



G-Cloud 15

Master License Agreement



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Parties:

EBC	EBC Group (UK) Ltd a company incorporated in England and Wales (No. [INSERT]) whose registered office is [INSERT]
LICENSEE	[●] a company incorporated in England and Wales (No. [●]) whose registered office is at [●]

Background:

- (A) EBC Group (UK) Ltd is a provider of a SaaS-based solution (“**Themis**”). EBC Group (UK) Ltd also provides consultancy and training related to Themis.
- (B) Client wishes to use the services of EBC, as set out in each order agreed between EBC and Client (each a **Party** and together the **Parties**).
- (C) All services provided by EBC to Client are subject to the terms and conditions set out in this Master License Agreement (**MLA**).

Master License Agreement

This MASTER LICENSE AGREEMENT together with any Order Form attached hereto is made as of the date of execution of the applicable Order Form (the “Effective Date”) and comprises the entire agreement (the “Agreement”) by and between EBC Group (UK) Ltd (“EBC”), and the entity accepting the terms of the Agreement via a signed Order Form (“Licensee”). EBC and Licensee are sometimes referred to herein individually as a “Party” and collectively as the “Parties”.

EBC and Licensee, intending to be legally bound, hereby agree as follows:

1. DEFINITIONS

Capitalised terms throughout this Agreement shall have the following meaning.

- a. “**Account**” means the account(s) established by EBC to provide Licensee with access to the Hosted Services in accordance with this Agreement.
- b. “**Application Programming Interfaces**” and “**API**” mean the programmatic access points to the Hosted Services.
- c. “**Beta Services**” means any EBC product or service that has not been made generally available to customers.
- d. “**Confidential Information**” has the meaning set forth in Section 9.



- e. **“Custom Work”** means graphical and user- interface changes to the Software or Hosted Services, created in order to adapt the look and feel of the Software or Hosted Services to the specific requirements of Licensee, or any other custom development, implementation and/or integration Professional Services work performed by EBC at Licensee’s request.
- f. **“Data Protection Legislation”** means all legislation and regulatory requirements in force from time to time relating to the use of personal data and the privacy of electronic communications, including, without limitation (i) any data protection legislation from time to time in force in the UK including the Data Protection Act 2018 or any successor legislation, as well as (ii) the General Data Protection Regulation ((EU) 2016/679) and any other directly applicable European Union regulation relating to data protection and privacy (for so long as and to the extent that the law of the European Union has legal effect in the UK).
- g. **“Documentation”** means the technical guides, code samples, and/or other similar written technical instructions that EBC provides to Licensee hereunder in connection with the Hosted Services and/or Software, either in hard copy or electronic copy, and any and all updates thereto.
- h. **“Hosted Services”** means any of EBC’s solutions, offered to Licensee as a service that runs from EBC’s datacenters, including, without limitation, databases, APIs, metadata, files, and data either used to operate the services or incorporated therein, the system and processes, the Documentation and all corrections, Custom Work, modifications and enhancements (including any and all Intellectual Property pertaining thereto). Hosted Services may include Software that is provided to Licensee in order to facilitate access to the Hosted Services. The Hosted Services may access third party web-services, and such access may change from time to time based on the discretion of such third parties or EBC.
- i. **“Intellectual Property”** shall include, without limitation, copyrights, trade-secrets, Marks (as defined in Section 6a below), domain names, patents, know-how, formulation, data, technology, designs, inventions, improvements, discoveries, processes, models, and all other intellectual or industrial property and like rights, whether or not registered, and the applications thereof.
- j. **“EBC Application”** means an application developed by EBC that makes use of Software and/or Hosted Services to deliver functionality to sites either



directly through the EBC APIs.

- k. **“Licensee Content”** means any content Licensee makes available to its Users via the Hosted Services, except for User Submitted Media.
- l. **“Licensee System”** means the system owned or licensed by Licensee underlying Licensee’s Internet service, and including, without limitation, any and all technology, know-how, trade secrets, inventions, standardised subroutines, computer programs, software tools, processes, coding, works of authorship, development tools and programming techniques which are incorporated therein (excluding Software and/or Hosted Services).
- m. **“Order Form”** means the form supplied by EBC in order for Licensee to order Hosted Services and/or Professional Services under this Agreement.
- n. **“Professional Services”** means any customisation or implementation work performed by EBC under this Agreement, including integration of the Hosted Services and/or Software with the Licensee System and/or any Custom Work.
- o. **“Publisher Content”** means all of the content uploaded to the Hosted Services via Licensee’s Account, including User Submitted Media and Licensee Content.
- p. **“Software”** means software developed by EBC or its licensors, including without limitation EBC Applications, and the “EBC Management Console”, including their respective Documentations, and all corrections, Custom Work, modifications and enhancements thereof, performed or approved by EBC.
- q. **“Themis”** means the SaaS platform developed by EBC which provides secure cloud storage of digitised media and a search facility for its contents.
- r. **“User”** means a legal entity or natural person that uses the Software and/or the Hosted Services for online transactions such as viewing, browsing, downloading, uploading, editing and otherwise engaging with the Software or Hosted Services. Users can include employees, students, customers or the audience of Licensee, unless otherwise specified in an applicable Order Form.
- s. **“User Submitted Media”** means any content created and submitted, or otherwise imported, to the Hosted Services by Licensee’s Users.



2. SCOPE OF AGREEMENT

- a. Licensee may order new or additional Hosted Services, Software, and/or Professional Services by executing an Order Form. Unless otherwise specified in a given Order Form, an Order Form shall be effective upon execution by both Parties.
- b. Unless any provision of this Agreement is specifically excluded or modified in a particular Order Form, each such Order Form shall be deemed to incorporate all of the terms and conditions of this Agreement and may contain such additional terms and conditions as the Parties may mutually agree. In the event of a conflict between any of the provisions of this Agreement and the terms and conditions of a specific Order Form, the provisions of the specific Order Form shall prevail. Neither Party shall have any obligation with respect to any Hosted Services and/or Software, including payment, delivery and/or acceptance thereof until an Order Form setting forth the specific terms with respect to such Hosted Services and/or Software has been executed by both Parties.

3. PERSONNEL

- a. Each Party shall remain at all times liable and responsible for the actions and omissions of all subcontractors that it may use in connection with this Agreement and agrees that such subcontractor(s) shall be subject to substantially similar obligations, including without limitation the confidentiality obligations, as those set forth in this Agreement.

4. THE LICENSE; OWNERSHIP

- a. **License to the Hosted Services and Software.** Subject to the terms and conditions of this Agreement, upon the execution of an applicable Order Form and subject to payment of any and all applicable amounts due to EBC hereunder, EBC will grant to Licensee, for the term of the applicable Order Form, a worldwide, non-exclusive, non-transferable, non-sublicensable (except to Licensee's Users as set forth herein) limited right and license, the scope of which shall be defined in the applicable Order Form(s), to access the Hosted



Services and/or Software described in the applicable Order Form(s) in accordance with their respective specifications, solely (i) for Licensee's own internal use; and/or (ii) for the purpose of sublicensing access to Hosted Services and Software to Licensee's Users. Licensee shall make no other access or use of the Hosted Services or the Software, except as expressly granted hereunder, without the prior written consent of EBC. All rights not expressly granted herein with respect to the Software and the Hosted Services are reserved to EBC. Nothing contained herein shall limit EBC's right to license or otherwise distribute or make available Hosted Services and/or Software, in whole or in part, to any third party. Licensee hereby grants EBC a worldwide, royalty-free, transferable, non-exclusive license to:

(i) deliver Publisher Content in accordance with the preferences set by Licensee using its Account; (ii) secure, encode, reproduce, host, cache, route, reformat, analyse and create algorithms and reports based on access to and use of Publisher Content; (iii) use, publish, make available, distribute, copy, store or reproduce Publisher Content on or through the Hosted Services or otherwise perform any action required in order to fulfill its obligations hereunder; and (iv) utilise Publisher Content to test EBC's internal technologies and processes.

- b. **Ownership.** The Parties expressly understand and agree that: (i) the Hosted Services, the Software, EBC's Confidential Information, and all Intellectual Property with respect to the foregoing, are and shall remain the sole and exclusive property of EBC or its licensors; and (ii) the Licensee System, Licensee's Confidential Information, Licensee Content and all Intellectual Property with respect to the foregoing are and shall remain the sole and exclusive property of Licensee.
- b. **Protection of Rights.** Each Party shall exclusively have the right, in its sole discretion, to prosecute lawsuits against any third party for infringement of its rights, and the other Party shall fully cooperate at such Party's (whose rights have been infringed upon) expense, in the prosecution of any such suit, demand or claim.
- c. **Publisher Content.** Licensee shall ensure that its Accounts are not used in a manner that results in the infringement of any third party's intellectual property rights, or that results in the transmission of any illegal, inappropriate, or offensive content via the Hosted Services. Licensee acknowledges and agrees that EBC does not screen or review Publisher Content on the Hosted Services to determine whether it contains false or defamatory material, or material that is infringing, inaccurate, misleading, offensive, indecent, objectionable, or



invasive of another's privacy or publicity rights. Under no circumstances will EBC be liable in any way for any Publisher Content, including, but not limited to, any defamation, falsehoods, errors or omissions associated with such Publisher Content, or for any loss or damage of any kind incurred as a result of the use or publication of any such content posted, delivered, emailed or otherwise transmitted via the Hosted Services.

5. FEES

- a. **Fees and Payment Schedule.** Licensee shall pay EBC the fees set forth in each applicable Order Form, in accordance with any additional payment terms set forth therein. Payment for all invoices is due within thirty (30) days of the applicable invoice date. Any setup fees shall be invoiced upon execution of the Order Form. Recurring subscription fees shall be invoiced on the date set forth in the Order Form. Subscription-based Charges for Themis (Subscription Fee) are non-refundable and payable in advance. (Where EBC permits Licensee to access Themis for a trial period as set out on the Order Form (Trial), the Subscription Fee for that period shall be £1, sufficiency and receipt of which are hereby acknowledged.) If EBC has not received payment within 30 days, and without prejudice to any other rights and remedies: (a) EBC may suspend access to Themis (but shall recommence access at no further cost when the invoice has been paid); and (b) interest shall accrue on a daily basis on such due amounts at an annual rate equal to 4% over the then current base lending rate of the Bank of England from time to time, commencing on the due date and continuing until fully paid, whether before or after judgment.
- b. **Currency; Interest.** Unless otherwise specified in the applicable Order Form, Licensee shall pay all amounts due pursuant to this Agreement and applicable Order Forms exclusively UK Sterling. Any late payment shall accrue interest at the annual rate of one percent (1%) on any outstanding balance from the due date, or the maximum rate permitted by law, whichever is less.
- c. **Taxes.** All fees set forth in an Order Form are exclusive of any and all applicable sales, use, excise, import, export, value-added and similar taxes and governmental charges (collectively "Taxes"). Licensee is responsible for paying all Taxes associated with its purchases hereunder. If EBC has a legal obligation to pay or collect Taxes for which Licensee is responsible under this Section 5c, EBC shall invoice Licensee for such amount (and Licensee agrees to pay such amount), unless Licensee provides EBC with a valid tax exemption certificate



issued by the appropriate taxing authority.

- d. **Professional Services.** Unless otherwise specified in an applicable Order Form, Professional Services fees will be charged on a fixed fee basis and will be invoiced upon execution of the applicable Order Form. In the case of Professional Services fees charged on a per hour basis, Licensee shall be responsible for any Professional Services hours it requires beyond the initial amount purchased in an applicable Order Form. Implementation of final deliverables may be dependent on Licensee making assets and internal resources available to EBC. Licensee is responsible for actual and reasonable travel expenses associated with travel to Licensee's premises in connection with any Professional Services rendered under this Agreement. EBC will bill Licensee for reasonable and necessary incurred expenses through standard invoicing.
- e. **Non-Payment and Suspension.** In the event of non-payment, or late payment, EBC reserves the right to suspend or terminate Licensee's access to the Hosted Services and Software following written notice that has not been cured within thirty (30) days of the date of such notice. EBC shall not be liable for any damages suffered by Licensee as a result of such suspension or termination. EBC will continue to invoice Licensee for the fees specified in the applicable Order Form during any period of service suspension due to Licensee's non-payment or late payment.

6. TRADEMARKS.

- a. **License of Marks.** During the term of this Agreement, each Party hereby grants to the other Party subject to the terms and conditions of this Agreement, a limited, royalty-free, non-exclusive, non-transferable, non-sublicensable, worldwide right and license to use and display, solely to the extent necessary for the other Party to perform its obligations hereunder, such Party's trade names, trademarks, service marks and associated logos and other promotional materials ("**Marks**"). Each Party will attribute the Marks of the other Party used pursuant to this Section with a statement to the effect that the other Party owns such Marks. Without limiting the above, Licensee may brand the Hosted Services as agreed upon in an applicable Order Form, provided, however, that at all times the labeling shall indicate that the Hosted Services and the Software are developed and owned by EBC and shall display the EBC logo.



- b. **Reservation of Rights in Marks.** Each Party will retain all right, title and interest in and to its Marks, and all goodwill associated with use of such Marks will inure solely to its benefit. All use of a Party's Marks by the other Party shall conform to good trademark usage practice or any reasonable trademark usage guidelines or instructions that such Party may provide to the other Party from time to time.

7. REPRESENTATIONS AND WARRANTIES

- a. **Mutual Representations and Warranties.** Each Party represents and warrants to the other Party for the duration of the term hereof that:
 - i. **Authority to Conduct Business.** It has all powers and authority necessary to own, operate and lease its assets and properties and to carry on its business as now being conducted.
 - ii. **Corporate Authority.** It has sufficient powers and authority to enter into this Agreement and to perform its obligations hereunder and grant the rights granted to the other Party hereunder.
 - iii. **No Violation.** The execution and delivery of this Agreement and the performance and consummation of the transactions contemplated hereby will not violate or result in a breach by such Party of its articles of incorporation or bylaws, any other agreement or understanding to which it is a party, or any lien, resolution, legal or administrative order or statutory provisions to which it is subject.
- c. **EBC's Warranties.** EBC represents and warrants that (i) it will provide any Professional Services rendered hereunder with reasonable skill and care, using appropriately qualified personnel; (ii) the Software and Hosted Services provided hereunder shall perform materially in accordance with the Documentation; and (iii) EBC owns or has the legal right to license the combination of Software and Hosted Services set forth in any applicable Order Form.
- d. **No Warranty to Third Parties.** Nothing in this agreement is intended to constitute or create any representation or warranty by ebc to licensee's users, or any other third party, directly or as a third party beneficiary, with respect to the software, hosted services, publisher content, professional services or otherwise.
- e. **Disclaimer of Warranties.** Except as expressly set forth in this section 7, EBC



makes no, and hereby specifically disclaims, to the fullest extent permitted by applicable law, any, representations or warranties, express or implied, including but not limited to any implied warranty of merchantability, fitness for a particular purpose, title, quiet enjoyment, or noninfringement, and any implied warranties arising from course of dealing or course of performance.

- e. **Beta Services.** From time to time, EBC may invite Licensee to try Beta Services at no additional charge. Licensee may accept or decline any such trial in its sole discretion. Beta Services will be clearly designated as beta, limited availability, developer preview, non-production, evaluation or by a similar description. Beta Services are for evaluation purposes and not for production use, are not considered Hosted Services or Services under this Agreement, are not supported, and may be subject to additional terms. Unless otherwise stated, any Beta Services trial period will expire upon the earlier of one month from the trial start date or the date that a version of Beta Services first becomes generally available to EBC customers. EBC may discontinue Beta Services at any time in its sole discretion and may never make such services generally available. Notwithstanding anything to the contrary in the Agreement, EBC will have no liability for any harm or damage arising out of or in connection with a Beta Service.

8. LIMITATION OF LIABILITY; INDEMNIFICATION

- a. Other than in connection with a breach of licensee's payment obligations to EBC hereunder, neither party shall be liable to the other party for any incidental, indirect, consequential, special or punitive damages of any kind or nature, including without limitation lost revenues or lost profits, whether such liability is asserted on the basis of contract (including, without limitation, the breach of this agreement or any termination of this agreement), tort (including negligence or strict liability), or otherwise, even if the other party has been warned in advance of the possibility of any such loss or damage. In no event shall either party's maximum liability under this agreement (other than in connection with a breach of licensee's payment obligations to EBC hereunder) exceed the amounts actually paid by licensee to EBC pursuant to this agreement during the twelve (12) months preceding the event giving rise to such liability. The limitation of liability set forth in this paragraph does not apply in cases of willful misconduct, fraud, or gross negligence, or in connection with either party's indemnification obligations.
- b. **Indemnification for Intellectual Property Infringement.** EBC shall defend,



indemnify and hold Licensee (including its directors, officers and employees) harmless from and against any and all liabilities, damages, judgments, costs and expenses (including, without limitation, reasonable attorneys' fees) against Licensee that arise in connection with any third party claim, action, suit, or proceeding alleging that the Hosted Services or the Software infringes a valid copyright, trademark, trade secret, or UK patent issued as of the Effective Date ("**Claim**"); provided, however, that Licensee shall give prompt written notice of any Claim to EBC, shall provide such information and assistance as reasonably requested by EBC in its negotiation, defense or settlement of such Claim, and that EBC shall have sole control over the defense of such Claim.

- i. **Additional Remedy.** If a Claim may be or has been asserted, EBC may, in its sole discretion, at its expense and to the extent reasonably possible: (i) provide Licensee the right to continue using the Software, Hosted Services, or the EBC Marks, as the case may be; or (ii) replace or modify them to eliminate the infringement while providing functionally equivalent performance.
- ii. **Limitation.** Notwithstanding anything to the contrary herein, EBC will have no indemnity obligation to Licensee for any Claim that results from or relates to: (i) the use of the Hosted Services and/or Software in a manner not in accordance with this Agreement; (ii) where the infringement results from the combination of the Software and/or the Hosted Services with a third party's systems, products or services (other than the Licensee System, if the combination was performed by EBC), where the Software and/or Hosted Services, standing alone, would not have infringed upon a third party's rights; or (iii) use of other than the then current, unaltered version of the applicable Software, unless the infringing portion is also in the then current, unaltered release.
- iii. This section 8.b states EBC's entire liability and licensee's exclusive remedy for claims relating to intellectual property infringement.
- d. Notwithstanding section 8a above, Licensee agrees to indemnify, defend, and hold EBC, its subsidiaries, and their respective directors, officers, shareholders and employees, harmless to the fullest extent allowed by law regarding all matters related to Publisher Content, including but not limited to any claims regarding inaccurate, offensive, indecent, libelous, defamatory, invasive of another's privacy or publicity rights, objectionable or infringing content.



9. CONFIDENTIAL INFORMATION

- a. **Confidential Information.** Each Party acknowledges and agrees that, in the course of this Agreement and the Parties' relationship, it may be given access to or may otherwise obtain Confidential Information belonging or pertaining to the other Party. For the purposes of this Agreement, the term "Confidential Information" shall include non-public information about the disclosing Party's business or activities that is proprietary and/or confidential, including, without limitation, all business, financial, technical and other information of a party marked or designated as "confidential" (or some similar designation) or that, by its nature or the circumstances surrounding its disclosure, should reasonably be regarded as confidential. Each Party hereby agrees to (i) use the Confidential Information of the disclosing Party solely for the purpose of performing its obligations under this Agreement; (ii) hold the other Party's Confidential Information in strict confidence, and; (iii) not disclose such Confidential Information, or any part thereof, to any person, except those officers, employees, agents or professional advisors with a strict "need to know" in order for the receiving Party to perform its obligations hereunder; provided that such officers, employees, agents, or professional advisors shall, prior to any disclosure, have agreed by signed writing or otherwise to be bound by confidentiality obligations no less strict than those described herein.
- b. **Exclusions.** Confidential Information shall not include (i) any information already rightfully in the public domain at the time of its disclosure, or subsequently released into the public domain by the disclosing Party; (ii) any information already rightfully in the possession of the receiving Party at the time of its disclosure by the disclosing Party without an obligation to maintain its confidentiality; (iii) any information that is independently developed by the receiving Party without use of or reference to any Confidential Information of the disclosing Party, in either case such fact being proven through documentary evidence; (iv) information obtained by the receiving Party from a third party not in breach of any confidentiality obligations to the disclosing Party; or (v) information required to be disclosed by law, a court order or competent government authority, provided that in such case the receiving Party shall promptly inform the disclosing Party of such requirement of disclosure prior to the disclosure such that the disclosing Party has an opportunity to object to the production or disclosure through seeking a protective order.
- c. Each Party (as the receiving Party) acknowledges that the disclosing Party considers its Confidential Information to contain trade secrets of the disclosing



Party and that any unauthorised use or disclosure of such information would cause the disclosing Party irreparable harm for which its remedies at law would be inadequate. Accordingly, each Party (as receiving party) acknowledges and agrees that the disclosing Party will be entitled, in addition to any other remedies available to it at law or in equity, to seek the issuance of injunctive relief, without bond, enjoining any breach or threatened breach of the receiving Party's obligations hereunder with respect to the Confidential Information of the disclosing Party, in addition to such further injunctive relief as any court of competent jurisdiction may deem just and proper.

10. SECURITY; DATA PROTECTION

- a. EBC represents and warrants that it currently has, and shall maintain in effect, for the term of this Agreement, written security management policies and procedures, which are updated from time to time, and which are designed to ensure the security and integrity of the Software and Hosted Services and to protect Licensee information from unauthorised access, destruction, and/or disclosure.
- b. If EBC processes any personal data concerning data subjects in the European Union (as such terms are defined under applicable Data Protection Legislation) on Licensee's behalf when performing its obligations under this Agreement, the Parties record their intention that Licensee shall be the data controller and EBC shall be a data processor (each as defined under applicable Data Protection Legislation), and in any such case:
 - i. Licensee's obligations:
 - A. Licensee acknowledges and agrees that personal data may be transferred or stored within any EBC data centers in order to carry out the Hosted Services and EBC's other obligations under this Agreement.
 - B. Licensee shall ensure that it is entitled to transfer the relevant personal data to EBC under applicable Data Protection Legislation, so that EBC may lawfully use, process, and transfer the personal data in accordance with this Agreement on Licensee's behalf.
 - C. Licensee shall ensure that all relevant third parties have been informed of, and have given their affirmative express consent to,



such use, processing, and transfer, to the extent required by applicable Data Protection Legislation.

- D. Licensee shall ensure that it has in place appropriate technical and organisational measures to protect against unauthorised or unlawful processing of the personal data or its accidental loss, destruction or damage.

ii. EBC's obligations:

- A. **Scope, Nature, and Purpose of Processing.** EBC shall process the personal data only for the purpose of performing its obligations under this Agreement or any applicable Order Form. Without limiting the generality of the foregoing, processing activities may include: hosting, transcoding, and delivery of Publisher Content, processing of metadata, transmission of data over the internet and/or private networks to Users, performing maintenance and support services, creating aggregated statistics and reports for the purpose of improving EBC's products and services, and maintaining logs for the purpose of compliance with data retention laws and internal policies. Processing activities shall also include processing payments and information incidental to the business relationship between EBC and Licensee. The processing activities may involve any category of data that is uploaded to the Hosted Services by Licensee, or otherwise generated or entered by Licensee in the course of its use of the Hosted Services, including but is not limited to, video, images, sound, media metadata, login and authentication credentials, email addresses, unique device identifiers, and internet traffic and online activity information. Data subjects may be any of Licensee's authorised or intended Users who are protected by Data Protection Legislation. The EBC platform is not specifically intended for processing of any special categories of data.
- B. **Instructions.** Except to the extent required by applicable law, EBC processes personal data transferred to it only on behalf of Licensee and in accordance with the Licensee's instructions, whether expressed electronically through Licensee's use of the Hosted Services or otherwise. The Parties acknowledge that Licensee controls its Publisher Content using the functionalities and settings that the Hosted Services provide, through which



Licensee can delete, amend, correct, block, define user access permissions, and control the processing of its data in many ways. Licensee's use of such settings and functionalities will be considered as processing instructions given by Licensee. EBC will inform Licensee if, in EBC's opinion, Licensee's instructions violate Data Protection Legislation.

- C. **Appropriate Security.** EBC shall ensure that it has in place appropriate technical and organisational measures against unauthorised or unlawful processing of the personal data or its accidental loss, destruction or damage.
- D. **Personnel.** EBC shall ensure that its personnel are subject to a duty of confidentiality with respect to personal data.
- E. **Sub-processors.** Licensee agrees that EBC may use sub-processors to perform certain functions integrated into the Hosted Services, including but not limited to: data center hosting and processing infrastructure, data delivery over a content delivery network (CDN), and transcription and captioning services. The exact sub-processors used in any given case may depend on the specific deployment and combination of Software and/or Hosted Services specified in an Order Form. Licensee may request details about the particular sub-processors used in its deployment and request that it be notified of changes to those sub-processors and given a chance to object to any changes in the applicable sub-processors.
- F. **Assistance.** EBC shall assist Licensee with any requests from individuals exercising their rights to access, rectify, erase or object to processing of personal data pursuant to Data Protection Legislation. EBC shall assist Licensee with its security and data breach obligations, including notifying Licensee of any personal data breaches that EBC is aware of or reasonably suspects. EBC shall assist Licensee should Licensee need to carry out a privacy impact assessment. EBC reserves the right to charge a fee, consistent with Data Protection Legislation, for complying with a request for assistance requiring significant effort and/or resources.
- G. **Audit.** EBC will submit to an audit by Licensee or a third party



designated by Licensee to demonstrate EBC's compliance with the obligations specified in this Section 10, at Licensee's sole expense, provided that EBC has been given reasonable prior notice.

11. TERM AND TERMINATION

- a. **Term of this Agreement.** This Agreement shall be effective as of the Effective Date and shall remain in force for as long as there is an executed Order Form in effect, unless terminated as set forth herein. Notwithstanding the above it is acknowledged by the Parties that each Order Form may be in effect only for a specific period of time (for each Order Form, the "**Initial Term**") as set out in each respective Order Form. Furthermore, it is acknowledged that the Parties may set out such period of time pursuant to which each applicable Order Form may be extended (for each Order Form, the "**Renewal Term**") after the expiry of the Initial Term or Renewal Term, as the case may be. Subject to Sections 5e, 11b, and 11c of this Agreement, if Licensee continues to use the Software and/or Hosted Services after the expiration of the term of an Order Form, but declines to renew the Order Form, EBC shall have the option to charge Licensee for its ongoing usage pursuant to the pricing set forth in the Order Form. Usage of the Hosted Services shall include, without limitation, any form of storage, streaming, transcoding, and/or login to Licensee's Account.
- b. **Termination.** This Agreement and its applicable Order Forms may be terminated as follows:
 - i. By either Party, upon thirty (30) days' prior written notice to the other Party (specifying in reasonable detail the nature of the material breach), if such other Party materially breaches this Agreement and fails to cure such breach within such thirty (30) day period.
 - ii. By either Party, immediately upon written notice to the other Party, if: (i) a receiver is appointed for such other Party or its property, (ii) such other Party makes a general assignment for the benefit of its creditors, (iii) any proceedings are commenced by, for, or against such other Party under any bankruptcy, insolvency or debtor's relief law for the purpose of seeking a reorganisation of such other Party's debts, and such proceeding affects the quality of services such Party provides under this Agreement, or (iv) such other Party is liquidated or dissolved.



- d. **Effect of Termination.** Immediately upon any termination of this Agreement or its applicable Order Form(s): (i) Licensee shall pay to EBC any and all amounts then due and outstanding under this Agreement; (ii) all rights and licenses granted hereunder, and all obligations and covenants imposed hereunder, shall immediately cease, except as otherwise expressly provided herein; and (iii) each Party shall: (a) stop using all Confidential Information, Marks and/or any other proprietary materials of the other Party then under its possession or control; (b) erase or destroy all such Confidential Information, Marks and/or any other proprietary materials residing in any computer memory or data storage apparatus; and (c) at the option of such other Party, either destroy or return to such other Party all such Confidential Information, Marks and/or any other proprietary materials in tangible form and all copies thereof. Any such destruction referenced in (b) or (c) above shall be, upon request, certified in writing to the disclosing Party by an authorised officer of the receiving Party supervising such destruction. Notwithstanding anything to the contrary in this Agreement, neither Party shall be obligated to return or destroy Confidential Information of the other Party if, and only to the extent that, the retention of such Confidential Information is required by any applicable law, regulation, policy, or internal compliance procedure relating to the retention or automatic archiving of files and data. For the avoidance of doubt, any such retained Confidential Information shall remain subject to the confidentiality obligations set forth in this Agreement.
- d. **Survival.** All obligations of the Parties that expressly or by their nature survive termination or expiration of this Agreement shall continue in full force and effect subsequent to and notwithstanding such termination or expiration until they are satisfied or by their nature expire.

12. GENERAL TERMS

- a. **Marketing and Press Release.** Licensee agrees that EBC may list Licensee as a customer on the EBC website. No news releases or public announcements relating to this Agreement, its existence, its subject matter, or its terms and conditions shall be made by either Party without the prior written consent of the other Party.
- b. **Compliance with Export Control Laws.** Licensee shall not download, access, use, or otherwise export or re-export the Software, the Hosted Services or any underlying information or technology related to the Software and/or Hosted



Services except in full compliance with all UK export control laws and regulations.

- c. **Relationship of the Parties.** Each Party to this Agreement shall be deemed to be an independent contractor of the other Party. Nothing contained herein or in any other writing shall imply any partnership, joint venture, or agency relationship between the Parties and neither Party shall have the power to obligate or bind the other in any manner whatsoever.
- d. **Force Majeure.** Except as otherwise expressly provided in this Agreement, neither Party shall be liable for any breach of this Agreement, other than any default in payment obligations, for any delay or failure of performance resulting from any cause beyond such Party's reasonable control.
- e. **Amendment.** No amendment or modification of any provision of this Agreement shall be effective unless in writing and signed by duly authorised signatories of EBC and Licensee.
- f. **Assignment.** Neither Party may assign this Agreement or any of its rights or obligations hereunder, whether by contract, operation of law or otherwise, without the other Party's prior written approval. Any attempt to do so without such approval shall be void. Subject to the foregoing restriction, this Agreement shall inure to the benefit of, and be binding upon, the Parties and their respective successors and assigns. Notwithstanding anything to the contrary in this Agreement, neither Party need obtain the consent of the other Party prior to assigning the right to receive payment under this Agreement, or prior to assigning this Agreement to any third party acquiring all or substantially all of the assets relating to this Agreement or a controlling interest in the voting stock or voting interest of the assigning Party.
- g. **Notice.** All notice required to be given under this Agreement must be given in writing and delivered either by hand, e-mail, certified mail (return receipt requested, postage pre-paid) or nationally recognised overnight delivery service (all delivery charges pre-paid) and addressed, if to Licensee, to the contact identified in the applicable Order Form and, if to EBC, to EBC Group (UK) Ltd, 221 Hagley Road, Hayley Green, Halesowen, B63 1ED, Attn: Contracts Manager.
- h. **Severability.** If the application of any provision or provisions of this Agreement to any particular facts or circumstances is held to be invalid or unenforceable by any court of competent jurisdiction, then (i) the validity and enforceability of



such provision or provisions as applied to any other particular facts or circumstances and the validity of other provisions of this Agreement shall not in any way be affected or impaired thereby, and (ii) such provision or provisions shall be reformed without further action by the Parties hereto to and only to the extent necessary to make such provision or provisions valid and enforceable when applied to such particular facts and circumstances.

- i. **Governing Law; Jurisdiction.** The validity, interpretation, enforceability, and performance of this Agreement shall be exclusively governed by and construed in accordance with the law of England and Wales.
- j. **Third Parties.** Except as specifically set forth or referred to herein, nothing herein expressed or implied is intended or shall be construed to confer upon or give to any individual or entity other than the Parties hereto and their successors and permitted assigns any rights or remedies under or because of this Agreement.
- k. **Titles and Headings.** The titles and headings of the Sections and other subdivisions of this Agreement are for convenience of reference only and shall not modify, define or limit any of the terms or provisions of this Agreement.
- l. **Entire Agreement.** This Agreement and any Order Forms executed hereunder: (i) constitute the final and complete agreement between the Parties; and (ii) represent the entire agreement between the Parties and supersede all prior agreements, conversations, negotiations, understandings, term sheets, letters of intent, and confidentiality agreements relating to the subject matter contained herein, including any preprinted terms on any ordering documents provided by Licensee. Each Party acknowledges and agrees that, other than those expressly set forth in this Agreement or an applicable Order Form, neither Party has made or will make any representation, and neither Party has relied or will rely on any representation.
- m. **Counterparts.** This Agreement may be executed in any number of counterparts. All counterparts, taken together, will constitute one agreement.
- n. **Waiver.** The failure of either Party to enforce at any time, or for any period of time, the provisions of this Agreement shall not be interpreted to be a waiver of such provisions or of the right of such Party to enforce each and every such provision.



13. ACCESS TO THEMIS

- a. Subject to payment by Licensee of the applicable Charges, EBC shall make available to Licensee Themis, as set set out in the Order Form for the period of time set out in the Order Form solely for use by Client and its authorised users (Client Users) for the permitted use stated in the Order Form (Permitted Use).
- b. EBC shall expressly state any dependencies in the Order Form (Dependencies), for example: (a) any technical requirements to use Themis such as operating systems and/or browser/firewall settings.
- c. EBC shall set up a Licensee account on Themis and make available to Licensee the administration login credentials necessary to access and use that platform. Each user with Admin Credentials must be set up by EBC and (unless otherwise agreed by EBC) be an employee of Licensee.
- d. Licensee may use Admin Credentials to set up user credentials (User Credentials) for other users.
- e. Licensee shall only provide User Credentials to individuals who are permitted by EBC to use Themis.
- f. Licensee shall: (a) keep User Credentials secret and secure; (b) use Themis only as intended pursuant to its official documentation (Documentation); (c) comply with the Acceptable Use Policy published by EBC Group; (d) not use Themis in any way that will or may have a material negative effect upon the performance of Themis, and procure that all Client Users comply with the same.
- g. Except to the extent caused by EBC's breach: (a) Licensee is responsible for all activities that occur under its Account, regardless of whether the activities are authorised by Licensee; and (b) EBC are not responsible for unauthorised access to Account.

14. STANDARDS AND SECURITY

- a. In performing its obligations under this MLA EBC shall: (a) use that degree of skill and care as would be expected from an expert provider of similar size and scale in the same industry as EBC (Good Industry Practice); and (b) maintain and comply with the security and standards set out in EBC's Security Summary (as updated from time to time).



- b. Each Party shall use reasonable endeavours to ensure that no Malicious Item is connected to, ingested into, transmitted through or stored on Themis. Malicious Item means 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 rearranging, 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.
- c. Licensee acknowledges and agrees that Themis is a web-based product which is regularly iterated by the EBC's development team.
- d. EBC may at any time modify, update or change the Services: (a) as EBC considers necessary to maintain what it considers to be Good Industry Practice; and (b) to comply with a change in Applicable Law.

15. CHANGE CONTROL

- a. Any changes to Services once an Order Form is signed must be agreed by both Parties in writing using the process set out in clauses 15.2 to 15.5 below (Change Control Process).
- b. The Party requesting the change shall make the request in writing (Change Request) and provide it to the other Party.
- c. The Parties shall as soon as reasonably practicable after delivery of a Change Request either: (a) complete the Change Request form with all inputs required from both Parties; or (b) decline the Change Request giving reasons.
- d. If the Change Request is agreed between the Parties, the Parties shall agree and sign the Change Request form (at which point the referenced Order Form and the Services shall be amended from the date stated in the signed Change Request).
- e. Each Party shall act reasonably as part of the Change Control Process, including responding in a timely manner to receiving a Change Request form for that Party's input.



- 16.** This Agreement shall come into effect between the Parties only upon execution of an Order Form by both Parties.