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THIS AGREEMENT is made on [Document.CreatedDate]

BETWEEN

- (1) INVISION360 SERVICES LIMITED incorporated and registered in England and Wales with company number 13223149 whose registered office is at The Port House Marina Keep, Port Solent, Portsmouth, Hampshire, England, PO6 4TH (**Invision360**);
- (2) [company.name], [company.address], [company.city], [company.state][company.zip](the **Authority**).

BACKGROUND

- (A) Invision360 has developed certain software applications and platforms which it makes available to Local Authorities via the internet for the purpose of enabling them to audit children's Education Health Care Plans.
- (B) The Authority wishes to use the Invision360's service in its business operations.
- (C) Invision360 has agreed to provide and the Authority has agreed to take and pay for Invision360's service subject to the terms and conditions of this agreement.

OPERATIVE PROVISIONS

1. INTERPRETATION

- 1.1 Authorised Users
those employees, agents and independent contractors of the Authority who are authorised by the Authority to use the Services and the Documentation, as further described in clause 2.2.4;

Business Day

a day other than a Saturday, Sunday or public holiday in England when banks in London are open for business;

Confidential Information

information that is proprietary or confidential and is either clearly labelled as such or identified as Confidential Information in clause 10.5 or clause 10.6;

Controller, processor, data subject, personal data, personal data breach, processing and appropriate technical and organisational measures
as defined in the Data Protection Legislation;

Customer Data

the data inputted by the Authority, Authorised Users, or Invision360 on the Authority's behalf for the purpose of using the Services or facilitating the Authority's use of the Services;

Data Protection Legislation

the UK Data Protection Legislation and any other European Union legislation relating to personal data and all other legislation and regulatory requirements in force from time to time which apply to a party relating to the use of personal data (including, without limitation, the privacy of electronic communications); and the guidance and codes of practice issued by the relevant data protection or supervisory authority and applicable to a party;

Documentation

the document made available to the Authority by Invision360 online via www.Invision360.com or such other web address notified by Invision360 to the Authority from time to time which sets out a description of the Services and the user instructions for the Services;

Effective Date

the date of this agreement;

Initial Subscription Term

the initial term of this agreement as set out in Schedule 2;

Mandatory Policies

the Authority's business policies and codes listed in Schedule 3, as amended by notification to the Authority from time to time;

Normal Business Hours

8.00 am to 6.00 pm local UK time, each Business Day;

Renewal Period

the period described in clause 13.1;

Services

the subscription services provided by Invision360 for the purpose of the EHCP Audit Tool to the Authority under this agreement via www.Invision360.com or any other website notified to the Authority by Invision360 from time to time, as more particularly described in the Documentation;

Software

the online software applications provided by Invision360 as part of the Services;

Subscription Fees

the subscription fees payable by the Authority to Invision360 for the User Subscriptions, as set out in paragraph 1 of Schedule 1;

Subscription Term

has the meaning given in clause 13.1 (being the Initial Subscription Term together with any subsequent Renewal Periods);

UK Data Protection Legislation

all applicable data protection and privacy legislation in force from time to time in the UK including the General Data Protection Regulation ((EU) 2016/679); the Data Protection Act 2018; the Privacy and Electronic Communications Directive 2002/58/EC (as updated by Directive 2009/136/EC) and the Privacy and Electronic Communications Regulations 2003 (SI 2003/2426) as amended;

User Subscriptions

the user subscriptions purchased by the Authority pursuant to clause 8.1 which entitle Authorised Users to access and use the Services and the Documentation in accordance with this agreement;

Virus

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

- 1.2 Clause, schedule and paragraph headings shall not affect the interpretation of this agreement.
- 1.3 A person includes an individual, corporate or unincorporated body (whether or not having separate legal personality) and that person's legal and personal representatives, successors or permitted assigns.
- 1.4 A reference to a company shall include any company, corporation or other body corporate, wherever and however incorporated or established.

- 1.5 Unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular.
- 1.6 Unless the context otherwise requires, a reference to one gender shall include a reference to the other genders.
- 1.7 A reference to a statute or statutory provision is a reference to it as it is in force as at the date of this agreement.
- 1.8 A reference to a statute or statutory provision shall include all subordinate legislation made as at the date of this agreement under that statute or statutory provision.
- 1.9 A reference to writing or written includes faxes and e-mail.
- 1.10 References to clauses and schedules are to the clauses and schedules of this agreement; references to paragraphs are to paragraphs of the relevant schedule to this agreement.

2. USER SUBSCRIPTIONS

- 2.1 Subject to the Authority purchasing the User Subscriptions in accordance with clause 3.3 and clause 8.1, the restrictions set out in this clause 2 and the other terms and conditions of this agreement, Invision360 hereby grants to the Authority a non-exclusive, non-transferable right, without the right to grant sublicences, to permit the Authorised Users to use the Services and the Documentation during the Subscription Term solely for the Authority's internal business operations.
- 2.2 In relation to the Authorised Users, the Authority undertakes that:
 - 2.2.1 the maximum number of Authorised Users that it authorises to access and use the Services and the Documentation shall not exceed the number of User Subscriptions it has purchased from time to time;
 - 2.2.2 it will not allow or suffer any User Subscription to be used by more than one individual Authorised User unless it has been reassigned in its entirety to another individual Authorised User, in which case the prior Authorised User shall no longer have any right to access or use the Services and/or Documentation;

- 2.2.3 each Authorised User shall keep a secure password for his use of the Services and Documentation and each Authorised User shall keep his password confidential;
 - 2.2.4 it shall maintain a written, up to date list of current Authorised Users and provide such list to Invision360 within 5 Business Days of Invision360's written request at any time or times;
 - 2.2.5 it shall permit Invision360 or Invision360's designated auditor to audit the Services in order to establish the name and password of each Authorised User and Invision360's data processing facilities to audit compliance with this agreement. Each such audit may be conducted no more than once per quarter, at Invision360's expense, and this right shall be exercised with reasonable prior notice, in such a manner as not to substantially interfere with the Authority's normal conduct of business;
 - 2.2.6 if any of the audits referred to in clause 2.2.5 reveal that any password has been provided to any individual who is not an Authorised User, then without prejudice to Invision360's other rights, the Authority shall promptly disable such passwords and Invision360 shall not issue any new passwords to any such individual; and
 - 2.2.7 if any of the audits referred to in clause 2.2.5 reveal that the Authority has underpaid Subscription Fees to Invision360, then without prejudice to Invision360's other rights, the Authority shall pay to Invision360 an amount equal to such underpayment as calculated in accordance with the prices set out in paragraph 1 of Schedule 1 within 10 Business Days of the date of the relevant audit
- 2.3 The Authority shall not access, store, distribute or transmit any Viruses, or any material during the course of its use of the Services that:
- 2.3.1 is unlawful, harmful, threatening, defamatory, obscene, infringing, harassing or racially or ethnically offensive;
 - 2.3.2 facilitates illegal activity;
 - 2.3.3 depicts sexually explicit images;
 - 2.3.4 promotes unlawful violence;
 - 2.3.5 is discriminatory based on race, gender, colour, religious belief, sexual orientation, disability; or

2.3.6 is otherwise illegal or causes damage or injury to any person or property; and Invision360 reserves the right, without liability or prejudice to its other rights to the Authority, to disable the Authority's access to any material that breaches the provisions of this clause.

2.4 The Authority shall not:

2.4.1 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 this agreement:

2.4.1.1 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

2.4.1.2 attempt to de-compile, reverse compile, disassemble, reverse engineer or otherwise reduce to human-perceivable form all or any part of the Software; or

2.4.2 access all or any part of the Services and Documentation in order to build a product or service which competes with the Services and/or the Documentation; or

2.4.3 use the Services and/or Documentation to provide services to third parties; or

2.4.4 subject to clause 21.1, license, sell, rent, lease, transfer, assign, distribute, display, disclose, or otherwise commercially exploit, or otherwise make the Services and/or Documentation available to any third party except the Authorised Users, or

2.4.5 attempt to obtain, or assist third parties in obtaining, access to the Services and/or Documentation, other than as provided under this clause 2; or

2.4.6 introduce or permit the introduction of, any Virus into Invision360's network and information systems.

2.5 The Authority 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 Invision360.

3. ADDITIONAL USER SUBSCRIPTIONS

- 3.1 Subject to clause 3.2 and clause 3.3, the Authority may, from time to time during any Subscription Term, purchase additional User Subscriptions in excess of the number set out in paragraph 1 of Schedule 1 and Invision360 shall grant access to the Services and the Documentation to such additional Authorised Users in accordance with the provisions of this agreement.
- 3.2 If the Authority wishes to purchase additional User Subscriptions, the Authority shall notify the Invision360 in writing. Invision360 shall evaluate such request for additional User Subscriptions and respond to the Authority with approval or rejection of the request (such approval not to be unreasonably withheld). Where Invision360 approves the request, Invision360 shall activate the additional User Subscriptions within 5 days of its approval of the Authority's request.
- 3.3 If Invision360 approves the Authority's request to purchase additional User Subscriptions, the Authority shall, within 30 days of the date of Invision360's invoice, pay to Invision360 the relevant fees for such additional User Subscriptions as set out in paragraph 2 of Schedule 1 and, if such additional User Subscriptions are purchased by the Authority part way through the Initial Subscription Term or any Renewal Period (as applicable), such fees shall be pro-rated from the date of activation by Invision360 for the remainder of the Initial Subscription Term or then current Renewal Period (as applicable).

4. SERVICES

- 4.1 Invision360 shall, during the Subscription Term, provide the Services and make available the Documentation to the Authority on and subject to the terms of this agreement.
- 4.2 Invision360 shall use commercially reasonable endeavours to make the Services available 24 hours a day, seven days a week, except for:
- 4.2.1 planned maintenance performed outside of Normal Business Hours; and
 - 4.2.2 unscheduled maintenance performed outside Normal Business Hours, provided that Invision360 has used reasonable endeavours to give the Authority at least 6 Normal Business Hours' notice in advance.
- 4.3 Invision360 will, as part of the Services and at no additional cost to the Authority provide the Authority with Invision360's standard customer support services during Normal Business Hours. The Authority may purchase enhanced support services separately at Invision360's then current rates.
- 4.4 Support is available by emailing support@Invision360.com or accessed directly from the 'Support' tab for logged in users.

5. AUTHORITY DATA

- 5.1 The Authority shall own all right, title and interest in and to all of the Customer Data that is not personal data and shall have sole responsibility for the legality, reliability, integrity, accuracy and quality of all such Customer Data.
- 5.2 Invision360 shall follow its archiving procedures for Customer Data as set out in its Back-Up Policy available at <http://www.Invision360.com/privacy-policy> or such other website address as may be notified to the Authority from time to time], as such document may be amended by Invision360 in its sole discretion from time to time. In the event of any loss or damage to Customer Data, the Authority's sole and exclusive remedy against Invision360 shall be for Invision360 to use reasonable commercial endeavours to restore the lost or damaged Customer Data from the latest back-up of such Customer Data maintained by Invision360 in accordance with the archiving procedure described in its Back-Up Policy. Invision360 shall not be responsible for any loss, destruction, alteration or disclosure of Customer Data caused by any third party (except those third parties sub-contracted by Invision360 to perform services related to Customer Data maintenance and back-up for which it shall remain fully liable under clause 5.9).
- 5.3 Invision360 shall, in providing the Services, comply with its Privacy and Security Policy relating to the privacy and security of the Customer Data available at <http://www.Invision360.com/privacy-policy> or such other website address as may be notified to the Customer from time to time, as such document may be amended from time to time by the Supplier in its sole discretion. It is acknowledged by the parties that Invision360 will have no access to personal data of children or their Education Health Plans, and that though the Services facilitate the Authority's audit of personal data concerning children and utilise unique identifiers, the design of the software and the services is such that this data, and the identity of the persons to whom the unique identifiers relate, is not made available to Invision360.
- 5.4 Both parties will comply with all applicable requirements of the Data Protection Legislation. This clause 5 is in addition to, and does not relieve, remove or replace, a party's obligations or rights under the Data Protection Legislation.
- 5.5 The parties acknowledge that if Invision360 processes any personal data on the Authority's behalf when performing its obligations under this agreement, the Authority is the controller and Invision360 is the processor for the purposes of the Data Protection Legislation.
- 5.6 Without prejudice to the generality of clause 5.4, and the provisions of clause 5.3, the Authority will ensure that it has all necessary appropriate consents and notices in place to enable lawful transfer of the personal data to Invision360 for the duration and purposes of this agreement so

that Invision360 may lawfully use, process and transfer the personal data in accordance with this agreement on the Authority's behalf.

- 5.7 Without prejudice to the generality of clause 5.4, Invision360 shall, in relation to any personal data processed in connection with the performance by Invision360 of its obligations under this agreement:
- 5.7.1 process that personal data only on the documented written instructions of the Authority unless Invision360 is required by the laws of any member of the European Union or by the laws of the European Union applicable to Invision360 and/or **Domestic UK Law** (where Domestic UK Law means the UK Data Protection Legislation and any other law that applies in the UK) to process personal data (**Applicable Laws**). Where Invision360 is relying on Applicable Laws as the basis for processing personal data, Invision360 shall promptly notify the Authority of this before performing the processing required by the Applicable Laws unless those Applicable Laws prohibit Invision360 from so notifying the Authority;
 - 5.7.2 not transfer any personal data outside of the European Economic Area and the United Kingdom unless the following conditions are fulfilled:
 - 5.7.2.1 the Authority or Invision360 has provided appropriate safeguards in relation to the transfer;
 - 5.7.2.2 the data subject has enforceable rights and effective legal remedies;
 - 5.7.2.3 Invision360 complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any personal data that is transferred; and
 - 5.7.2.4 Invision360 complies with reasonable instructions notified to it in advance by the Authority with respect to the processing of the personal data;
 - 5.7.3 assist the Authority, at the Authority's cost, in responding to any request from a data subject and in ensuring compliance with its obligations under the Data Protection Legislation with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators;
 - 5.7.4 notify the Authority without undue delay on becoming aware of a personal data breach;

5.7.5 at the written direction of the Authority, delete or return personal data and copies thereof to the Authority on termination of the agreement unless required by Applicable Law to store the personal data (and for these purposes the term “delete” shall mean to put such data beyond use); and

5.7.6 maintain complete and accurate records and information to demonstrate its compliance with this clause 5 and immediately inform the Authority if, in the opinion of Invision360, an instruction infringes the Data Protection Legislation.

5.8 Each party shall ensure that it has in place appropriate technical and organisational measures, reviewed and approved by the other party, to protect against unauthorised or unlawful processing of personal data and against accidental loss or destruction of, or damage to, personal data, appropriate to the harm that might result from the unauthorised or unlawful processing or accidental loss, destruction or damage and the nature of the data to be protected, having regard to the state of technological development and the cost of implementing any measures (those measures may include, where appropriate, pseudonymising and encrypting personal data, ensuring confidentiality, integrity, availability and resilience of its systems and services, ensuring that availability of and access to personal data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the technical and organisational measures adopted by it).

5.9 The Authority consents to Invision360 appointing its group companies as a third-party processor of personal data under this agreement. Invision360 confirms that it has entered or (as the case may be) will enter with each third-party processor into a written agreement incorporating terms which are substantially similar to those set out in this clause 5 and in either case which Invision360 will reflect and will continue to reflect the requirements of the Data Protection Legislation. As between the Authority and Invision360, Invision360 shall remain fully liable for all acts or omissions of any third-party processor appointed by it pursuant to this clause 5.

5.10 Either party may, at any time on not less than 30 days' notice, revise this clause 5 by replacing it with any applicable controller to processor standard clauses or similar terms forming part of an applicable certification scheme (which shall apply when replaced by attachment to this agreement).

6. INVISION360'S OBLIGATIONS

6.1 Invision360 undertakes that the Services will be performed substantially in accordance with the Documentation and with reasonable skill and care.

- 6.2 The undertaking at clause 6.1 shall not apply to the extent of any non-conformance which is caused by use of the Services contrary to Invision360's instructions, or modification or alteration of the Services by any party other than Invision360 or Invision360's duly authorised contractors or agents. If the Services do not conform with the foregoing undertaking, Invision360 will, at its expense, use all reasonable commercial endeavours to correct any such non-conformance promptly, or provide the Authority with an alternative means of accomplishing the desired performance. Such correction or substitution constitutes the Authority's sole and exclusive remedy for any breach of the undertaking set out in clause 6.1.
- 6.3 Invision360360:
- 6.3.1 does not warrant that the Authority's use of the Services will be uninterrupted or error-free.
- 6.3.2 is not responsible for any delays, delivery failures, or any other loss or damage resulting from the transfer of data over communications networks and facilities, including the internet, and the Authority acknowledges that the Services and Documentation may be subject to limitations, delays and other problems inherent in the use of such communications facilities.
- 6.4 This agreement shall not prevent Invision360 from entering into similar agreements with third parties, or from independently developing, using, selling or licensing documentation, products and/or services which are similar to those provided under this agreement.
- 6.5 Invision360 warrants that it has and will maintain all necessary licences, consents, and permissions necessary for the performance of its obligations under this agreement.

7. THE AUTHORITY'S OBLIGATIONS

- 7.1 The Authority shall:
- 7.1.1 provide Invision360 with:
- 7.1.1.1 all necessary co-operation in relation to this agreement; and
- 7.1.1.2 all necessary access to such information as may be required by Invision360;

in order to provide the Services, including but not limited to Customer Data, security access information and configuration services PROVIDED THAT at no time shall Invision360 be required to have access to special category of personal data or any personal data relating to children or their Education Health Care Plans in order to carry out the service;

- 7.1.2 without affecting its other obligations under this agreement, comply with all applicable laws and regulations with respect to its activities under this agreement;
- 7.1.3 carry out all other responsibilities of the Authority set out in this agreement in a timely and efficient manner. In the event of any delays in the Authority's provision of such assistance as agreed by the parties, Invision360 may adjust any agreed timetable or delivery schedule as reasonably necessary;
- 7.1.4 ensure that the Authorised Users use the Services and the Documentation in accordance with the terms and conditions of this agreement and shall be responsible for any Authorised User's breach of this agreement;
- 7.1.5 obtain and shall maintain all necessary licences, consents, and permissions necessary for Invision360, its contractors and agents to perform their obligations under this agreement, including without limitation the Services;
- 7.1.6 ensure that its network and systems comply with the relevant specifications provided by Invision360 from time to time; and
- 7.1.7 be, to the extent permitted by law and except as otherwise expressly provided in this agreement, solely responsible for procuring, maintaining and securing its network connections and telecommunications links from its systems to Invision360's data centres, and all problems, conditions, delays, delivery failures and all other loss or damage arising from or relating to the Authority's network connections or telecommunications links or caused by the internet.

8. CHARGES AND PAYMENT

- 8.1 The Authority shall pay the Subscription Fees to the Invision360 for the User Subscriptions in accordance with this clause 8 and Schedule 1.
- 8.2 Invision360 shall invoice the Authority:
 - 8.2.1 on the Effective Date for the Subscription Fees payable in respect of the Initial Subscription Term; and
 - 8.2.2 subject to clause 13.1, at least 30 days prior to each anniversary of the Effective Date for the Subscription Fees payable in respect of the next Renewal Period, and the Authority shall pay each invoice within 30 days after the date of such invoice.

- 8.3 If Invision360 has not received payment within 30 days after the due date, and without prejudice to any other rights and remedies of Invision360:
- 8.3.1 Invision360 may, without liability to the Authority, disable the Authority's password, account and access to all or part of the Services and Invision360 shall be under no obligation to provide any or all of the Services while the invoice(s) concerned remain unpaid; and
 - 8.3.2 interest shall accrue on a daily basis on such due amounts at an annual rate equal to 3% over the then current base lending rate of Invision360's bankers in the UK from time to time, commencing on the due date and continuing until fully paid, whether before or after judgment.
- 8.4 All amounts and fees stated or referred to in this agreement:
- 8.4.1 shall be payable in pounds sterling;
 - 8.4.2 are, subject to clause 12.3.2, non-cancellable and non-refundable;
 - 8.4.3 are exclusive of value added tax, which shall be added to Invision360's invoice(s) at the appropriate rate.
- 8.5 Invision360 shall be entitled to increase the Subscription Fees, the fees payable in respect of the additional User Subscriptions purchased pursuant to clause 3.3, and the support fees payable pursuant to clause 4.3 at the start of each Renewal Period upon 30 days' prior notice to the Authority and Schedule 1 shall be deemed to have been amended accordingly.

9. PROPRIETARY RIGHTS

- 9.1 The Authority acknowledges and agrees that Invision360 and/or its licensors own all intellectual property rights in the Services and the Documentation. Except as expressly stated herein, this agreement does not grant the Authority any rights to, under or in, any patents, copyright, database right, trade secrets, trade names, trade marks (whether registered or unregistered), or any other rights or licences in respect of the Services or the Documentation.
- 9.2 Invision360 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 of this agreement.

10. CONFIDENTIALITY AND COMPLIANCE WITH POLICIES

- 10.1 Each party may be given access to Confidential Information from the other party in order to perform its obligations under this agreement. A party's Confidential Information shall not be deemed to include information that:
- 10.1.1 is or becomes publicly known other than through any act or omission of the receiving party;
 - 10.1.2 was in the other party's lawful possession before the disclosure;
 - 10.1.3 is lawfully disclosed to the receiving party by a third party without restriction on disclosure; or
 - 10.1.4 is independently developed by the receiving party, which independent development can be shown by written evidence.
- 10.2 Subject to clause 10.4, each party shall hold the other's Confidential Information in confidence and not make the other's Confidential Information available to any third party, or use the other's Confidential Information for any purpose other than the implementation of this agreement.
- 10.3 Each party shall take all reasonable steps to ensure that the other's Confidential Information to which it has access is not disclosed or distributed by its employees or agents in violation of the terms of this agreement.
- 10.4 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 10.4, it takes into account the reasonable requests of the other party in relation to the content of such disclosure.
- 10.5 The Authority acknowledges that details of the Services, and the results of any performance tests of the Services, constitute Invision360's Confidential Information.
- 10.6 Invision360 acknowledges that the Customer Data is the Confidential Information of the Authority.

- 10.7 No party shall make, or permit any person to make, any public announcement concerning this agreement without the prior written consent of the other parties (such consent not to be unreasonably withheld or delayed), except as required by law, any governmental or regulatory authority (including, without limitation, any relevant securities exchange), any court or other authority of competent jurisdiction.
- 10.8 The above provisions of this clause 10 shall survive termination of this agreement, however arising.
- 10.9 In performing its obligations under this agreement Invision360 shall comply with the Mandatory Policies.

11. INDEMNITY

- 11.1 The Authority shall defend, indemnify and hold harmless Invision360 against claims, actions, proceedings, losses, damages, expenses and costs (including without limitation court costs and reasonable legal fees) arising out of or in connection with the Authority's use of the Services and/or Documentation, provided that:
- 11.1.1 the Authority is given prompt notice of any such claim;
 - 11.1.2 Invision360 provides reasonable co-operation to the Authority in the defence and settlement of such claim, at the Authority's expense; and
 - 11.1.3 the Authority is given sole authority to defend or settle the claim.
- 11.2 Invision360 shall defend the Authority, its officers, directors and employees against any claim that the Authority's use of the Services or Documentation in accordance with this agreement infringes any United Kingdom patent effective as of the Effective Date, copyright, trade mark, database right or right of confidentiality, and shall indemnify the Authority for any amounts awarded against the Authority in judgment or settlement of such claims, provided that:
- 11.2.1 Invision360 is given prompt notice of any such claim;
 - 11.2.2 the Authority provides reasonable co-operation to Invision360 in the defence and settlement of such claim, at Invision360's expense; and
 - 11.2.3 Invision360 is given sole authority to defend or settle the claim.

- 11.3 In the defence or settlement of any claim, Invision360 may procure the right for the Authority to continue using the Services, replace or modify the Services so that they become non-infringing or, if such remedies are not reasonably available, terminate this agreement on 2 Business Days' notice to the Authority without any additional liability or obligation to pay liquidated damages or other additional costs to the Authority.
- 11.4 In no event shall Invision360, its employees, agents and sub-contractors be liable to the Authority to the extent that the alleged infringement is based on:
- 11.4.1 a modification of the Services or Documentation by anyone other than Invision360; or
 - 11.4.2 the Authority's use of the Services or Documentation in a manner contrary to the instructions given to the Customer by Invision360; or
 - 11.4.3 the Authority's use of the Services or Documentation after notice of the alleged or actual infringement from Invision360 or any appropriate authority.
- 11.5 The foregoing and clause 12.3.2 states the Authority's sole and exclusive rights and remedies, and Invision360's (including Invision360's employees', agents' and sub-contractors') entire obligations and liability, for infringement of any patent, copyright, trade mark, database right or right of confidentiality.

12. LIMITATION OF LIABILITY

- 12.1 Except as expressly and specifically provided in this agreement:
- 12.1.1 the Authority assumes sole responsibility for results obtained from the use of the Services and the Documentation by the Authority, and for conclusions drawn from such use. Invision360 shall have no liability for any damage caused by errors or omissions in any information, instructions or scripts provided to Invision360 by the Authority in connection with the Services, or any actions taken by Invision360 at the Authority's direction;
 - 12.1.2 all warranties, representations, conditions and all other terms of any kind whatsoever implied by statute or common law are, to the fullest extent permitted by applicable law, excluded from this agreement; and
 - 12.1.3 the Services and the Documentation are provided to the Authority on an "as is" basis.

- 12.2 Nothing in this agreement excludes the liability of Invision360:
 - 12.2.1 for death or personal injury caused by Invision360's negligence; or
 - 12.2.2 for fraud or fraudulent misrepresentation.
- 12.3 Subject to clause 12.1 and clause 12.2:
 - 12.3.1 Invision360 shall not be liable whether in tort (including for breach of statutory duty), contract, misrepresentation, restitution or otherwise for any loss of profits, loss of business, depletion of goodwill and/or similar losses or loss or corruption of data or information, or pure economic loss, or for any special, indirect or consequential loss, costs, damages, charges or expenses however arising under this agreement; and
 - 12.3.2 12.3.2 Invision360's total aggregate liability in contract including in respect of the indemnity at clause 11.2, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise, arising in connection with the performance or contemplated performance of this agreement shall be limited to the higher of (i) £50,000 and (ii) three times the annual Subscription Fees.

13. TERM AND TERMINATION

- 13.1 This agreement shall, unless otherwise terminated as provided in this clause 13, commence on the Effective Date and shall continue for the Initial Subscription Term and, thereafter, this agreement shall be automatically renewed for successive periods of 12 months (each a Renewal Period), unless
 - 13.1.1 either party notifies the other party of termination, in writing, at least 30 days before the end of the Initial Subscription Term or any Renewal Period, in which case this agreement shall terminate upon the expiry of the applicable Initial Subscription Term or Renewal Period; or
 - 13.1.2 otherwise terminated in accordance with the provisions of this agreement; and the Initial Subscription Term together with any subsequent Renewal Periods shall constitute the Subscription Term.
- 13.2 Without affecting any other right or remedy available to it, either party may terminate this agreement with immediate effect by giving written notice to the other party if:
 - 13.2.1 the other party commits a material breach of any other term of this agreement which breach is irremediable or (if such breach is remediable) fails to remedy that breach within a period of 30 days after being notified in writing to do so;

- 13.2.2 the other party suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986, as if the words “it is proved to the satisfaction of the court” did not appear in sections 123(1)(e) or 123(2) of the Insolvency Act 1986;
- 13.2.3 the other party commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors other than for the sole purpose of a scheme for a solvent amalgamation of that other party with one or more other companies or the solvent reconstruction of that other party;
- 13.2.4 a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of that other party other than for the sole purpose of a scheme for a solvent amalgamation of that other party with one or more other companies or the solvent reconstruction of that other party;
- 13.2.5 an application is made to court, or an order is made, for the appointment of an administrator, or if a notice of intention to appoint an administrator is given or if an administrator is appointed, over the other party;
- 13.2.6 the holder of a qualifying floating charge over the assets of that other party has become entitled to appoint or has appointed an administrative receiver;
- 13.2.7 a person becomes entitled to appoint a receiver over the assets of the other party or a receiver is appointed over the assets of the other party;
- 13.2.8 a creditor or encumbrancer of the other party attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of the other party's assets and such attachment or process is not discharged within 14 days;
- 13.2.9 any event occurs, or proceeding is taken, with respect to the other party in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clause 13.2.2 to clause 13.2.8 (inclusive); or
- 13.2.10 the other party suspends or ceases, or threatens to suspend or cease, carrying on all or a substantial part of its business;

13.3 On termination of this agreement for any reason:

- 13.3.1 all licences granted under this agreement shall immediately terminate and the Authority shall immediately cease all use of the Services and/or the Documentation;
- 13.3.2 each party shall return and make no further use of any equipment, property, Documentation and other items (and all copies of them) belonging to the other party;
- 13.3.3 Invision360 may destroy or otherwise dispose of any of the Customer Data in its possession in accordance with clause 5.7.3, unless Invision360 receives, no later than ten days after the effective date of the termination of this agreement, a written request for the delivery to the Authority of the then most recent back-up of the Customer Data. Invision360 shall use reasonable commercial endeavours to deliver the back-up to the Authority within 30 days of its receipt of such a written request, provided that the Authority has, at that time, paid all fees and charges outstanding at and resulting from termination (whether or not due at the date of termination). The Authority shall pay all reasonable expenses incurred by Invision360 in returning or disposing of Customer Data; and
- 13.3.4 any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination, including the right to claim damages in respect of any breach of the agreement which existed at or before the date of termination shall not be affected or prejudiced.

14. FORCE MAJEURE

- 14.1 Invision360 shall have no liability to the Authority under this agreement if it is prevented from or delayed in performing its obligations under this agreement, or from carrying on its business, by acts, events, omissions or accidents beyond its reasonable control, including, without limitation, strikes, lock-outs or other industrial disputes (whether involving the workforce of Invision360 or any other party), failure of a utility service or transport or telecommunications network, act of God, war, riot, civil commotion, epidemic or pandemic, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, storm or default of suppliers or sub-contractors, provided that the Authority is notified of such an event and its expected duration.

15. CONFLICT

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

16. VARIATION

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

17. WAIVER

- 17.1 No failure or delay by a party to exercise any right or remedy provided under this agreement or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.

18. RIGHTS AND REMEDIES

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

19. SEVERANCE

- 19.1 If any provision or part-provision of this agreement is or becomes invalid, illegal or unenforceable, it shall be deemed deleted, but that shall not affect the validity and enforceability of the rest of this agreement.
- 19.2 If any provision or part-provision of this agreement is deemed deleted under clause 19.1 the parties shall negotiate in good faith to agree a replacement provision that, to the greatest extent possible, achieves the intended commercial result of the original provision.

20. ENTIRE AGREEMENT

- 20.1 This agreement 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.
- 20.2 Each party acknowledges that in entering into this agreement it does not rely on any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in this agreement.
- 20.3 Each party agrees that it shall have no claim for innocent or negligent misrepresentation based on any statement in this agreement.
- 20.4 Nothing in this clause shall limit or exclude any liability for fraud.

21. ASSIGNMENT

- 21.1 The Authority shall not, without the prior written consent of Invision360, assign, transfer, charge, sub-contract or deal in any other manner with all or any of its rights or obligations under this agreement.
- 21.2 Invision360 may at any time assign, transfer, charge, sub-contract or deal in any other manner with all or any of its rights or obligations under this agreement.

22. NO PARTNERSHIP OR AGENCY

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

23. THIRD PARTY RIGHTS

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

24. NOTICES

- 24.1 Any notice required to be given under this agreement shall be in writing and shall be delivered by hand or sent by pre-paid first-class post or recorded delivery post to the other party at its address set out in this agreement, or such other address as may have been notified by that party for such purposes, or sent by fax to the other party's fax number as set out in this agreement.
- 24.2 A notice delivered by hand shall be deemed to have been received when delivered (or if delivery is not in business hours, at 9 am on the first business day following delivery). A correctly addressed notice sent by pre-paid first-class post or recorded delivery post shall be deemed to have been received at the time at which it would have been delivered in the normal course of post. A notice sent by fax shall be deemed to have been received at the time of transmission (as shown by the timed printout obtained by the sender).

25. GOVERNING LAW

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

26. JURISDICTION

- 26.1 Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this agreement or its subject matter or formation (including non-contractual disputes or claims).
This has been entered into on the date stated at the beginning of it.

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

SCHEDULE 1

SUBSCRIPTION FEES

1. SUBSCRIPTION FEES

1.1 Subscription Fees

1. The Subscription Fees shall amount to a total fee of [Cost] per annum (exclusive of VAT) – which equates to the following:
 - [Cost] per annum

1.2 All costs are exclusive of VAT

SCHEDULE 2

SUBSCRIPTION TERM

2. Initial Subscription Term: [Start Date] to [End Date]
3. Invision360 shall provide the following training for the tool to [NAME OF LOCAL AUTHORITY] which is included in the annual license fee:
 - Kick Start Training (45 min Teams call) to all business support and anyone overseeing the software. This training can be repeated during the license agreement at no extra cost to the Authority and can also be recorded.
 - Auditor Training (Two 45 min Teams calls) to anyone within the Authority who will be completing audits on Invision360. Invision360 will give a full run through of how to use our software and complete the QA of an audit. Both training sessions are identical and can be recorded. This training can be repeated during the license agreement at no extra cost to the Authority.



SCHEDULE 3 MANDATORY POLICIES

[Mandatory.Policies]