

SaaS SUBSCRIPTION TERMS AND CONDITIONS

MIRACL

These terms and conditions create a contract between the customer (the **Customer**) you, and **MIRACL International Limited**, incorporated and registered in England and Wales with company number 14713119 whose registered office is at 71-75 Shelton Street, Covent Garden, London, United Kingdom, WC2H 9JQ (the **Supplier**).

The Supplier offers the MIRACL Trust multi-factor authentication service, which it makes available to subscribers on a subscription basis. These terms and conditions set out the terms on which the Supplier agrees to make the MIRACL software and services available to the Customer. By indicating acceptance of these terms and conditions, submitting a Sign-Up Page or using the Supplier's services or software, you, the Customer, agree that you wish to use the Services and Documentation subject to the terms and conditions set out below. Please read the terms and conditions below carefully.

These terms and conditions, together with the Sign-Up Page, are collectively the **Agreement**.

This Agreement shall commence on the Subscription Start Date.

AGREED TERMS AND CONDITIONS

1. INTERPRETATION

The following definitions and rules of interpretation shall apply to the Agreement.

Acceptable Use Policy: the Supplier's policy for acceptable use of the Services made available at www.miracl.com or such other website address as may be notified to the Customer from time to time.

Administrative Users: those employees, agents and independent contractors of the Customer who are authorized by the Customer to use the administrative features and functions of the Service.

Authorised Users: those employees, agents and independent contractors of the Customer who are authorised by the Customer to use the Services and the Documentation, as further described in [Clause 2.2\(d\)](#).

Back-Up Policy: the Supplier's policy for archiving data made available at www.miracl.com or such other website address as may be notified to the Customer from time to time.

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 11](#).

Customer Data: the data inputted by the Customer, Authorised Users, or the Supplier on the Customer's behalf for the purpose of using the Services or facilitating the Customer's use of the Services.

Data Protection Legislation: the UK Data Protection Legislation and any other European Union legislation relating to personal data including but not limited to the Regulation (EU) 2016/679 of 27 April 2016 from 25 May 2018 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 describing the Services and the user instructions for the Services made available by the Supplier online via <https://docs.trust.miracl.cloud/> or such other web address notified by the Supplier to the Customer from time.

GDPR: Regulation (EU) 2016/679 of 27 April 2016 from 25 May 2018

Initial Subscription Term: the initial term of this Agreement as selected in the Sign-Up Page.

Normal Business Hours: 9.00 am to 5.00 pm local UK time, each Business Day.

Payment Method: a current, valid, accepted method of payment, as may be updated from time to time.

Pricing Plan: the Supplier's pricing page made available at www.miracl.com or such other website address or otherwise in writing as may be notified to the Customer from time to time.

Privacy Policy: the Supplier's policy in relation to privacy and security of Customer Data made available at www.miracl.com or such other website address as may be notified to the Customer from time to time.

Renewal Period: the period described in [Clause 14.1](#).

Services: the multi-factor authentication services provided on a subscription basis by the Supplier under this Agreement, as specified in the Pricing Plan and the Documentation.

Sign-Up Page: the sign-up page located at www.miracl.com pursuant to which the Customer selects the Services which they wish to receive and agrees to be bound by this Agreement, or as otherwise agreed in writing by both parties.

Software: the online software applications provided by the Supplier as part of the Services.

Subscription Fees: the subscription and support fees payable for the Services, as set out in the Pricing Plan.

Subscription Start Date: the earlier of (i) the date on which the Customer first accesses the Services, (ii) the date on which the Customer first indicates their acceptance of the Agreement and (iii) the date the Customer submits a Sign-Up Page.

Subscription Term: the Initial Subscription Term together with any subsequent Renewal Periods.

Support Services Policy: the Supplier's policy for providing support in relation to the Services as made available at www.miracl.com or such other website address as may be notified to the Customer from time to time.

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: an Authorised User and/or an Administrative User.

User Subscriptions: the user subscriptions purchased by the Customer pursuant to [Clause 9.1](#) which entitle Authorised Users to access and use the Services and the Documentation in accordance with the 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 The terms **Controller, processor, data subject, personal data, personal data breach, processing and appropriate technical and organisational measures** shall be as defined in the Data Protection Legislation.

1.3 Clause, schedule and paragraph headings shall not affect the interpretation of these terms and conditions.

1.4 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 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. 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.
- 1.8** A reference to writing or written includes e-mail where such email has been acknowledged in accordance with [Clause 16](#).
- 1.9** References to clauses and schedules are to the clauses and schedules of these terms and conditions; references to paragraphs are to paragraphs of the relevant schedule to these terms and conditions.

2. PROVISION OF SERVICES; USER SUBSCRIPTIONS

- 2.1** Provision of Services: The Supplier hereby grants to the Customer a non-exclusive, non-transferable right, without the right to grant sublicences, to permit the Users to use the Services and the Documentation during the Subscription Term in accordance with this Agreement and the Pricing Plan.
- 2.2** Users: The Customer undertakes that:
 - (a)** it will be responsible for the activation and de-activation of Users using the Administrative User function, and all actions and omissions of its Users, including the subscription by Users for Services and applications detailed in the Pricing Plan;
 - (b)** it will comply, and will procure that each of its Users comply, with the Acceptable Use Policy;
 - (c)** it will not allow or suffer any User Subscription to be used by more than one individual User unless it has been reassigned in its entirety to another individual User, in which case the prior User shall no longer have any right to access or use the Services and/or Documentation;
 - (d)** each Authorised User shall keep a secure pin for his use of the Services and Documentation, that each Authorised User shall keep his pin confidential and that the Customer shall adopt any reasonable security

measures recommended by the Supplier from time to time and communicate such security measures to each User;

- (e) it shall maintain a written, up to date list of current Users and provide such list to the Supplier within 5 Business Days of the Supplier's written request at any time or times;
- (f) each Party shall permit the other Party or the other Party's designated auditor to audit the Services in order to audit compliance with this Agreement. Each such audit may be conducted no more than once per year, at the Auditing Party's expense, and this right shall be exercised with a fifteen (15) business days prior notice, in such a manner as not to substantially interfere with the Audited Party's normal conduct of business; and
- (g) if any of the audits referred to above reveal that any pin or authentication credentials have been provided to or shared with any individual who is not a User, then without prejudice to the Supplier's other rights, the Customer shall promptly disable such User.

2.3 Restrictions on Customer: The Customer shall not:

- (a) except as may be permitted by any applicable law which is incapable of exclusion by agreement between the parties and except to the extent expressly permitted under this Agreement:
 - (i) 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
 - (ii) attempt to de-compile, reverse compile, disassemble, reverse engineer or otherwise reduce to human-perceivable form all or any part of the Software; or
- (b) access all or any part of the Services and Documentation in order to build a product or service which competes with the Services and/or the Documentation; or
- (c) 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 Users; or
- (d) 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

- (e) access, store, distribute or transmit any Viruses, or any material during the course of its use of the Services that are (a) unlawful, harmful, threatening, defamatory, obscene, harassing or offensive; (b) facilitates illegal activity; (c) depicts sexually explicit images; (d) promotes violence; (e) is discriminatory based on race, gender, colour, religious belief, sexual orientation or disability; or (f) is otherwise illegal or causes damage or injury to any person or property, and in each case the Supplier reserves the right, without prejudice to any other rights which it may have, to disable the Customer's access to the Services in the event of any breach of this clause.

2.4 Unauthorised Use: The Customer 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 the Supplier.

2.5 Customer Rights: Unless agreed otherwise in writing by the Supplier, the rights provided under this Agreement are granted to the Customer only, and shall not be considered granted to any subsidiary or holding company of the Customer.

3. ADDITIONAL USER SUBSCRIPTIONS

Additional Users: The Customer may, from time to time, purchase additional User Subscriptions in accordance with the Pricing Plan and the Supplier shall grant access to the Services and the Documentation to such additional Users in accordance with the provisions of this Agreement.

4. SUPPLIER'S OBLIGATIONS

4.1 Provision of Services and Documentation: In consideration for the payment of the Subscription Fees, the Supplier will provide the Services and the Documentation to the Customer during the Subscription Term in accordance with the Customer's subscription and on and subject to the terms of this Agreement.

4.2 Availability of Services: The Supplier shall use commercially reasonable endeavours to make the Services available 24 hours a day, seven days a week, except for:

- (a) planned maintenance carried out during the maintenance window of 1.00am to 5.00am UK time, and the Supplier shall perform such maintenance on a day

which is not a Business Day; and

- (b) unscheduled maintenance performed outside Normal Business Hours, provided that the Supplier has given the Customer at least 8 Normal Business Hours' notice in advance.

4.3 Support Services: The Supplier will, as part of the Services and at no additional cost to the Customer, provide the Customer with the Supplier's standard customer support services during Normal Business Hours in accordance with the Supplier's Support Services Policy in effect at the time that the Services are provided. The Supplier may amend the Support Services Policy in its sole and absolute discretion from time to time and shall inform the Customer within ten (10) days as from the issuance of the amended Support Services Policy. The Customer may separately purchase enhanced support services at the Supplier's then current rates in accordance with the Pricing Plan.

5. CUSTOMER DATA

5.1 Customer Data and Customer Responsibility: The Customer agrees and acknowledges that the data held by the Supplier in connection with the Services is minimal and shall, unless otherwise agreed, be limited to the username and email address of each User. The Customer 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 Archiving: The Supplier shall follow its archiving procedures for Customer Data as set out in its Back-Up Policy as such document may be amended by the Supplier in its sole discretion from time to time and shall inform the Customer within ten (10) days as from the issuance of the amended Back-up Policy. In the event of any loss or damage to Customer Data, the Customer's remedy against the Supplier shall include but not be limited to, the Supplier restoring of all of the lost or damaged Customer Data from the latest back-up of such Customer Data maintained by the Supplier in accordance with the archiving procedure described in its Back-Up Policy. The Supplier 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 the Supplier to perform services related to Customer Data maintenance and back-up for which it shall remain fully liable under [Clause 5.9](#)).

5.3 Privacy Policy: The Supplier shall, in providing the Services, comply with its Privacy Policy.

5.4 Data Protection Legislation: 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 Data Processing: The parties acknowledge that:

- (a) if the Supplier processes any personal data on the Customer's behalf when performing its obligations under the Agreement, the Customer is the controller and the Supplier is the processor for the purposes of the Data Protection Legislation.
- (b) Schedule 1 sets out the scope, nature and purpose of processing by the Supplier, the duration of the processing and the types of personal data and categories of data subject.
- (c) the personal data cannot be transferred or stored outside the European Economic Area ('EEA') or the country where the Customer is located in order to carry out the Services and the Supplier's other obligations under this agreement unless the Customer has provided specific written permission and all conditions of [Clause 5.7b](#) are met.

5.6 Without prejudice to the generality of [Clause 5.4](#), the Customer will ensure that it has all necessary appropriate consents and notices in place to enable lawful transfer of the personal data to the Supplier for the duration and purposes of this agreement so that the Supplier may lawfully use, process and transfer the personal data in accordance with this agreement on the Customer's behalf.

5.7 Personal Data: Without prejudice to the generality of [Clause 5.4](#), the Supplier shall, in relation to any personal data processed in connection with the performance by the Supplier of its obligations under this agreement:

- (a) process that personal data only on the documented written instructions of the Customer unless the Supplier is required by the laws of any member of the European Union or by the laws of the European Union or any country outside the EEA applicable to the Supplier 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 the Supplier is relying on Applicable Laws as the basis for processing personal data, the Supplier shall promptly notify the Customer of this before performing the processing required by the Applicable Laws unless those Applicable Laws prohibit the Supplier from so notifying the Customer;
- (b) not transfer any personal data outside of the European Economic Area and the United Kingdom unless the following conditions are fulfilled:

- (i) the Customer has provided specific written permission that it permits such a transfer; and
 - (ii) the Supplier has provided appropriate safeguards in relation to the transfer;
 - (iii) the data subject has enforceable rights and effective legal remedies;
 - (iv) the Supplier complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any personal data that is transferred; and
 - (v) the Supplier complies with reasonable instructions notified to it in advance by the Customer with respect to the processing of the personal data;
- (c) assist the Customer, at the Customer'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;
- (d) notify the Customer without undue delay on becoming aware of a personal data breach;
- (e) at the written direction of the Customer, delete or return personal data and copies thereof to the Customer on termination of the agreement unless required by Applicable Law to store the personal data; and
- (f) maintain complete and accurate records and information to demonstrate its compliance with this [Clause 5](#) and immediately inform the Company if, in the opinion of the Supplier, an instruction infringes the Data Protection Legislation.

5.8 Measures: Each party shall ensure that it has in place appropriate technical and organisational measures 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** Third Party Processors: With the prior written consent of the Customer, the Supplier may appoint a third-party processor of its choice (in its sole discretion) as a third-party processor of personal data under this Agreement. The Supplier confirms that it will enter with the third-party processor into a written agreement substantially on that third party's standard terms of business and in either case which the Supplier confirms reflect and will continue to reflect the requirements of the Data Protection Legislation. As between the Customer and the Supplier, the Supplier shall remain fully liable for all acts or omissions of any third-party processor appointed by it pursuant to this [Clause 5](#).
- 5.10** Certification: 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. THIRD PARTY PROVIDERS

Customer Responsibility: The Customer acknowledges that the Services may enable or assist it to access the website content of, correspond with, and purchase products and services from, third parties via third-party websites and that it does so solely at its own risk. The Supplier makes no representation, warranty or commitment and shall have no liability or obligation whatsoever in relation to the content or use of, or correspondence with, any such third-party website, or any transactions completed, and any contract entered into by the Customer, with any such third party. Any contract entered into and any transaction completed via any third-party website is between the Customer and the relevant third party, and not the Supplier. The Supplier recommends that the Customer refers to the third party's website terms and conditions and privacy policy prior to using the relevant third-party website. The Supplier does not endorse or approve any third-party website nor the content of any of the third-party website made available via the Services.

7. SERVICE STANDARDS

- 7.1** Service Standard: The Supplier undertakes that the Services will be performed substantially in accordance with the Documentation and the service levels set out in the Pricing Plan and with reasonable skill and care. The undertaking at this [Clause 7.1](#) shall not apply to the extent of any non-conformance which is caused by use of the Services contrary to the Supplier's instructions, or modification or alteration of the Services by any party other than the Supplier or the Supplier's

duly authorised contractors or agents. If the Services do not conform with the foregoing undertaking, the Supplier will, at its expense, use all reasonable commercial endeavours to correct any such non-conformance promptly, or provide the Customer with an alternative means of accomplishing the desired performance. Such correction or substitution constitutes the Customer's sole and exclusive remedy for any breach of the undertaking set out in this [Clause 7.1](#). Notwithstanding the foregoing, the Supplier:

- (a) does not warrant that the Customer's use of the Services will be uninterrupted or error-free; or that the Services, Documentation and/or the information obtained by the Customer through the Services will meet the Customer's requirements; and
- (b) is not responsible for any delays, delivery failures, or any other loss or damage resulting from the transfer of data over communications networks and facilities, including the internet, and the Customer acknowledges that the Services and Documentation may be subject to limitations, delays and other problems inherent in the use of such communications facilities.

7.3 This Agreement shall not prevent the Supplier 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.

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

8. ADDITIONAL CUSTOMER OBLIGATIONS

8.1 Co-operation and Access: The Customer shall provide the Supplier with all necessary co-operation in relation to the provision of the Services, and all necessary access to such information as may reasonably be required by the Supplier, in each case in order to provide the Services, including but not limited to Customer Data, security access information and configuration services, and will procure that its Users do the same.

8.2 Obligations: The Customer shall, without affecting any of its other obligations under this Agreement:

- (a) comply with all applicable laws and regulations with respect to its activities under the Agreement;

- (b) ensure that the Authorised Users use the Services and the Documentation in accordance with the Agreement and shall be responsible for any Authorised User's breach of the Agreement;
- (c) be responsible for all actions and omissions of its Users, including but not limited to the addition by Users of any applications or the subscription of additional features relating to the Services;
- (d) obtain and shall maintain all necessary licences, consents, and permissions necessary for the Supplier, its contractors and agents to perform their obligations in connection with the Services;
- (e) ensure that its network and systems comply with any relevant specifications provided by the Supplier from time to time; and
- (f) be, to the extent permitted by law and except as otherwise expressly provided in the Agreement, solely responsible for procuring, maintaining and securing its network connections and telecommunications links from its systems to the Supplier's data centres, and all problems, conditions, delays, delivery failures and all other loss or damage arising from or relating to the Customer's network connections or telecommunications links or caused by the internet.

9. CHARGES AND PAYMENT

9.1 Subscription and Support Fees and Plans: The Customer shall pay the Subscription Fees to the Supplier in accordance with this [Clause 9](#), the Pricing Plan and the Sign-Up Page.

9.2 Payment: On or prior to the Subscription Start Date, the Customer shall provide to the Supplier one or more Payment Methods. The Customer authorises the Supplier to bill the Customer using their Payment Method:

- (a) for the Services selected by the Customer and its Users in the Sign-Up Page; and
- (b) for any additional applications or features detailed in the Pricing Plan utilized by the Customer and its Users,

in each case in accordance with, and at the intervals set out in, the Pricing Plan.

- 9.3** Service selection: The Supplier may offer a number of subscription plans, including a free trial, or minimum usage packages, at its discretion. These subscription plans may have different conditions and limitations, which will be disclosed to you on the Sign-Up Page or in other communications from the Supplier.
- 9.4** Non-payment and default interest: If the Supplier has not received invoice payment due pursuant to the standard payment terms of 30 days, after a further period of 15 days, and without prejudice to any other rights and remedies of the Supplier:
- (a) the Supplier may after 15 days of issuing to the Customer written and verbal advice advising of non-payment, without liability to the Customer, suspend the User accounts of the Customer and disable the Customer's access to all or part of the Services and the Supplier shall be under no obligation to provide any or all of the Services while the amounts outstanding remain unpaid; and
 - (b) 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 the Supplier's bankers in the UK from time to time, commencing on the due date and continuing until fully paid, whether before or after judgment.
- 9.4** Taxes and Currency: All amounts and fees stated or referred to in this Agreement and the Pricing Plan shall be payable in pounds sterling, are, subject to [Clause 13.3\(b\)](#), non-cancellable and non-refundable, and are exclusive of value added tax or any other applicable taxes.
- 9.6** Changes to Pricing Plan: The Supplier shall be entitled to increase the Subscription Fees, the fees payable in respect of the additional User Subscriptions purchased pursuant to [Clause 3.3](#), the support fees payable pursuant to [Clause 4.3](#) and/or any other amounts set out in the Pricing Plan at the start of each Renewal Period upon 35 days' prior notice to the Customer by publishing an updated Pricing Plan.

10. PROPRIETARY RIGHTS

- 10.1** Ownership: The Customer acknowledges and agrees that the Supplier and/or its licensors own all intellectual property rights in the Services and the Documentation. Except as expressly stated herein, the Agreement does not grant the Customer 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.

- 10.2** Grant of Rights: The Supplier 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 Agreement.

11. CONFIDENTIALITY

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

(a) is or becomes publicly known other than through any act or omission of the receiving party;

(b) was in the other party's lawful possession before the disclosure;

(c) is lawfully disclosed to the receiving party by a third party without restriction on disclosure; or

(d) is independently developed by the receiving party, which independent development can be shown by written evidence.

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

- 11.2** Use of Confidential Information: Subject to [Clause 11.4](#), 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.

- 11.3** Disclosure: 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 the Agreement.

- 11.4** Permitted Disclosures: 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 11.4](#), it takes into account the reasonable requests of the other party in

relation to the content of such disclosure.

- 11.5** Third parties: Neither party shall be responsible for any loss, destruction, alteration or disclosure of Confidential Information caused by any third party.
- 11.6** Public Announcements: 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.
- 11.7** Survival: This [Clause 11](#) shall survive termination of the Agreement, however arising.

12. INDEMNITY

- 12.1** Customer Indemnity: The Customer shall defend, indemnify and hold harmless the Supplier 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 Customer's use of the Services and/or Documentation, provided that:
- (a)** the Customer is given prompt notice of any such claim;
 - (b)** the Supplier provides reasonable co-operation to the Customer in the defence and settlement of such claim, at the Customer's expense; and
 - (c)** the Customer is given sole authority to defend or settle the claim.
- 12.2** Supplier Indemnity: The Supplier shall defend the Customer, its officers, directors and employees against any claim that the Services or Documentation infringes any United Kingdom patent effective as of the Effective Date, copyright, trade mark, database right or right of confidentiality, and shall indemnify the Customer for any amounts awarded against the Customer in judgment or settlement of such claims, provided that:
- (a)** the Supplier is given prompt notice of any such claim;
 - (b)** the Customer provides reasonable co-operation to the Supplier in the defence and settlement of such claim, at the Supplier's expense; and
 - (c)** the Supplier is given sole authority to defend or settle the claim.
- 12.3** Impact on Services: In the defence or settlement of any claim, the Supplier may

procure the right for the Customer 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 10 Business Days' notice to the Customer without any additional liability or obligation to pay liquidated damages or other additional costs to the Customer.

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

(a) a modification of the Services or Documentation by anyone other than the Supplier; or

(b) the Customer's use of the Services or Documentation in a manner contrary to the instructions given to the Customer by the Supplier; or

(c) the Customer's use of the Services or Documentation after notice of the alleged or actual infringement from the Supplier or any appropriate authority.

12.5 Intellectual Property and Confidentiality Remedies: The foregoing and [Clause 13.3\(b\)](#) state the Customer's sole and exclusive rights and remedies, and the Supplier's (including the Supplier's employees', agents' and sub-contractors') entire obligations and liability, for infringement of any patent, copyright, trade mark, database right or right of confidentiality.

13. LIMITATION OF LIABILITY

13.1 Exclusions: Except as expressly provided in the Agreement:

(a) the Customer assumes sole responsibility for results obtained from the use of the Services and the Documentation by the Customer. The Supplier shall have no liability for any damage caused by errors or omissions in any information, instructions or scripts provided to the Supplier by the Customer in connection with the Services, or any actions taken by the Supplier at the Customer's direction;

(b) all warranties, representations, conditions and all other terms of any kind whatsoever implied by statute or common law are, to the fullest extent permitted by applicable law, excluded from the Agreement; and

(c) the Services and the Documentation are provided to the Customer on an "as is" basis.

13.2 Exceptions: Nothing in this Agreement excludes the liability of the Supplier:

- (a) for death or personal injury caused by the Supplier's negligence; or
- (b) for fraud or fraudulent misrepresentation.

13.3 Limitations: Subject to [Clause 13.1](#) and [Clause 13.2](#):

(a) the Supplier shall not be liable whether in tort (including for negligence or breach of statutory duty), contract, misrepresentation, restitution or otherwise for any loss of profits, loss of business, depletion of goodwill and/or similar losses or loss or corruption of data or information, or pure economic loss, or for any special, indirect or consequential loss, costs, damages, charges or expenses however arising under this agreement; and

(b) the Supplier's total aggregate liability in contract (including in respect of the indemnity at [Clause 12.2](#)), 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 total Subscription Fees paid for the User Subscriptions during the 12 months immediately preceding the date on which the claim arose.

14. TERM AND TERMINATION

14.1 Term: The Initial Subscription Term shall, unless otherwise terminated as provided in this [Clause 14](#), commence on the Subscription Start Date and shall continue for the period for which the Customer has paid as part of the Sign-Up Page (the **Initial Term**) and, thereafter, this agreement shall be automatically renewed for successive periods of the same length as the Initial Term (each a **Renewal Period**) at the rates specified in the then-current Pricing Plan, unless otherwise terminated in accordance with this Agreement.

14.2 Termination: Without affecting any other right or remedy available to it, the Supplier may terminate this Agreement and cease provision of the Services upon expiry of the Initial Term or any subsequent Renewal Period by giving twenty Business Days notice to the Customer. The Customer may, at any time, terminate its subscription to the Services by:

- (a) ceasing to use the Services; and
- (b) de-selecting for any subsequent Renewal Periods all options selected as part of the Sign-Up Page.

14.3 Actions on Termination: On termination of the Agreement for any reason:

(a) all licences granted under the Agreement shall immediately terminate and the Customer shall immediately cease all use of the Services and/or the Documentation;

(b) the Supplier will destroy the Customer's Confidential Information, as specified in Clause 11, and may destroy or otherwise dispose of any of the Customer Data in its possession in accordance with [Clause 5.7\(c\)](#), unless the Supplier receives, no later than ten days after the effective date of the termination of this agreement, a written request for the delivery to the Customer of the then most recent back-up of the Customer Data. The Supplier shall use all reasonable commercial endeavours to deliver the back-up to the Customer within 30 days of its receipt of such a written request, provided that the Customer has, at that time, paid all fees and charges outstanding at and resulting from termination (whether or not due at the date of termination).

(c) any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination, including the right to claim damages in respect of any breach of the Agreement which existed at or before the date of termination shall not be affected or prejudiced.

15. GENERAL PROVISIONS

- 15.1 Force Majeure: The Supplier shall have no liability to the Customer under the Agreement if it is prevented from or delayed in performing its obligations under the Agreement, or from carrying on its business, by acts, events, omissions or accidents beyond its reasonable control, including, without limitation, strikes, lock-outs or other industrial disputes (whether involving the workforce of the Supplier or any other party), failure of a utility service or transport or telecommunications network, act of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, storm or default of suppliers or sub-contractors, provided that the Customer is notified of such an event and its expected duration.
- 15.2 Conflict: If there is an inconsistency between any of the provisions in the main body of this Agreement and the Schedules, the provisions in the main body of this Agreement shall prevail.
- 15.3 Variation: The Supplier shall be entitled to make amendments to this Agreement by publishing an updated version of its terms and conditions. Any such amendments shall be notified to a Customer via its Administrative Users and shall be effective no earlier than 30 days after such notification.

- 15.4 Waiver: No failure or delay by a party to exercise any right or remedy provided under the 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.
- 15.5 Rights and Remedies: Except as expressly provided in this Agreement, the rights and remedies provided under this Agreement are in addition to, and not exclusive of, any rights or remedies provided by law.
- 15.6 Severance: 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.
- 15.7 Additional Terms: The following additional terms and conditions shall be incorporated into the Agreement by reference, and shall apply to the Agreement and the Customer's use of the Services and the Documentation:
- (a) Acceptable Use Policy;
 - (b) Back-Up Policy; and
 - (c) Privacy Policy,
- together, the **Additional Terms**.
- 15.8 Entire Agreement: This Agreement, together with the Additional Terms, 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. In the event of a conflict between these terms and conditions and the Sign-Up Page, the Sign-Up Page shall prevail. The Customer acknowledges that in entering into the Agreement it does not rely on, and shall have no remedies in respect of, any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in this Agreement. The Customer agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in this Agreement. Nothing in this clause shall limit or exclude any liability for fraud.
- 15.9 Assignment: Neither Party shall, without the prior written consent of the other Party, assign, transfer, charge, sub-contract or deal in any other manner with all or any of its rights or obligations under this Agreement.
- 15.10 No partnership or agency: Nothing in this Agreement is intended to or shall

operate to create a partnership between the parties, or authorise either party to act as agent for the other, and neither party shall have the authority to act in the name or on behalf of or otherwise to bind the other in any way (including, but not limited to, the making of any representation or warranty, the assumption of any obligation or liability and the exercise of any right or power).

15.11 Third Party Rights: The 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.

16. NOTICES

- 16.1** Any notice required to be given under this Agreement shall be in writing and shall be delivered by hand, sent by recorded delivery post, or sent by email, in each case to the other party at its address set out in the submitted Sign-Up Page.
- 16.2** 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 recorded delivery post shall be deemed to have been received at the time at which it would have been delivered in the normal course of post. A notice sent by email sent to the email address specified in the Sign-Up Page shall be deemed to have been received when an email acknowledgment is received from the email address to which the notice was sent confirming receipt of the email.

17. GOVERNING LAW

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

18. JURISDICTION

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

SCHEDULE 1 - PROCESSING, PERSONAL DATA AND DATA SUBJECTS

1. Processing by the Supplier

1.1 Scope, nature and purpose of processing

The scope, nature and purpose of the processing is the provision of goods and/or services by the Supplier to the Customer under this Agreement.

1.2 Duration of the processing

The duration of the processing corresponds to the duration of this Agreement.

2. Types of Personal Data

We may collect some or all of the following personal data, this may vary depending on the Data Subject:

- **Identity Data** including first name, last name, username or similar identifier.
- **Contact Data** including billing address, Customer address, email address and telephone numbers.
- **Financial Data** including bank account and payment card details.
- **Transaction Data** including details about payments to and from the Data Subject and other details of goods and services the Data Subject has purchased.
- **Technical Data** including internet protocol (IP) address, the Data Subject's login data, browser type and version, time zone setting and location, browser plug-in types and versions, operating system and platform and other technology on the devices the Data Subject uses to access the website of the Customer or another Data Controller.
- **Profile Data** including the Data Subject's username, purchases or orders made by the Data Subject, preferences, feedback and survey responses.
- **Usage Data** including information about how the Data Subject uses the website of the Customer or another Data Controller, goods and services.
- **Marketing and Communications Data** including the Data Subject's preferences in receiving marketing from the Customer or another Data Controller (and third parties) and the Data Subject's communication preferences.

We do not collect any **Special Categories** of more "sensitive personal information" including:

- o Information about the Data Subject's race or ethnicity, religious beliefs, sexual orientation and political opinions.
- o Trade union membership.

- o Information about the Data Subject's health, including any medical condition, health and sickness records.
- o Genetic information and biometric data.
- o Information about criminal convictions and offences.

3. Categories of Data Subject

- The Customer's employees (including temporary or casual workers and applicants).
- The Customer's group companies' employees (including temporary or casual workers and applicants).
- The Customer's customers and potential customers.
- Employees of the Customer's customers and potential customers.
- The Customer's business partners.
- Employees of the Customer's business partners.

ADDENDA OF ADDITIONAL TERMS

All available at www.miracl.com or such other website address as may be notified to the Customer from time to time.

- (a)** Acceptable Use Policy;
- (b)** Back-Up Policy; and
- (c)** Privacy Policy,