyright, Designs and Patents Act 1988.

3. Seats

- 3.1. The Customer shall be allocated a Seat for each individual User and the type of Seat shall be as requested by the Customer when registering that User to use the Services.
- 3.2. The Customer acknowledges that each Seat may only be allocated to a single individual User. In order for Users to access the Services the Customer must register that individual User using the functionality provided in the Software. The Customer may request a new Seat for a new User for the Services at any time by registering that User through the Software.
- 3.3. The sharing of Seats between Users is expressly prohibited.
- 3.4. The Customer may, from time to time during the Term of this Agreement allocate a Seat to a new User or transfer a Seat from one User to another (each such transfer an **"Allocation"**). Where the Customer wishes to make an Allocation, the Customer shall use the functionality provided in the Software. The Customer is not entitled to make any Allocations save for those permitted by the Software's functionality and accepts that the making of such Allocations may cause a fee to become payable.

4. Duration

- 4.1. This Agreement shall commence on the Commencement Date and shall continue for the Initial Period and thereafter for any Extension Periods invoked pursuant to Clause 4.2 unless and until terminated by either party in accordance with Clause 14 below.

- 4.2. This Agreement shall automatically be extended for an Extension Period at the conclusion of the Initial Period and at the conclusion of each subsequent Extension Period thereafter until terminated in accordance with Clause 14.
- 4.3. Access to the Services may not commence on the Commencement Date, and the Provider shall be entitled to suspend such access until it is satisfied that it has received the payable Fee in full and that it has adequately verified the identity of the Customer.

5. Fee

- 5.1. The Customer undertakes to pay the applicable Fee for the Services, which shall be payable monthly in arrears. Payment shall be made by the Customer using direct debit or a similar method, and may be scheduled to be taken from the Customer automatically at regular intervals.
- 5.2. The Fee payable by the Customer will be calculated based on the volume of data processed by the Customer each month, which shall be measured by reference to the number of minutes of content submitted for analysis, as specified in Schedule 1.
- 5.3. Without prejudice to any other right or remedy the Provider may have, if the Customer fails to pay the Provider on the due date, the Provider shall be entitled to:
 - 5.3.1. charge the Customer interest from the due date on a daily basis at the rate of 8 per cent per annum above the base rate from time to time of Barclays Bank plc or at the maximum rate permitted by statute from the due date therefor until payment; and
 - 5.3.2. suspend all Services until payment has been made in full.
- 5.4. From the conclusion of the Initial Term the Provider shall be entitled to increase the Fee at any time upon provision of no less than 30 days' written notice to the Customer. If the Customer does not agree to the increase in Fees, the Customer may terminate the Services in accordance with clause 14.5. Such increases shall take effect and shall be payable by the Customer in the calendar month which commences after notice of the relevant increase has been given.
- 5.5. All sums due under this Agreement are expressed exclusive of VAT but will be subject to VAT where applicable which will be payable by the Customer.
- 5.6. Where the Provider provides any other services to the Customer which are not covered by the Fee paid by the Customer, it shall be entitled to invoice the Customer in arrears with such charges to be based on the Provider's then current charging rates, or if agreed otherwise the Provider's quote at the time of the Customer's enquiry in relation to those services.
- 5.7. All payments payable to the Provider under the Agreement shall become due immediately on termination of the Agreement, irrespective of any other provision. This condition is without prejudice to any right to claim interest on late payments.

6. Service Levels

The Provider will use its reasonable endeavours to deliver the Services to the levels of performance specified in the Service Levels; subject always to Clauses 12.5 and 15 and save where otherwise expressly provided for by this Agreement.

7. Outages, Service Interruptions and Changes to Services

- 7.1. Outages or Service Interruptions may be made by the Provider when in its reasonable opinion they are necessary to facilitate improvements to, or maintenance of the Services. The Provider will use reasonable endeavours to minimise the duration of such Outages or Service Interruptions that it deems necessary.
- 7.2. If Outages or Service Interruptions are required pursuant to Clause 7.1, the Provider will endeavour to schedule them so as to minimise impact on the Services and to notify the Customer as far in advance as is practicable of the anticipated commencement time and estimated duration of the relevant Outage or Service Interruption.
- 7.3. Customer requested interruptions (including, but not limited to, request for an application server to be re-booted) will be fulfilled at the Provider's discretion but will not be considered a break in service, and will not be a factor when considering the Service Levels for any purpose or give rise to any liability on the part of the Provider.
- 7.4. Save for where the Service Level specifically provides otherwise the occurrence of Outages or Service Interruptions shall not constitute breaches of this Agreement.

8. Provider Warranties

- 8.1. The Provider warrants to and undertakes with the Customer that:
 - 8.1.1. it will use its reasonable efforts to provide the Services and to exercise reasonable care and skill and in accordance with the terms of this Agreement;
 - 8.1.2. it has full right power and authority to provide the Services to the Customer in accordance with the terms of this Agreement;
 - 8.1.3. it has all requisite registrations under Data Protection Legislation and will maintain such registrations throughout the Term; and
 - 8.1.4. it will at all times comply with the Data Protection Legislation and with the Conduct Legislation.
- 8.2. For the avoidance of doubt, the Provider makes no warranty that use of the Service will guarantee or enable compliance with any particular laws, regulations or codes of conduct. The Client's compliance with any legal requirements to which it may be subject is entirely its own responsibility and the Provider shall have no liability or responsibility in respect of the same.

- 8.3. The Provider makes no representation or warranty that any information provided by or contained within the Services or Software shall be accurate, complete or up-to-date and the Customer shall be responsible for verifying any such information on which it may choose to rely.
- 8.4. Except for the express warranties set forth in this Clause 8, the Services are provided on an "as is" basis, and the Customer's use of the Services is at its own risk. The Provider does not make, and hereby disclaims, any and all other express and/or implied warranties, statutory or otherwise, including, but not limited to, warranties of merchantability, fitness for a particular purpose and any warranties arising from a course of dealing, usage, or trade practice. The Provider does not warrant that the Services will be uninterrupted, error-free, or completely secure.
- 8.5. The Provider does not and cannot control the flow of data to or from its network and other portions of the Internet. Such flow depends in large part on the performance of Internet services provided or controlled by third parties. At times, actions or omissions of such third parties can impair or disrupt connections to the Internet (or portions thereof). Although the Provider will use commercially reasonable efforts to take all actions it deems appropriate to remedy and avoid such events, the Provider cannot guarantee that such events will not occur. Accordingly, the Provider disclaims any and all liability resulting from or related to such events.

9. Customer Obligations and Warranties

- 9.1. The Customer is required at all times during the term to maintain the Customer Equipment in good order and working condition and to provide prior written notification to the Provider of any changes it makes in respect thereof. At no time during the Term shall the Customer permit the Customer Equipment to fall below the specifications as detailed on the Website or elsewhere from time to time.
- 9.2. In the event that the Customer is in breach of any of its obligations (including, for the avoidance of doubt, timely payment of the Fee) under this Agreement, then:-
- 9.2.1. The Provider cannot be held responsible should the Services fail to perform and comply with the Service Levels as a result (directly or indirectly) of such Customer breach;
- 9.2.2. The Provider shall be entitled to charge the Customer for staff time engaged on rectifying any resulting problems at the Provider's then current standard charging rates; and
- 9.2.3. The Provider may without any liability terminate or suspend the Services (including, for the avoidance of doubt, by way of restricting or blocking the Customer's access to the Software) without prejudice to any other pre-existing rights and obligations of either party.
- 9.3. The Customer represents, warrants and undertakes that:
- 9.3.1. it has and shall during the Term have the legal right and authority to use and have used the Customer Equipment as contemplated under this Agreement;

- 9.3.2. it will use the Services only for lawful purposes and in accordance with this Agreement;
 - 9.3.3. it will at all times comply with Data Protection Legislation;
 - 9.3.4. any Personal Data will only be provided to the Provider in accordance with Data Protection Legislation;
 - 9.3.5. it will be solely responsible for the accuracy and submission of Customer Data when using the Services and the Provider will not be liable for failing to ensure the accuracy of any Customer Data; and
 - 9.3.6. any software, data, equipment or other materials provided by the Customer to the Provider or employed by the Customer in its use of or receipt of the Services shall not infringe any Intellectual Property Rights, privacy or Personal Data interests of any third party and shall not be obscene or defamatory of any person and shall not violate the laws or regulations of any state which may have jurisdiction over such activity.
- 9.4. In the event of any breach of any of the foregoing representations or warranties, in addition to any other remedies available at law or in equity, the Provider will have the right to suspend immediately any related Services if deemed reasonably necessary by the Provider to protect the proper interests of the Provider or its other customers. If practicable and depending on the nature of the breach, the Provider may (in its absolute discretion) give the Customer an opportunity to cure such breach. In such case once the Customer has cured the breach, the Provider will promptly restore the Services.

10. Data Protection

- 10.1. The parties to this Agreement do not foresee any transfer of Personal Data between them pursuant to its terms, and neither anticipates that the other will become a Data Processor on its behalf.
- 10.2. Nevertheless, in order to ensure that the rights and freedoms of data subjects is respected, In the event that a party to this Agreement becomes a Data Processor pursuant to it, it warrants that in relation to the Personal Data in respect of which it is a Data Processor that:
- 10.2.1. having regard to the reasonably available state of the art of technological development, the nature of the Processing in question, the cost of implementation, and the material risk to the rights of affected Data Subjects, the Data Processor will take appropriate technical and organisational measures to secure relevant Personal Data against the unauthorised or unlawful Processing and against accidental loss or destruction;
 - 10.2.2. it will not transfer Personal Data outside the UK without ensuring that appropriate safeguards are in place and that any transfer is lawful under all applicable Data Protection Legislation;
 - 10.2.3. it will assist the Data Controller, insofar as reasonably possible, in responding to any requests made by any relevant Data Subject which

concern the exercise of that Data Subject's rights under the UK GDPR, subject to the Data Controller reimbursing it for the cost of the same;

10.2.4. it will notify the Data Controller, insofar as reasonably possible, of any relevant requests for the disclosure of Personal Data which may be made to it and which it considers that it is legally obliged to respond to, subject to the Data Controller reimbursing it for the cost of the same;

10.2.5. it shall report to the Data Controller any suspected data breach concerning the Personal Data which comes to its attention and shall provide reasonable assistance to the Data Controller in informing the relevant regulator and/or affected Data Subjects, subject to the Data Controller reimbursing it for the cost of the same;

10.2.6. it shall, on request, take reasonable steps to demonstrate to the Data Controller, to the extent that is reasonable given the nature of the Processing in question, that it complies with Data Protection Legislation; and

10.2.7. at the written instruction of the Data Controller securely delete or return Personal Data and copies thereof to the Data Controller on termination of this Agreement unless Union or Member State law requires storage of the Personal Data.

11. Security

11.1. Each party recognises that it is impossible to maintain flawless security but (where relevant) the Provider shall take all reasonable steps to prevent security breaches in its servers' interaction with the Customer and security breaches in any interaction with resources or users outside of any firewall that may be built into the Provider's servers.

11.2. The Customer is responsible for maintaining the confidentiality of any passwords which are required to access the Software and the Services and is solely responsible for any damage caused by any such unauthorised access which arises from its failure to do so.

12. Limitation of Liability

12.1. Except as expressly stated in Clause 12.2:

12.1.1. The Provider shall not be liable for any indirect or consequential loss or damage suffered by the Customer, irrespective of how such loss or damage may arise and no matter which theory of liability gives rise to any cause of action by Customer.

12.1.2. The Provider shall have no liability for any losses or damages which may be suffered by the Customer (or any person claiming under or through the Customer), whether the same are suffered directly or indirectly or are immediate or consequential, and whether the same arise in contract, tort (including negligence) or otherwise howsoever, which fall within any of the following categories:

- 12.1.2.1. special damage, even though the Provider was aware of the circumstances in which such special damage could arise;
 - 12.1.2.2. loss of profits;
 - 12.1.2.3. loss of anticipated savings;
 - 12.1.2.4. loss of business opportunity;
 - 12.1.2.5. loss of goodwill; or
 - 12.1.2.6. loss of or damage to data.
- 12.1.3. to the extent that not excluded by Clauses 12.1.2, 12.3, 12.4, 12.5 or otherwise, the total aggregate liability of the Provider, whether in contract, tort (including negligence) or otherwise and whether in connection with this Agreement or any collateral contract, shall in no circumstances exceed a sum equal to the Fee actually paid by the Customer during the Initial Period or, where the Initial Period has elapsed, during the 12 month period immediately prior to the first event which gave rise to the Customer's right to bring a claim against the Provider.
- 12.1.4. the Customer agrees that, in entering into this Agreement, either it did not rely on any representations (whether written or oral) of any kind or of any person other than those expressly set out in this Agreement or (if it did rely on any representations, whether written or oral, not expressly set out in this Agreement) that it shall have no remedy in respect of such representations and (in either case) the Provider shall have no liability otherwise than pursuant to the express terms of this Agreement;
- 12.2. The exclusions in Clause 12.1 shall apply to the fullest extent permissible at law but the Provider does not exclude liability for:
 - 12.2.1. death or personal injury caused by the negligence of the Provider, its officers, employees, contractors or agents;
 - 12.2.2. fraud or fraudulent misrepresentation; or
 - 12.2.3. any other liability which cannot be excluded by law.
- 12.3. The Provider shall not be liable for any loss or damage of whatsoever nature suffered by the Customer arising out of or in connection with any act, omission, misrepresentation or error made by or on behalf of the Customer or arising from any cause beyond the Provider's reasonable control.
- 12.4. The Customer accepts that the Provider is in no way liable for any virus or other contaminants which enter the Customer's email system or computer network via email or for any loss, damage, interruption to the Services or Outages caused by the failure of the Customer Equipment.
- 12.5. The Provider shall not be liable for any interruptions to the Services or Outages arising directly or indirectly from:-

- 12.5.1. interruptions to the flow of data to or from the Internet;
 - 12.5.2. changes, updates or repairs to the network or the Software subject to the Provider striving to minimise the interruptions / Outages that may be caused by such change;
 - 12.5.3. the effects of the failure or interruption of services provided by third parties;
 - 12.5.4. any of the factors set out in Clause 15;
 - 12.5.5. any actions or omissions of the Customer (including, without limitation, breach of the Customer's obligations set out in this Agreement) or any third parties;
 - 12.5.6. problems with the Customer Equipment, any other equipment owned by the Customer and/or any third party equipment;
 - 12.5.7. interruptions to the Services requested by the Customer.
- 12.6. The Customer agrees that it is in a better position to foresee and evaluate any loss it may suffer in connection with this Agreement and that the Fee has been calculated on the basis of the limitations and exclusions in this Clause 12 and that the Customer will effect insurance as is suitable having regard to its particular circumstances and the terms of this Clause 12.

13. Intellectual Property Rights

- 13.1. Without prejudice to the Customer's rights in its own materials, the parties hereby agree that the Customer shall not acquire any Intellectual Property Rights whatsoever in respect of the Software, documentation and other materials used by the Provider in connection with or related to the provision of the Services hereunder.
- 13.2. The Provider warrants that it has all necessary right, title and interest to enable the Customer to benefit from the Services in accordance with this Agreement.
- 13.3. The Customer hereby grants to the Provider:
- 13.3.1. A non-exclusive, royalty-free, world-wide licence during the Term to use, copy, reproduce, and manipulate data provided by the Customer or resulting from the Services for the purposes of using the data for the provision of the Services; and
 - 13.3.2. A non-exclusive, royalty-free, world-wide licence during the Term to use, reproduce and display the Customer's trade marks for the purposes of using the data for the provision of the Services.
- 13.4. Subject to any contrary provision in this Agreement, the Provider undertakes only to use the Customer's trade marks for the purpose of providing the Services and for marketing purposes.

14. Termination

- 14.1. For the purposes of this Clause 14, the following events shall be deemed “**acts of default**”:
- 14.1.1. if the Customer fails to pay any moneys due pursuant hereto within 7 days of the due date therefor;
 - 14.1.2. if a party commits any material breach of any term of this Agreement (other than one falling under Clause 14.1.1 above) and which, in the case of a breach capable of being remedied, shall not have been remedied within 30 days of a written request by the other party to remedy the same;
 - 14.1.3. if a party is unable to pay its debts (within the meaning of section 123 of the Insolvency Act 1986), or becomes insolvent, or is subject to an order or a resolution for its liquidation, administration, winding-up or dissolution (otherwise than for the purposes of a solvent amalgamation or reconstruction), or has an administrative or other receiver, manager, trustee, liquidator, administrator or similar officer appointed over all or any substantial part of its assets, or enters into or proposes any composition or arrangement with its creditors generally, or is subject to any analogous event or proceeding in any applicable jurisdiction.
- 14.2. If the Customer commits an act of default then the Provider may forthwith suspend the provision of the Services hereunder (or any of them or any part of them) and no such suspension shall be deemed a breach of any term or provision of this Agreement.
- 14.3. If either party commits an act of default, the other party may terminate this Agreement by notice in writing forthwith.
- 14.4. The Provider shall be entitled to terminate this Agreement by giving 30 days' written notice.
- 14.5. Customer shall be entitled to terminate this Agreement by giving 30 days' written notice.
- 14.6. The Provider shall have the right, without prejudice to its other rights or remedies, to terminate this Agreement immediately by notice to the Customer:
- 14.6.1. if the Customer undergoes a change of control which does not result in control passing to a company that, immediately prior to the change in question, was an Affiliate of the Customer;
 - 14.6.2. if the Customer sells all of its assets or is merged or re-organised in circumstances where it is not the surviving entity;
 - 14.6.3. if the Provider ceases to offer the Services; or
 - 14.6.4. if the Customer disputes the ownership or validity of the Provider's Intellectual Property Rights.
- 14.7. Any termination of this Agreement for any reason shall be without prejudice to any other rights or remedies a party may be entitled to hereunder or at law and shall not affect any accrued rights or liabilities of either party nor the coming into force or the continuance in force of any provision hereof which is expressly

or by implication intended to come into or continue in force on or after such termination.

14.8. In the event of termination of this Agreement:-

14.8.1. the Customer agrees promptly to pay to the Provider all outstanding payments;

14.8.2. the Provider's entitlement to use the Customer's trademarks ceases immediately except as necessary for the provision of any post-termination services;

14.8.3. the Provider may in its sole discretion agree to provide any assistance reasonably requested by the Customer in connection with the hand-over to a third party of any services provided by the Provider hereunder, and the Customer shall pay the Provider in accordance with the Provider's then current standard rates for any such assistance;

14.8.4. the Customer's right to receive the Services shall cease automatically.

14.9. Any termination of this Agreement (howsoever occasioned) shall not affect any accrued rights or liabilities of either party, nor shall it affect the coming into force or the continuance in force of any provision of this Agreement which is expressly, or by implication, intended to come into force or continue in force on or after that termination. For the avoidance of doubt, termination of this Agreement shall not in any circumstances entitle the Customer to any form of rebate or refund.

15. Force majeure

15.1. Neither party hereto shall be liable for any breach of its obligations hereunder, except in respect of payment, resulting from causes beyond the reasonable control of the party in default (or its sub-contractors) including but not limited to acts of God, war, insurrection, riot, civil commotion, Government regulation, embargo, explosion, strike, labour dispute (except involving a party's own employees), illness, flood, fire or tempest (an "**Event of Force Majeure**"). Any time limit or estimate for a party to perform any act hereunder shall be suspended during an Event of Force Majeure.

15.2. Each of the parties hereto agrees to give notice forthwith to the other upon becoming aware of an Event of Force Majeure, such notice to contain details of the circumstances giving rise to the Event of Force Majeure.

15.3. If a default due to an Event of Force Majeure shall continue for more than 30 days then the party not in default shall be entitled to terminate this Agreement. Neither party shall have any liability to the other in respect of the termination of this Agreement as a result of an Event of Force Majeure but such termination shall not affect any pre-existing rights or obligations of either party.

16. Waiver

The waiver by either party of a breach or default of any of the provisions of this Agreement by the other party shall not be construed as a waiver of any succeeding breach of the same or other provisions nor shall any delay or omission on the part of either party to exercise or avail itself of any right, power

or privilege that it has or may have hereunder operate as a waiver of any breach or default by the other party.

17. Notices

17.1. To the Provider: any notice, request, instruction or other document to be given hereunder shall be delivered or sent by first class recorded post to the Provider's registered office address or email (such email notice to be confirmed by delivery or read receipt).

17.2. To Customer: any notice, request, instruction or other document to be given hereunder shall be delivered or sent by email (such email notice to be confirmed by delivery or read receipt) to the Customer's email address used as login to the subscribed services.

18. Non-Solicitation

18.1. The Customer shall not during the Term or within 12 months after the end of the Term employ or contract the services of any individual who is or was employed by the Provider and assigned in any way to the Services or solicit the services of such an individual for itself, for a person associated with the Customer, for one of the Customer's own customers or suppliers or for a person which competes or which intends to compete with the business of the Supplier.

18.2. If the Customer breaches Clause 18.1, the Provider shall notify the Customer of the gross annual pay which the relevant individual is/was receiving from the Provider whilst he/she is/was assigned to the Services and the Customer shall be liable to pay to the Provider liquidated damages equivalent to two times the said gross annual remuneration.

18.3. The parties confirm that the liquidated damages referred to at Clause 18.2 are reasonable and proportionate to cover the Supplier's costs of:

18.3.1. hiring cover for the relevant individual until a replacement can be recruited;

18.3.2. recruiting a replacement for the relevant individual; and

18.3.3. providing the said replacement with training and/or experience so that he/she is a reliable replacement for the relevant individual.

19. Publicity

19.1. The Provider is permitted to make announcements or information concerning this Agreement available in any advertising publicity promotional or other marketing activities without the prior written consent of the Customer. For the avoidance of doubt, the Provider is permitted to use the Customer's name, logo and any feedback it provides to the Company. The Customer shall, on request, assist the Provider in preparing a case study which sets out the benefits that the Customer has derived from receipt of the Services.

19.2. The Customer shall not make an announcement or information concerning this Agreement or any ancillary matter shall be made or released

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or authorised to be made or released in any advertising publicity promotional or other marketing activities without the prior written consent of the Provider.

19-20. Costs

Except for the payments specifically agreed in this Agreement, each party is responsible for its legal and other costs in relation to the preparation and performance of this Agreement.

20-21. Invalidity and severability

If any provision of this Agreement shall be found by any court or administrative body of competent jurisdiction to be invalid or unenforceable the invalidity or unenforceability of such provision shall not affect the other provisions of this Agreement and all provisions not affected by such invalidity or unenforceability shall remain in full force and effect. The parties hereby agree to attempt to substitute for any invalid or unenforceable provision a valid or enforceable provision which achieves to the greatest extent possible the economic, legal and commercial objectives of the invalid or unenforceable provision.

24-22. Entire agreement

24-1.22.1. Subject to Clause 22.222-221.2, this written Agreement constitutes the entire agreement between the parties hereto relating to the subject matter hereof. Nothing in this Clause 22.122-121.1 or Clause 12.1.4 shall relieve either party of liability for fraudulent misrepresentations.

24-2.22.2. No change, alteration or modification to this Agreement shall be valid unless in writing and signed on behalf of both parties hereto.

22-23. Relationship

The parties are independent businesses and not partners, principal and agent, or employer and employee, or in any other relationship of trust to each other.

23-24. Successors

This Agreement shall be binding upon and ensure for the benefit of the successors in title of the parties hereto.

24-25. Assignment

24-1.25.1. The Customer shall not be entitled to assign this Agreement nor all or any of its rights and obligations hereunder without the Provider's prior written consent, such consent not to be unreasonably withheld.

24-2.25.2. The Provider shall be entitled to assign this Agreement or all or any of its rights and obligations hereunder.

25-26. Sub-contracting

The Provider shall be entitled to sub-contract the whole or any part of its obligations hereunder to any third party but shall remain liable as if it were performing the Services itself.

26-27. Governing Law & Jurisdiction

26-4-27.1. This Agreement and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation shall be governed by and construed in accordance with the law of England and Wales.

26-2-27.2. Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with this Agreement or its subject matter or formation.

26-3-27.3. The parties irrevocably agree that the courts of England and Wales are the most appropriate and convenient courts to settle any dispute or claim, and accordingly, no party will argue to the contrary.

27-28. Third Party Rights

No term of this Agreement is intended to confer a benefit on or to be enforceable by, any person who is not a party to this Agreement.

Signed by **[NAME OF DIRECTOR]** for and on
behalf of **[NAME OF COMPANY]** Director

Signed by **[NAME OF DIRECTOR]** for and on
behalf of **DSI COMPLIANCE LTD** Director

Schedule 1 – Tiers

Tier	Number of Minutes	Fee
1	[0 – 10,000]	
2	[10,001 – 20,000]	
3	[21,000 – 30,000]	