

UNIVERSAL TERMS OF SERVICE

Effective Date: 01/08/2025

This Agreement governs the Customer's use of the Software and Services provided by Kianda Technologies Limited (the "Supplier"), a limited company registered in Ireland with company number 585987 and with its registered office at The Linc Centre, Blanchardstown Road North, Dublin 15, Ireland. This agreement incorporates the Privacy Policy and the Schedules. By registering to use the Services the Customer agrees to be bound by the terms of this Agreement.

Supplier may modify the terms of this agreement from time to time (including any Mandatory Policy) in which case the terms of the modified agreement shall take effect when the Customer's Subscription is renewed.

1. Interpretation

1.1 The definitions and rules of interpretation in this clause apply in this agreement.

Affiliate: in relation to either party each and any subsidiary or holding company of that party and each and any subsidiary of a holding company of that party (where holding company and subsidiary are as defined in sections 7 and 8 of the Companies Act 2014).

Authorised Users: those employees, agents and independent contractors of the Customer and its Affiliates who are authorised by the Customer to use the Services and the Documentation, as further described in clause 2.2(d).

Business Day: a day other than a Saturday, Sunday or public holiday in Ireland when banks in Dublin 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 11.5 or clause 11.6.

Customer: in the case of an individual accepting this Terms of Service agreement on their own behalf, such individual, on in the case of an individual accepting this agreement on behalf of a company or other legal entity.

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: Before 25 May 2018, the Data Protection Acts 1988 and 2003 and thereafter the General Data Protection Regulation ((EU) 2016/679) and any national implementing laws, regulations and secondary legislation, as amended or updated from time to time.

Documentation: the document made available to the Customer by the Supplier online via <https://app.kianda.com/terms-of-service-uk.pdf> or such other web address notified by the

Supplier to the Customer from time to time which sets out a description of the Services and the user instructions for the Services.

Effective Date: the date of the Sales Order agreement between the Customer and the Supplier.

Mandatory Policies: the Supplier's business policies listed in Schedule 3, as amended by notification to the Customer from time to time.

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

Renewal Period: the period described in clause 14.1.

Services: the subscription services provided by the Supplier to the Customer under this agreement via <https://app.kianda.com/terms-of-service-uk.pdf> or any other website notified to the Customer by the Supplier from time to time, as more particularly described in the Documentation.

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

Subscription Fees: the subscription fees payable by the Customer to the Supplier for the User Subscriptions.

Subscription Term: has the meaning given in clause 14.1 (being 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 set out in Schedule 1 or such other website address as may be notified to the Customer from time to time.

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 this agreement.

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

- 1.2 Clause, schedule and paragraph headings shall not affect the interpretation of this agreement.
- 1.3 A person includes an individual, corporate or unincorporated body (whether or not having separate legal personality).

- 1.4 A reference to a company shall include any company, corporation or other body corporate, wherever and however incorporated or established.
- 1.5 Unless the context otherwise requires, words in the singular shall include the plural and, in the plural, shall include the singular.
- 1.6 Unless the context otherwise requires, a reference to one gender shall include a reference to the other genders.
- 1.7 A reference to a statute or statutory provision is a reference to it as it is in force as at the date of this agreement.
- 1.8 A reference to a statute or statutory provision shall include all subordinate legislation made as at the date of this agreement under that statute or statutory provision.
- 1.9 A reference to writing or written includes e-mail when email subject includes 'Written Notice of'.
- 1.10 References to clauses and schedules are to the clauses and schedules of this agreement; references to paragraphs are to paragraphs of the relevant schedule to this agreement.

2. User subscriptions

- 2.1 This Agreement shall commence or be deemed to commence on the Commencement Date.
- 2.2 Subject to the Customer purchasing the User Subscriptions in accordance with clause 3.3 and clause 9.1, the restrictions set out in this clause 2 and the other terms and conditions of this agreement, the Supplier hereby grants to the Customer and its Affiliates a non-exclusive, non-transferable right, without the right to grant sublicenses, to permit the Authorised Users to use the Services and the Documentation during the Subscription Term solely for the Customer's internal business operations provided the Customer procures that its Affiliates are subject to the terms of this Agreement and the Customer remains fully liable to the Supplier for the performance of its Affiliates' obligations.
- 2.3 In relation to the Authorised Users, the Customer undertakes that:
 - (a) the maximum number of Authorised Users that it authorises to access and use the Services and the Documentation shall not exceed the number of User Subscriptions it has purchased from time to time;
 - (b) it will not allow or suffer any User Subscription to be used by more than one individual Authorised User unless it has been reassigned in its entirety to another individual Authorised User, in which case the prior Authorised User shall no longer have any right to access or use the Services and/or Documentation;

- (c) each Authorised User shall access the Services the Customer's systems and shall keep a secure password for his or her use of the Services and Documentation and that each Authorised User shall keep his or her password confidential;
- (d) it shall maintain a written, up to date list of current Authorised Users and provide such list to the Supplier within 5 Business Days of the Supplier's written request at any time or times;
- (e) it shall permit the Supplier or the Supplier's designated auditor to audit the Services in order to establish the name of each Authorised User and the Supplier's data processing facilities to audit compliance with this agreement. Each such audit may be conducted no more than annual, at the Supplier's expense, and this right shall be exercised with reasonable prior notice, in such a manner as not to substantially interfere with the Customer's normal conduct of business;
- (f) if any of the audits referred to in clause 2.2(e) reveal that any password has been provided to any individual who is not an Authorised User, then without prejudice to the Supplier's other rights, the Customer shall promptly disable such passwords and the Supplier shall not issue any new passwords to any such individual; and
- (g) if any of the audits referred to in clause 2.2(e) reveal that the Customer has underpaid Subscription Fees to the Supplier, then without prejudice to the Supplier's other rights, the Customer shall pay to the Supplier an amount equal to such underpayment as calculated in accordance with the agreed prices within 30 Business Days of the date of the relevant audit.

2.4 The Customer shall not access, store, distribute or transmit any Viruses, or any material during the course of its use of the Services that:

- (a) is unlawful, harmful, threatening, defamatory, obscene, infringing, harassing or racially or ethnically offensive;
- (b) facilitates illegal activity;
- (c) depicts sexually explicit images;
- (d) promotes unlawful violence;
- (e) is discriminatory based on race, gender, colour, religious belief, sexual orientation, disability; or
- (f) is otherwise illegal or causes damage or injury to any person or property;

and the Supplier reserves the right, without liability or prejudice to its other rights to the Customer, to disable the Customer's access to any material that breaches the provisions of this clause.

2.5 The Customer shall not:

- (a) except as may be allowed by any applicable law which is incapable of exclusion by agreement between the parties and except to the extent expressly permitted under this agreement:
 - (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) use the Services and/or Documentation to provide services to third parties; or
- (d) subject to clause 22.1, license, sell, rent, lease, transfer, assign, distribute, display, disclose, or otherwise commercially exploit, or otherwise make the Services and/or Documentation available to any third party except the Authorised Users, or
- (e) attempt to obtain, or assist third parties in obtaining, access to the Services and/or Documentation, other than as provided under this clause 2

2.6 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.

2.7 The rights provided under this clause 2. are granted to the Customer and its Affiliates only and shall not be considered granted to any other third parties.

3. Additional user subscriptions

3.1 Subject to clause 3.2 and clause 3.3, the Customer may, from time to time during any Subscription Term, purchase additional User Subscriptions and the Supplier shall grant access to the Services and the Documentation to such additional Authorised Users in accordance with the provisions of this agreement.

3.2 If the Customer wishes to purchase additional User Subscriptions, the Customer shall notify the Supplier in writing. The Supplier shall evaluate such request for additional User Subscriptions and respond to the Customer with approval or rejection of the request (such approval not to be unreasonably withheld). Where the Supplier approves the request, the

Supplier shall activate the additional User Subscriptions within 3 Business Days of its approval of the Customer's request.

- 3.3 If the Supplier approves the Customer's request to purchase additional User Subscriptions, the Customer shall, within 30 days of the date of the Supplier's invoice, pay to the Supplier the relevant fees for such additional User Subscriptions and, if such additional User Subscriptions are purchased by the Customer part way through the Initial Subscription Term or any Renewal Period (as applicable), such fees shall be pro-rated from the date of activation by the Supplier for the remainder of the Initial Subscription Term or then current Renewal Period (as applicable).

4. Services

- 4.1 The Supplier shall, during the Subscription Term, provide the Services and make available the Documentation to the Customer on and subject to the terms of this agreement.
- 4.2 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 10.00 pm to 2.00 am Irish time; and
 - (b) unscheduled maintenance performed outside Normal Business Hours, provided that the Supplier has used reasonable endeavours to give the Customer at least 6 Normal Business Hours' notice in advance.
- 4.3 The Supplier will, as part of the Services and at no extra charge provide the Customer with the Supplier's standard customer support services during Normal Business. The Customer may purchase solution support services separately at the Supplier's then current rates.
- 4.4 The Supplier may modify the Software from time to time and in particular it may modify the Software in the case that it is required to do so as a matter of law or for operational reasons. The Supplier shall use reasonable efforts to ensure that any such modification does not adversely affect the Customer. If the Customer is adversely affected, the Supplier shall rectify the Software issues at no extra charge to the Customer.

5. Customer data

- 5.1 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 The Supplier shall follow its archiving procedures for Customer Data as set out in its Back-Up Policy available at Schedule 1 or such other website address as may be notified to the

Customer from time to time, as such document may be amended by the Supplier in its sole discretion from time to time.. 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). In the event of any loss or damage to Customer Data, the Supplier shall use reasonable commercial endeavours to restore the lost or damaged Customer Data from the latest back-up of such Customer Data maintained by the Supplier in accordance with the back-up procedure described in its Back-Up Policy;

- 5.3 The Supplier shall, in providing the Services, comply with its Privacy relating to the privacy and security of the Customer Data available at <https://app.kianda.com/terms-of-service-uk.pdf> or such other website address as may be notified to the Customer from time to time, as such document may be amended from time to time by the Supplier in its sole discretion.
- 5.4 Both parties will comply with all applicable requirements of the Data Protection Legislation. This clause 5 is in addition to, and does not relieve, remove or replace, a party's obligations under the Data Protection Legislation.
- 5.5 The parties acknowledge that:
 - (a) if the Supplier processes any personal data on the Customer's behalf when performing its obligations under this agreement, the Customer is the data controller and the Supplier is the data processor for the purposes of the Data Protection Legislation (where **Data Controller** and **Data Processor** have the meanings as defined in the Data Protection Legislation).
 - (b) the Customer acknowledges and agrees that the personal data may be transferred or stored pursuant to clause 5.7(b) outside the EEA or the country where the Customer and the Authorised Users are located in order to carry out the Services and the Supplier's other obligations under this agreement.
- 5.6 Without prejudice to the generality of clause 5.1, 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 Without prejudice to the generality of clause 5.1, 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 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 applicable to the Supplier to process Personal Data (**Applicable Laws**). Where the Supplier is relying on laws of a member of the European Union or European Union law 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 EEA unless the following conditions are fulfilled:
 - (i) the Customer or the Supplier has provided appropriate safeguards in relation to the transfer under GDPR;
 - (ii) the data subject has enforceable rights and effective legal remedies;
 - (iii) 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
 - (iv) 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.

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

assessing and evaluating the effectiveness of the technical and organisational measures adopted by it).

- 5.9 The Customer consents to the Supplier appointing Microsoft as a third-party processor of Personal Data under this agreement. The Supplier confirms that it has entered or (as the case may be) will enter with the third-party processor into a written agreement substantially on that third party's standard terms of business. 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 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

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. Supplier's obligations

- 7.1 The Supplier undertakes that the Services will be provided in accordance with the Documentation and with reasonable skill, diligence and care.
- 7.2 The undertaking at 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, 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 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. Customer's obligations

The Customer shall:

- (a) provide the Supplier with:
 - (i) all necessary co-operation in relation to this agreement; and
 - (ii) all necessary access to such information as may be required by the Supplier;in order to provide the Services, including but not limited to Customer Data, security access information and configuration services;
- (b) comply with all applicable laws and regulations with respect to its activities under this agreement;
- (c) carry out all other Customer responsibilities set out in this agreement in a timely and efficient manner. In the event of any delays in the Customer's provision of such assistance as agreed by the parties, the Supplier may adjust any agreed timetable or delivery schedule as reasonably necessary;
- (d) ensure that the Authorised Users use the Services and the Documentation in accordance with the terms and conditions of this agreement and shall be responsible for any Authorised User's breach of this agreement;

- (e) obtain and shall maintain all necessary licences, consents, and permissions necessary for the Supplier, its contractors and agents to perform their obligations under this agreement, including without limitation the Services;
- (f) ensure that its network and systems comply with the relevant specifications provided by the Supplier from time to time including those set out in paragraph 3 of Schedule 1; and
- (g) be solely responsible for procuring and maintaining 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 The Customer shall pay the Subscription Fees to the Supplier for the User Subscriptions in accordance with this clause 9 and Schedule 1 and the support fees where applicable in accordance with clause 4.3 and Schedule 1.
- 9.2 The Customer shall on the Effective Date provide to the Supplier valid, up-to-date and complete credit card details or approved purchase order information acceptable to the Supplier and any other relevant valid, up-to-date and complete contact and billing details and, if the Customer provides:
- (a) its credit card details to the Supplier, the Customer hereby authorises the Supplier to bill such credit card:
 - (i) on the Effective Date for the Subscription Fees payable in respect of the Initial Subscription Term; and
 - (ii) subject to clause 14.1, on each anniversary of the Effective Date for the Subscription Fees payable in respect of the next Renewal Period;
 - (b) its approved purchase order information to the Supplier, the Supplier shall invoice the Customer:
 - (i) on the Effective Date for the Subscription Fees payable in respect of the Initial Subscription Term; and
 - (ii) subject to clause 14.1, at least 30 days prior to each anniversary of the Effective Date for the Subscription Fees payable in respect of the next Renewal Period,

and the Customer shall pay each invoice within 30 days after the date of such invoice.
- 9.3 If the Supplier has not received payment within 30 days after the due date, and without prejudice to any other rights and remedies of the Supplier:

- (a) the Supplier may, without liability to the Customer, disable the Customer's password, account and 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 invoice(s) concerned remain unpaid; and
- (b) interest shall accrue on a daily basis on such due amounts at an annual rate equal to 4% over the European Central Bank's main refinancing rate from time to time, commencing on the due date and continuing until fully paid, whether before or after judgment. No interest shall accrue on where the delay is due to the Supplier issuing the invoice later than agreed or reasonably expected.

9.4 All amounts and fees stated or referred to in this agreement:

- (a) shall be payable in GBP;
- (b) are, subject to clause 13.3(b), non-cancellable and non-refundable;
- (c) are exclusive of value added tax, which shall be added to the Supplier's invoice(s) at the appropriate rate.

9.5 If, at any time whilst using the Services, the Customer exceeds the amount of disk storage space specified in the Documentation, the Supplier shall charge the Customer, and the Customer shall pay, the Supplier's then current excess data storage fees. The Supplier shall not introduce excess storage charges during the agreed contract term without the Customer's prior written agreement. Any proposed changes will be discussed in good faith and will not be applied retrospectively. The Supplier's excess data storage fees current as at the Effective Date are set out in Schedule 1.

9.6 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 the excess storage fees payable pursuant to clause 9.5 at the start of each Renewal Period upon 90 days' prior notice to the Customer and Schedule 1 shall be deemed to have been amended accordingly.

10. Proprietary rights

10.1 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, this agreement does not grant the Customer any rights to, under or in, any patents, copyright, database right, trade secrets, trade names, trademarks (whether registered or unregistered), or any other rights or licences in respect of the Services or the Documentation.

10.2 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 terms of this agreement.

11. Confidentiality and compliance with policies

- 11.1 Each party may be given access to Confidential Information from the other party in order to perform its obligations under this agreement. A party's Confidential Information shall not be deemed to include information that:
- (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.
- 11.2 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 Each party shall take all reasonable steps to ensure that the other's Confidential Information to which it has access is not disclosed or distributed by its employees or agents in violation of the terms of this agreement.
- 11.4 A party may disclose Confidential Information to the extent such Confidential Information is required to be disclosed by law, by any governmental or other regulatory authority or by a court or other authority of competent jurisdiction, provided that, to the extent it is legally permitted to do so, it gives the other party as much notice of such disclosure as possible and, where notice of disclosure is not prohibited and is given in accordance with this clause 11.4, it takes into account the reasonable requests of the other party in relation to the content of such disclosure.
- (a) Neither party shall be responsible for any loss, destruction, alteration or disclosure of Confidential Information caused by any third party except in the case of Supplier 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) In the event of any loss or damage to Customer Data, the Supplier shall use reasonable commercial endeavours to restore the lost or damaged Customer Data from the latest back-up of such Customer Data maintained by the Supplier in accordance with the back-up procedure described in its Back-Up Policy; and
 - (b) In the case of the Customer any loss, destruction, alteration or disclosure of Confidential Information caused by its Affiliates.

- 11.5 The Customer acknowledges that details of the Services, and the results of any performance tests of the Services, constitute the Supplier's Confidential Information.
- 11.6 The Supplier acknowledges that the Customer Data is the Confidential Information of the Customer.
- 11.7 No party shall make, or permit any person to make, any public announcement concerning this agreement without the prior written consent of the other parties (such consent not to be unreasonably withheld or delayed), except as required by law, any governmental or regulatory authority (including, without limitation, any relevant securities exchange), any court or other authority of competent jurisdiction.
- 11.8 The above provisions of this clause 11. shall survive termination of this agreement, however arising.
- 11.9 In performing its obligations under this agreement, the Customer shall comply with the Mandatory Policies.

12. Mutual Indemnity

- 12.1 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 and its Affiliates' use of the Services and/or Documentation that infringes any patent, copyright, trade mark, database right or right of confidentiality of any third party 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 The Supplier shall defend the Customer, its officers, directors and employees against any claim that the Services or Documentation infringes any 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 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 2 Business Days' notice to the Customer without prejudice to the Customer's rights to claim liquidated damage or other additional costs, losses, damages or expenses in relation to any such claim.
- 12.4 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 ten working days after notice of the alleged or actual infringement from the Supplier or any appropriate authority.
- 12.5 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 Except as expressly and specifically provided in this agreement:
- (a) the Customer assumes sole responsibility for results obtained from the use of the Services and the Documentation by the Customer, and for conclusions drawn from such use. 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 this agreement; and
 - (c) the Services and the Documentation are provided to the Customer on an "as is" basis.
- 13.2 Nothing in this agreement excludes the liability of the Supplier:
- (a) for death or personal injury caused by the Supplier's negligence;
 - (b) for fraud or fraudulent misrepresentation; or

- (c) breach of clause 12.2

13.3 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 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 This agreement shall, unless otherwise terminated as provided in this clause 14., commence on the Effective Date and shall continue for the Initial Subscription Term and, thereafter, this agreement shall be automatically renewed for successive agreed renewal periods (each a **Renewal Period**), unless:

- (a) either party notifies the other party of termination, in writing, at least 30 days before the end of the Initial Subscription Term or any Renewal Period, in which case this agreement shall terminate upon the expiry of the applicable Initial Subscription Term or Renewal Period; or
- (b) otherwise terminated in accordance with the provisions of this agreement;

and the Initial Subscription Term together with any subsequent Renewal Periods shall constitute the **Subscription Term**.

14.2 Without affecting any other right or remedy available to it, either party may terminate this agreement with immediate effect by giving written notice to the other party if:

- (a) the other party fails to pay any amount due under this agreement on the due date for payment and remains in default not less than 30 days after being notified in writing to make such payment;
- (b) the other party commits a material breach of any other term of this agreement which breach is irremediable or (if such breach is remediable) fails to remedy that breach within a period of 30 days after being notified in writing to do so;
- (c) the other party suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or is deemed unable to pay its debts;

- (d) the other party commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors other than for the sole purpose of a scheme for a solvent amalgamation of that other party with one or more other companies or the solvent reconstruction of that other party;
- (e) a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of that other party other than for the sole purpose of a scheme for a solvent amalgamation of that other party with one or more other companies or the solvent reconstruction of that other party;
- (f) an application is made to court, or an order is made, for the appointment of a liquidator, or if a notice of intention to appoint a liquidator is given or if a liquidator is appointed, over the other party;
- (g) the holder of a qualifying floating charge over the assets of that other party has become entitled to appoint or has appointed a receiver;
- (h) a person becomes entitled to appoint a receiver over the assets of the other party or a receiver is appointed over the assets of the other party;
- (i) a creditor or encumbrancer of the other party attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of the other party's assets and such attachment or process is not discharged within 14 days;
- (j) any event occurs, or proceeding is taken, with respect to the other party in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clause 14.2(c) to clause 14.2(i) (inclusive); or
- (k) the other party suspends or ceases, or threatens to suspend or cease, carrying on all or a substantial part of its business.

14.3 On termination of this agreement for any reason:

- (a) all licences granted under this agreement shall immediately terminate and the Customer shall immediately cease all use of the Services and/or the Documentation;
- (b) each party shall return and make no further use of any equipment, property, Documentation and other items (and all copies of them) belonging to the other party;
- (c) the Supplier may destroy or otherwise dispose of any of the Customer Data in its possession 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 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); and

- (d) 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. Force majeure

The Supplier shall have no liability to the Customer under this agreement if it is prevented from or delayed in performing its obligations under this agreement, or from carrying on its business, by acts, events, omissions or accidents beyond its reasonable control, including, without limitation, strikes, lock-outs or other industrial disputes (whether involving the workforce of 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.

16. 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.

17. Variation

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

18. Waiver

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

19. 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.

20. Severance

- 20.1 If any provision (or part of a provision) of this agreement is found by any court or administrative body of competent jurisdiction to be invalid, unenforceable or illegal, the other provisions shall remain in force.
- 20.2 If any invalid, unenforceable or illegal provision would be valid, enforceable or legal if some part of it were deleted, the provision shall apply with whatever modification is necessary to give effect to the commercial intention of the parties.

21. Entire agreement

- 21.1 This agreement constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.
- 21.2 Each party acknowledges that in entering into this 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.
- 21.3 Each party agrees that it shall have no claim for innocent or negligent misrepresentation based on any statement in this agreement.

22. Assignment

- 22.1 The Customer shall not, without the prior written consent of the Supplier, assign, transfer, charge, sub-contract or deal in any other manner with all or any of its rights or obligations under this agreement.
- 22.2 The Supplier may not without the prior written notification assign, transfer, charge, sub-contract or deal in any other manner with all or any of its rights or obligations under this agreement.

23. 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).

24. Notices

- 24.1 Any notice required to be given under this agreement shall be in writing and shall be delivered by hand or sent by pre-paid post or recorded delivery post to the other party at its address set out in this agreement, or such other address as may have been notified by that party for such purposes or email address info@kianda.com.
- 24.2 A notice delivered by hand shall be deemed to have been received when delivered (or if delivery is not in business hours, at 9 am on the first business day following delivery). A correctly addressed notice sent by pre-paid post or recorded delivery post shall be deemed to have been received at the time at which it would have been delivered in the normal course of post. An email notice should include "*Written Notice of*" in the subject.

25. 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 English Law.

26. 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).

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

Schedule 1 Subscription Fees

1. Fees

Customer will pay all fees specified in order forms. Fees are based on Services Subscriptions. Payment obligations are non-cancellable and fees paid are non-refundable. Quantities purchased cannot be decreased during the relevant subscription term.

2. Excess Storage Fees

The Supplier does not currently charge an excess storage fee but the use of the Services including storage is subject the Supplier's fair use policy. Storage capacities are described in the Subscription Fees section. The Supplier reserves the right to introduce an excess storage fee in the future. In the event of such database storage fee is introduced, following a review, a fee of 100€ p/1GB/annual may apply.

3. Minimum configuration

The Supplier shall maintain the following minimum configuration: Latest version of Google Chrome, Mozilla Firefox, Microsoft Edge or Apple Safari; and IOS 10+ or Android 5+ mobile device operating system

4. Back Up Policy

Data Back-up: For optimal performance Kianda application is deployed to Microsoft Azure Ireland with geo replication to Azure Netherlands.

Platform items: Process designs, instances, dashboards that are deleted are stored in the recycle bin area available at <https://app.kianda.com/admin/recycle>. Items are available to be restored for a period of 30 days after deletion.

Supplier will regularly back-up adequate copies and generations of all software, documentation and business information and store it off-site. Regular testing will be done to ensure the quality and usability of backed-up resources to maintain the availability and integrity of information resources in the case of failure or disaster, by retaining up-to-date back-ups that are stored at a distance sufficient to escape damages that might occur at the main site.

Restoration procedures will be documented and tested to ensure that they are effective and comply with restoration time requirements. Restoration procedures shall be kept with the back-up copies at the remote location.

The back-up site shall implement similar physical and environmental controls as the ones in place at the main site. Back-up media shall be tested at least annually to ensure the back-up can be relied upon.

Retention schedules will be adhered to for all business information.

Determinations for the permanent archival shall be determined by Supplier Senior Management and shall be documented and adhered to.

The technical details for the implemented back-up policy are as follows:

- 1- Point-in-time-restore: up to 35 days
- 2- Differential back up frequency: every 12 hours
- 3- Long-term retention:
 - a. LTR weekly up to 24 weeks
 - b. LTR monthly up to 12 months

Schedule 2 Service Level Terms

The Services shall be available 24 hours a day, 7 days a week with excluding planned downtime. We expect planned downtime to be infrequent but will endeavour to provide Customer with advance notice (e.g., through the Services).

If Customer or Supplier requests maintenance during holidays and weekends and scheduled maintenance, any uptime or downtime calculation will exclude periods affected by such maintenance. Further, any downtime resulting from outages of third-party connections or utilities or other reasons beyond Supplier's control will also be excluded from any such calculation.

Downtime shall begin to accrue as soon as Supplier (with notice to Customer) recognizes that downtime is taking place and continues until the availability of the Services is restored. Customer's blocking of data communications or other Service in accordance with its policies shall not be deemed to be a failure of Customer to provide adequate service levels under this Agreement.

Schedule 3 Mandatory Policies

The Mandatory Policies are:

- Privacy Policy

Available to the Customer by the Supplier online via <https://app.kianda.com/privacy-policy.html>

- Fair Use Policy

Supplier does not charge extra costs when the tool is used reasonably. When supplier detects something out of the ordinary in Customer's Kianda environment, supplier will contact customer to discuss the situation and potential alternatives.

The examples listed in this Policy are not exhaustive. Prohibited uses and activities include, without limitation, any use of the Services in a manner that, in Kianda's reasonable judgment, involves, facilitates, or attempts any of the following:

- violating any law of, or committing conduct that is tortuous or unlawful in, any applicable jurisdiction;
- displaying, performing, sending, receiving or storing any content that is obscene, pornographic, lewd, lascivious, or excessively violent, regardless of whether the material or its dissemination is unlawful;
- advocating or encouraging violence against any government, organization, group, individual or property, or providing instruction, information, or assistance in causing or carrying out such violence, regardless of whether such activity is unlawful;
- accessing, sending, receiving, displaying, performing, disclosing, storing, or executing any content a) in violation of any copyright, right of publicity, patent, trademark, service mark, trade name, trade secret or other intellectual property right, b) in violation of any applicable agreement, or c) without authorization;
- deleting or altering author attributions, copyright notices, or trademark notices, unless expressly permitted in writing by the company;
- obtaining unauthorized access to any system, network, service, or account;
- interfering with service to any user, site, account, system, or network by use of any program, script, command, or otherwise;
- introducing or activating any viruses, worms, harmful code;
- evading spam filters, or sending or posting a message or e-mail with deceptive, absent, or forged header or sender identification information;
- holding Kianda or its affiliates up to public scorn or ridicule; and/or
- reselling Kianda's services, in whole or in part, to any entity or individual, without company's prior written consent, or misrepresenting your relationship with the Supplier.