

This is a legally binding agreement (**T&Cs**) between you (referred to in these T&Cs as **you, your** and **the Customer**) and **Humble Ventures Limited**: incorporated in England and Wales under company number 14899518 and registered at Sovereign House, Arkwright Way, Queensway Industrial Estate, Scunthorpe, DN16 1AL (referred to in these T&Cs as **us, we, our** and **Humble Ventures**).

These T&Cs grant you the right to use and access the software-as-a-service(s) you have chosen to subscribe to on the Website, including any Updates, Upgrades, patches, fixes or workarounds made available by us, and any data, media or documents associated with it (together referred to in these T&Cs as the **Subscribed Services**).

By clicking to accept these T&Cs, you agree to and accept the following terms which will be binding on you and any of your authorised users when accessing or using the services.

These T&Cs apply to business-to-business relationships and are not to be entered into by consumers. You should only click to accept these T&Cs if you are doing so for or on behalf of a business.

If you do not agree to any of these T&Cs, you must not click to accept them. If you do not click to accept these T&Cs, for whatever reason, you will not be allowed to access or use the services and we will either make sure services are not available to you or prevent you from accessing the services by any means.

1. Definitions and Interpretation

1.1. In this Agreement:

- (a) **Acceptable Use Policy** means our policy for acceptable use of the Services by you and each Authorised User, located at <https://www.wearehumble.co.uk/policies/aup>;
- (b) **Agreement** means together these T&Cs and any policies referred to in them;
- (c) **Authorised Users** means, in respect of the relevant Subscribed Service, the users authorised by you to use that Subscribed Service in accordance with the terms of this Agreement;
- (d) **Customer Data** means all data that is provided to us or uploaded to any part of any Subscribed Service by you or by any Authorised Users, or any data that is generated as a result of your or any Authorised User's use of its own data in the Subscribed Services (but excluding Feedback);
- (e) **Customer Systems** means all software and systems used by you or on your behalf, or any of its sub-contractors or any Authorised User in connection with the provision or receipt of any of the Services, or that the Services otherwise link, inter-operate or interface with or utilise;
- (f) **Data Protection Addendum** means our data protection addendum set out in Annex 1;
- (g) **Feedback** means any feedback and suggestions for improvement relating to the Services provided by you or any Authorised User;
- (h) **Fees** means the fees payable by you to us on the commencement of each Subscription Period in consideration of the grant of rights to use and access the Services during such Subscription Period, such fees as set out on the Website;
- (i) **Force Majeure Event** means an event or sequence of events beyond our control;
- (j) **IPR** means copyright, patents, rights in inventions, rights in Confidential Information, know-how, trade secrets, trade marks, trade names, design rights, rights in get-up, database rights, domain names, business names, rights in computer software, the right to sue for: (i) infringement; (ii) unfair competition; and (iii) passing off, and all other intellectual property and similar rights of whatever nature and, in each case: (i) whether registered or not; (ii) including any applications to protect or register such rights; (iii) including all renewals and extensions of such rights or applications; (iv) whether vested, contingent or future; and (v) wherever existing;
- (k) **New Versions** means updated versions of the documents referred to in section 2.1 or other documents referred to in any part of this Agreement;

- (l) **Permitted Purpose** means your internal business purposes and for any other purposes which we allow or otherwise make available to you as part of the Services;
- (m) **Privacy Policy** means our privacy policy located at <https://www.wearehumble.co.uk/policies/privacy-cookie>;
- (n) **Relief Event** means: (i) any breach of this Agreement by you or any Authorised User; or (ii) a Force Majeure Event;
- (o) **Services** means the Subscribed Services and any support services provided under section 9;
- (p) **Start Date** means the date on which you subscribe to the Services and click to accept these T&Cs;
- (q) **Subscription Period** means the period of 30 days from the date on which the Fees are payable to us, the first such period to commence on the Start Date;
- (r) **Territory** means the United Kingdom;
- (s) **Third-Party Software** means any third-party software in the Subscribed Services;
- (t) **Update** means a software maintenance update, patch or bug-fix which does not constitute an Upgrade;
- (u) **Upgrade** means a version or release of software intended to have new or improved functionality or designated by us as an upgrade; and
- (v) **Website** means the Humble Ventures website which provides and enables access to the Services to you.

1.2. In this Agreement, a reference to:

- (a) a **section** is to a section of these T&Cs and a reference to an Annex is to an Annex of these T&Cs;
- (b) **in writing** or **written** includes email;
- (c) a **party** means either you or us, and the **parties** means both of us together;
- (d) a **third party** means any individual or business (whether or not incorporated) that is not a party to this Agreement; and
- (e) a **working day** means 9:00am to 5:00pm on any day other than a Saturday, Sunday, or bank or public holiday in England.

2. Legal Documents

2.1. Each set of Subscribed Services you subscribe to form a separate agreement that incorporates the rights and obligations in these T&Cs, the Data Protection Addendum and any policies referred to in either these T&Cs or the Subscribed Service Specific Terms.

2.2. If there is any inconsistency or conflict in the rights and obligations set out in this Agreement or the documents referred to within them, the following order or priority will prevail (in descending order):

- (a) the Data Protection Addendum;
- (b) any policies referred to in these T&Cs; and
- (c) these T&Cs.

2.3. Subject to the order of priority set out in section 2.2, later versions of the documents listed will take priority over earlier versions if there is any inconsistency or conflict between them.

3. System Requirements

The Subscribed Services require you to be using a device with an Internet connection and an up-to-date web browser which supports Javascript to operate correctly.

4. Rights of Access and Use

- 4.1. Subject to these T&Cs and payment of the Fees in accordance with these T&Cs, we grant you a limited, non-exclusive, non-transferable and non-sublicensable (other than as permitted under section 4.2) right to access and use the paid-for Subscribed Services for the Permitted Purposes only in the Territory and for the duration of the Subscription Period.
- 4.2. The rights granted in section 4.1 include a right for you to grant sub-licences to the Authorised Users, subject to the terms of this Agreement. Unless otherwise stated, there are no additional Fees for sub-licences to Authorised Users.
- 4.3. Third-Party Software supplied as part of or in addition to the Subscribed Services will be subject to any additional terms and conditions as notified to you. You agree to comply with any such terms and conditions.

5. Fees and Payment

- 5.1. You will pay the Fees in advance of or on commencement of each Subscription Period.
- 5.2. Payment of the Fees will be processed via our selected third-party payment provider.

6. Limitations on Use

- 6.1. Except as expressly permitted under these T&Cs or by law, you will not:
 - (a) use, copy, modify, adapt, correct errors in, or create derivative works from the Subscribed Services;
 - (b) decode, reverse engineer, disassemble, decompile or otherwise translate, or make alterations to the Subscribed Services, covert the Subscribed Services, or otherwise seek to obtain or derive the source code, underlying ideas, algorithms, file formats or non-public APIs to the Subscribed Services, other than as expressly permitted under s.50B and s.296A of the Copyright, Designs and Patents Act 1988 (and in such case only upon advance notice in writing to us);
 - (c) assign, rent, transfer, provide or enable access, sub-licence, lease, resell, distribute, publish, broadcast, transmit, store, archive, display publicly to third parties, disclose or otherwise deal in or encumber the Subscribed Services (in each case, whether directly or indirectly or whether or not for charge);
 - (d) remove or modify any copyright or similar notices, or any of our or any other third-party branding, that the Subscribed Services causes to be displayed when used;
 - (e) access or use the Subscribed Services, or permit them to be accessed or used, by or on behalf of any third party, otherwise than for the Permitted Purpose;
 - (f) interfere with any license key mechanism in the Subscribed Services or otherwise attempt to circumvent or interfere with any security features of the Subscribed Services or mechanisms intended to limit your use; or
 - (g) make the Subscribed Services available over a network or any other method of remote access, or facilitate such availability or access.
- 6.2. You will access and use the Subscribed Services at all times in accordance with any instructions or user guidance, and all other terms of these T&Cs.
- 6.3. You will notify us in writing as soon as you become aware of any actual or suspected unauthorised use of the Subscribed Services.

7. Authorised Users

- 7.1. You will ensure that only Authorised Users use the Services and that such use is at all times in accordance with this Agreement. You will ensure that Authorised Users are, at all times while they have access to the Subscribed Services, your employees, contractors any other third party that we expressly allow you to grant access to the Subscribed Services.
- 7.2. You will keep a record of all Authorised Users.

7.3. You will:

- (a) be liable for the acts and omissions of the Authorised Users as if they were your own;
- (b) only provide Authorised Users with access to the Services via the access method provided by us and will not provide access to (or permit access by) anyone other than an Authorised User; and
- (c) procure that each Authorised User is aware of, and complies with, the obligations and restrictions imposed on you under this Agreement.

7.4. You warrant that you, and all Authorised Users and all others acting on your or their behalf (including systems administrators) will keep confidential and not share with any third party their password or access details for any Subscribed Service.

7.5. You will, and you will ensure all Authorised Users will, at all times comply with the Acceptable Use Policy and all other provisions of this Agreement.

7.6. If any password has been provided to any third party that is not an Authorised User, you will, without delay, disable any such passwords and notify us immediately.

7.7. Sections 7.3 to 7.6 (inclusive) will survive termination or expiry of this Agreement for whatever reason.

8. Indemnity

8.1. You will indemnify us in full and on demand for any losses, claims, damages, liability, costs (including legal and other professional fees) and expenses we suffer or incur arising in connection with your breach of this Agreement.

8.2. This section 8 will survive termination or expiry of this Agreement for whatever reason.

9. Support and Maintenance

9.1. Support services will be available for each paid-for Subscribed Service for the duration of the Subscription Period, to the extent specified in section 9.2.

9.2. To obtain support services, you may email our helpdesk to submit a ticket. We will use reasonable endeavours to:

- (a) respond promptly and advise of the likely time frame to resolution; and
- (b) resolve the issue for which you require support in a reasonable time frame.

9.3. We will use reasonable endeavours to:

- (a) give you at least 7 days' notice of scheduled maintenance that will result in downtime to the Subscribed Services or the Website; and
- (b) undertake any scheduled maintenance, Upgrades and any other work on the Subscribed Services or the Website that will result in downtime outside of usual business hours.

9.4. You acknowledge that you may receive no advance notification of downtime caused by a Force Majeure Event or for other emergency maintenance.

9.5. You acknowledge that the Services do not include:

- (a) any services, systems or equipment required to access the internet (and that you are solely responsible for procuring access to the internet and for all costs and expenses in connection with internet access, communications, data transmission and wireless or mobile charges incurred by it in connection with use of the Services);
- (b) dedicated data back-up or disaster recovery facilities (and you should ensure that at all times you maintain backups of all Customer Data); or

- (c) legal, accounting or other professional or regulated services and that, except as expressly stated in this Agreement, no assurance is given that the Services will comply with or satisfy any legal or regulatory obligation of any individual or business.

10. Changes

- 10.1. We may, at our absolute discretion, make New Versions from time to time. We will endeavour to notify you of such New Versions.
- 10.2. A New Version will replace the preceding version of the same document(s) for the purposes of this Agreement from the date falling 14 days after they are published (or from such other date as we may specify).
- 10.3. If you reasonably believe that any New Version materially impacts you negatively, you may be notice elect to terminate this Agreement in respect of all impacted Subscribed Services, provided you:
 - (a) exercise such right prior to such New Version taking effect under section 10.2;
 - (b) give us notice of termination of no less than 5 working days; and
 - (c) at the time of exercising such right to terminate, notify us of the negative impact which has caused you to exercise such right.
- 10.4. You acknowledge that we are entitled to modify the features and functionality of the Services.
- 10.5. We may, without limiting section 10.4, establish new limits on the Subscribed Services (or any part of them), including limiting the volume of data which may be used, stored or transmitted in connection with the Subscribed Services, remove or restrict APIs, or make alterations to data retention periods, provided such changes are introduced by a New Version to the relevant impacted contractual documents. We will comply with our related obligations in the Data Protection Addendum.

11. Records and Audit

- 11.1. During the Subscription Period, you will maintain accurate and complete records of your and each Authorised Users' access and usage of the Subscribed Services under this Agreement, including the number and identity of any Authorised Users.
- 11.2. You will allow and procure for us (and any authorised representatives) access to and audit (and to take copies of) your relevant records and the Authorised Users to the extent necessary to verify that the access and use of the Subscribed Services is in accordance with these T&Cs, such audits to be undertaken:
 - (a) during working days;
 - (b) subject to us giving you 5 working days' notice; and
 - (c) not more than twice in any calendar year.
- 11.3. You will provide us with all reasonable assistance and co-operation to enable us to conduct any inspection or audit under this section 11. We will comply with your reasonable directions to minimise disruption to your business and to safeguard the confidentiality of Customer Data.
- 11.4. Promptly following our request, you will provide us with copies of the records referred to in section 11.1.
- 11.5. We may monitor, collect, store and use information on the use and performance of the Services (including Customer Data) to detect threats to or errors in the Services or our operations, and for the purposes of further development and improvement of our Services, provided that such activities at all times comply with the Privacy Policy and Data Protection Addendum.
- 11.6. This section 11 will survive for a period of 12 months following termination or expiry of this Agreement for whatever reason.

12. Warranty

- 12.1. We warrant that:

- (a) each Subscribed Service will operate materially in accordance with its description when used in accordance with this Agreement under normal use and normal circumstances during the Subscription Period; and
- (b) the Services will be carried out with reasonable care and skill within the meaning of s.13 of the Supply and Goods Services Act 1982.

12.2. Any Update or Upgrade of the Subscribed Services you receive under this Agreement will be covered under the warranty in section 12.1.

12.3. If there is a breach of the warranty in section 12.1, provided that you notify us promptly in writing and provide sufficient information to enable to us to reproduce any errors, we will, at our option:

- (a) use reasonable endeavours to correct the errors in the Subscribed Services within a reasonable time; or
- (b) terminate this Agreement, in which case you may be entitled to a refund of Fees.

12.4. To the maximum extent permitted by law, section 12.3 sets out your sole and exclusive remedy (whether arising in contract, tort, negligence or otherwise) for any breach by us of section 12.1. or for any other error or defect in the Services.

12.5. The warranty in section 12.1 is subject to you complying with your obligations under (and accessing and using the Subscribed Services in accordance with) these T&Cs. In addition, the warranty in section 12.1 will not apply to the extent that any error in the Subscribed Services arises in connection with:

- (a) incorrect access or use of the Subscribed Services by you or any Authorised User;
- (b) access to or use of the Subscribed Services other than for the Permitted Purpose;
- (c) modification or alteration of the Subscribed Services without our written consent;
- (d) access or use of the Subscribed Services with other software or on equipment with which it is incompatible;
- (e) any act by any third party (including hacking or the introduction of any virus or malicious code);
- (f) attempted repair, rectification or maintenance by any third party (other than a third party authorised by us);
- (g) any breach of this Agreement by you or by any Authorised User;
- (h) failure to notify us of any error within a reasonable period of time of it first occurring; or
- (i) failure to install any Update or Upgrade recommended and made available by us.

12.6. We do not give any warranty or guarantee, nor do we make any representation or accept any liability (whether arising in contract, tort, negligence or otherwise) in relation to the Subscribed Services:

- (a) meeting your individual or any particular needs or business requirements, whether or not such needs or requirements have been communicated to us;
- (b) operating in a manner which is uninterrupted or free from minor errors or defects; or
- (c) being compatible with any software other than the Third-Party Software, or with any particular hardware.

12.7. Other than as set out in this section 12, all warranties, conditions, terms, undertakings or obligations, whether express or implied and including any implied terms relating to quality, fitness for any particular purposes, reasonable care and skill or ability to achieve a particular result, are excluded to the fullest extent permitted by law.

13. Your Obligations

13.1. You will, and you will ensure that all Authorised Users will:

- (a) perform your obligations in accordance with the terms of this Agreement;
- (b) pay the Fees in accordance with these T&Cs; and
- (c) comply with all laws relating to the use or receipt of the Services.

14. Intellectual Property

- 14.1. You acknowledge that all IPR in the Services are owned by or licensed to us, that the right to access and use the Subscribed Services is licensed (not sold) to you, and that you will have no other rights other than those granted under these T&Cs. You will have no right to access the Subscribed Services in source code form. To the extent that you or any third party acting on your behalf, acquires any IPR in any part of the Services, you will assign or procure the assignment of such IPR with full title guarantee (including by way of present assignment of future IPR) to us or such third party as we may elect. You will execute all such documents and do such things as we may consider necessary to give effect to this section 14.1.
- 14.2. You and Authorised Users may be able to store or transmit Customer Data using one or more Subscribed Services, and the Subscribed Services may interact with Customer Systems. You hereby grant a royalty-free, non-transferable, non-exclusive licence for us (and each of our direct and indirect sub-contractors) to use, copy and otherwise utilise Customer Data and Customer Systems to the extent necessary to perform or provide the Services, or to exercise or perform our rights, remedies and obligations under this Agreement.
- 14.3. To the extent Third-Party Software is made available to, or used by or on behalf of, you or any Authorised User in connection with the use or provision of any Subscribed Service, such use of Third-Party Software will be subject to any additional third-party terms in accordance with section 4.3.
- 14.4. We may use any Feedback without limitation. You assign (or you will procure the assignment of) all IPR in the Feedback with full title guarantee (including by way of present assignment of future IPR) to us at the time such Feedback is first provided to us.
- 14.5. You waive (and will ensure all relevant third parties have waived) all rights to be identified as the author of any work, to object to derogatory treatment of that work and all other moral rights (and analogous rights worldwide) in the IPR assigned to us under this Agreement.
- 14.6. If we have reason to believe that a third-party claim may be brought by any third party alleging that the Subscribed Services infringe any IPR of a third party (an **IPR Claim**), we may at our sole option and expense (and you will permit us to):
 - (a) modify or replace the Subscribed Services to avoid infringement or alleged infringement; or
 - (b) terminate this Agreement, in which case you may be entitled to a refund of Fees.
- 14.7. This section 14 sets out your sole and exclusive remedy (whether arising in contract, tort, negligence or otherwise) for any IPR Claim.
- 14.8. This section 14 will survive termination or expiry of this Agreement for whatever reason.

15. Relief

To the maximum extent permitted by law, we will not be liable for any breach, delay or default in the performance of this Agreement or any obligation under it to the extent such breach, delay or default (or the circumstances give rise to it) arises or was contributed to by any Relief Event.

16. Liability

- 16.1. The extent of our liability under or in connection with this Agreement (whether arising in contract, tort, negligence or otherwise) will be as set out in this section 16.
- 16.2. Nothing in this Agreement operates or seeks to exclude or limit any liability which cannot be excluded or limited by law. All exclusions and limitations in this Agreement will be subject always to this section 16.2.

- 16.3. We will not be liable for any indirect, consequential or special loss, nor will be liable for any of the following (whether direct or indirect):
- (a) loss of profit or loss of revenue;
 - (b) loss or corruption of data, software or systems;
 - (c) loss or damage to equipment;
 - (d) loss of use or loss of production;
 - (e) loss of contract or loss of business opportunity;
 - (f) harm to reputation or loss of goodwill; or
 - (g) wasted expenditure.
- 16.4. Our liability under this Agreement for any one incident will not exceed the greater of a sum equal to:
- (a) the Fees paid to us in the 12-month period immediately preceding the incident first giving rise to the claim; and
 - (b) 12 times the Fees paid to us for the first month of the Subscription Period.
- 16.5. Our total aggregate liability under this Agreement will not exceed a sum equal to 100% of the Fees paid to us.
- 16.6. This section 16 will survive termination or expiry of this Agreement for whatever reason.

17. Suspension

- 17.1. We may suspend access to the Services (or any part of them) to all or some of the Authorised Users if:
- (a) we suspect that there been any misuse of the Services or breach of this Agreement;
 - (b) you fail to pay any sums due to us by the due date for payment; or
 - (c) required by law, by court or governmental or regulatory order.
- 17.2. Where the reason for the suspension is suspected misuse of the Services or breach of this Agreement, without affecting our rights under section 18, we will take steps to investigate the issue and may restore or continue to suspend access at its discretion.
- 17.3. In relation to suspensions under section 17.1(b), and subject to us having exercised a right to terminate in accordance with section 18.4(d), access to the Services will be restored promptly after we receive payment in full of all overdue sums.
- 17.4. Fees will remain payable in full during any period of suspension, regardless of whether you or some or all of the Authorised Users may not have access to the Services.

18. Term and Cancellation

- 18.1. This Agreement will come into force on the Start Date and, unless terminated earlier in accordance with these T&Cs, it will continue until the end of the Subscription Period in which either you or we cancelled your subscription to the Subscribed Services.
- 18.2. Either party may cancel your subscription to the Subscribed Services at any time without cause.
- 18.3. If your subscription to the Subscribed Services is cancelled by you or us under section 18.2, you will retain access to and the right to use the Subscribed Services until the end of the Subscription Period in which your subscription was cancelled.
- 18.4. We may terminate this Agreement at any time on written notice (such notice to state whether termination is with immediate effect or later) if you:

- (a) commit a material breach of this Agreement that cannot be remedied;
- (b) fail to remedy a material breach of this Agreement within 14 days of notice to do so;
- (c) undergo any event or series of events which reasonably indicates to us a state of financial distress;
- (d) fail to pay any sums due under this Agreement within 7 days of the Services having been suspended in accordance with section 17; or
- (e) act in any manner or say anything, either publicly or privately and whether in writing or verbally, which we reasonably believe has or may bring us or you into disrepute.

18.5. Any breach by you or any Authorised User of the Acceptable Use Policy or of section 6 will constitute a material breach of this Agreement which cannot be remedied.

18.6. Termination of this Agreement will result in the immediate cancellation of your subscription to the Subscribed Services, resulting in the immediate withdrawal of access to and the right to use, the Subscribed Services.

19. Consequences of Termination

19.1. On termination or expiry of this Agreement for whatever reason:

- (a) the licences and rights granted by us will immediately terminate and you will, and you will ensure that each Authorised User will, stop accessing and using the Subscribed Services;
- (b) we may delete or suspend access to any accounts that you hold with us;
- (c) you will not be entitled to a refund or other payment;
- (d) Customer Data will be treated in accordance with section 20.8;
- (e) you will immediately pay all outstanding invoices to us;
- (f) we will promptly submit an invoice to you for all Services performed and Deliverables supplied but not yet invoiced, and payment of such invoice will be due immediately on receipt;
- (g) the accrued rights and liabilities of the parties will not be affected; and
- (h) any sections of this Agreement that are expressly or by implication intended or required to survive termination will continue in force.

20. Customer Data

20.1. Customer Data will at all times remain your property or the property of your licensors.

20.2. Except to the extent that we have direct obligations under data protection law, you acknowledge that we have no control over any Customer Data hosted as part of the provision of the Services and we may not actively monitor or have access to the content of Customer Data. You will ensure (and you are exclusively responsible for) the accuracy, quality, integrity and legality of Customer Data and that its use (including use in connection with the Services) complies with all law and IPR.

20.3. You warrant that you own all IPR and other rights required to use, upload and host Customer Data as part of the Services, or that you are correctly licensed to do so. You will ensure that Customer Data is not, at all times and in any manner:

- (a) abusive, aggressive or threatening;
- (b) defamatory or disparaging;
- (c) misleading or deceptive;
- (d) offensive, pornographic or immoral;
- (e) illegal or unlawful; or

(f) otherwise brings us, you or any third party into disrepute.

20.4. If we become aware of any allegation that any Customer Data may not comply with the Acceptable Use Policy or any other part of this Agreement, we will have the right to (in respect only of that part of Customer Data which is suspected of being non-compliant):

- (a) permanently delete or otherwise remove the relevant Customer Data from the Services;
 - (b) suspend access to the relevant Customer Data from the Services in accordance with section 17; and/or
 - (c) disclose Customer Data to law enforcement authorities,
- (in each case without the need to consult you).

20.5. Where reasonably practicable and lawful to do so, we will notify you before taking any action set out in section 20.4.

20.6. Except as otherwise expressly agreed in this Agreement, we will not be obliged to provide you with any assistance extracting, transferring or recovering any data (including Customer Data) whether during or after the Subscription Period. You acknowledge and agree that you are responsible for maintaining safe backup copies of any Customer Data, including as necessary to ensure the continuation of your business. You will ensure that you back up (or procure the back up of) all Customer Data regularly and extract it from each Subscribed Service prior to the termination or expiry of this Agreement, or prior to the termination or suspension of any of the Services where it has received notice from us of such termination or suspension.

20.7. We may routinely undertake regular backups of the Subscribed Services (which may include Customer Data) for our own business continuity purposes. You acknowledge that such actions do not in any way make us responsible for ensuring Customer Data does not become inaccessible, damaged or corrupted. To the maximum extent permitted by law, we will not be responsible for any loss of availability of, or corruption or damage to, any Customer Data.

20.8. Unless otherwise subsequently agreed between the parties in writing, you instruct that we will within 60 days of the end of the provision of the Services (or any part of them) relating to the processing of Customer Data, securely dispose of such Customer Data processed in relation to the Services (or any part of them) which have ended, except to the extent that any applicable law of England and Wales requires us to store such Customer Data. We will have no liability for any deletion or destruction of any Customer Data undertaken in accordance with this Agreement.

21. Customer Data Confidentiality and Security

21.1. We will maintain the confidentiality of Customer Data and will not (without your prior written consent or in accordance with this Agreement) disclose or copy Customer Data other than as necessary for the performance of the Subscribed Services or our rights and obligations under this Agreement.

21.2. Section 21.1 will not apply to information which is:

- (a) or comes into the public domain through no fault of our own;
 - (b) lawfully received by or made available to us from a third party free of any express obligation of confidence at the time of its disclosure or availability;
 - (c) independently developed by us or any third party acting on our behalf without access to or use of such Customer Data; or
 - (d) required to be disclosed by law, by court or governmental or regulatory order,
- provided that sections 21.2(a) to 21.2(c) will not apply to Protected Data (as defined in the Data Protection Addendum).

21.3. To the extent any Customer Data is Protected Data (as defined in the Data Protection Addendum), we will ensure that such Customer Data may be disclosed or used only to the extent such disclosure or use does not conflict with any of our obligations under the Data Protection Addendum.

21.4. This section 21 will survive for a period of 12 months following termination or expiry of this Agreement for whatever reason.

22. Notices

22.1. Notices given under or pursuant to this Agreement must be in writing and in English.

22.2. Notices may be given, and will be deemed received:

- (a) by hand: on delivery;
- (b) by post: on the second working day after posting; or
- (c) by email: on receipt of a read receipt or the first working day after transmission, whichever is earlier.

22.3. This section 22 will not apply to notices given in legal proceedings.

23. General

23.1. Entire Agreement: This Agreement constitutes the entire agreement between the parties and supersedes and extinguishes any previous agreement, understanding or arrangement made between them, whether in writing or verbally, in respect of its subject matter. You acknowledge that you have not entered into this Agreement in reliance on, and you will have no remedies in respect of, any representation or warranty that is not expressly set out in this Agreement.

23.2. Variation: No variation of these T&Cs will be valid or effective unless it is in writing and expressly agreed to by both parties.

23.3. Assignment: You may not assign, subcontract, novate, mortgage, charge or otherwise transfer this Agreement, or any of your rights or obligations under this Agreement, to any third party without our prior written consent.

23.4. Severance: If any provision of these T&Cs (or part of any provision) is or becomes unenforceable, the enforceability of any other provision of these T&Cs will not be affected.

23.5. Waiver: No failure or delay by either party to exercise any right or remedy provided by this Agreement or applicable law will operate as a waiver of that right or remedy, nor will it prevent or restrict any future exercise of that right or remedy. Any waiver of any right or remedy will only be effective if given in writing and for the instance in which it is given.

23.6. Third-Party Rights: No third party will have any right under the Contracts (Rights of Third Parties) Act 1999 or otherwise to enforce any of the provisions of this Agreement.

23.7. Governing Law and Jurisdiction: This Agreement and any dispute or claim arising in connection with it will be governed by the law of England and Wales. The courts of England and Wales will have exclusive jurisdiction to settle any dispute arising in connection with this Agreement.

Annex 1: Data Processing Addendum

Part A – Data Processing Terms

1. Definitions and Interpretation

1.1. In this Data Protection Addendum, defined terms will have the same meaning as given in the remainder of this Agreement. In addition, in this Data Protection Addendum:

- (a) **Controller** has the meaning given to it in Data Protection Laws;
- (b) **Data Protection Laws** means as applicable and binding on either party or the Services: (i) the UK GDPR; (ii) the Data Protection Act 2018; (iii) any laws which implement or supplement any such laws; and (iv) any laws that replace, extend, re-enact, consolidate or amend any such laws;
- (c) **Data Protection Losses** means all liabilities arising directly or indirectly in connection with any breach or alleged breach of any Data Protection Laws or of this Data Protection Addendum, including all costs (including legal costs), claims, demands, actions, settlements, interest, charges, procedures, expenses, losses and damages, administrative fines, penalties, sanctions, liabilities or other remedies imposed by a Supervisory Authority, compensation which is ordered by a court or Supervisory Authority to be paid to a Data Subject, and/or any costs of compliance with investigations by a Supervisory Authority;
- (d) **Data Subject** has the meaning given to it in Data Protection Laws;
- (e) **Data Subject Request** means a request made by a Data Subject to exercise any right of Data Subjects under Chapter III of the UK GDPR in relation to any Protected Data;
- (f) **International Recipient** means the organisations, bodies, persons and other recipients to which Transfers of the Protected Data are prohibited under paragraph 7.1 without your prior written authorisation;
- (g) **Lawful Safeguards** means such legally enforceable mechanism(s) for Transfers of Personal Data as may be permitted under Data Protection Laws from time to time;
- (h) **List of Sub-Processors** means the latest version of the list of Sub-Processors we use, as Updated from time to time;
- (i) **Personal Data** has the meaning given to it in Data Protection Laws;
- (j) **Personal Data Breach** means any breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to, any Protected Data;
- (k) **processing** has the meaning given to it in Data Protection Laws (and related terms such as **process**, **processes**, **processed** have corresponding meanings);
- (l) **Processing Instructions** has the meaning given to it in paragraph 3.1(a);
- (m) **Processor** has the meaning given to it in Data Protection Laws;
- (n) **Protected Data** means Personal Data in Customer Data;
- (o) **Sub-Processor** means a Processor engaged by us or by any other Sub-Processor for carrying out processing activities in respect of the Protected Data on your behalf;
- (p) **Supervisory Authority** means local, national or multinational agency, department, official, parliament, public or statutory person or any government or professional body, regulatory or supervisory authority, board or other body responsible for administering Data Protection Laws;
- (q) **Transfer** has the meaning given to the word 'transfer' in Article 44 of the UK GDPR (and related terms such as **Transfers**, **Transferred** and **Transferring** have corresponding meanings); and

- (r) **UK GDPR** means Assimilated Regulation (EU) 2016/679, as applicable in relation to the general processing of personal data and part of domestic law in the United Kingdom by virtue of s.3 of the European Union (Withdrawal) Act 2018.

1.2. In this Data Processing Addendum, rules of interpretation set out in the remainder of this Agreement will apply. In addition, in this Data Protection Addendum, a reference to a **paragraph** is to a paragraph of this Annex 1.

2. Processor and Controller

2.1. The parties agree that, for Protected Data, you will be the Controller and we will be the Processor.

2.2. To the extent you are not sole Controller of any Protected Data, you warrant that you have full authority and authorisation of all relevant Controllers to instruct us to process the Protected Data in accordance with this Agreement.

2.3. We will process Protected Data in compliance with:

- (a) the obligations of Processors under Data Protection Laws in respect of the performance of our obligations under this Agreement; and
- (b) the terms of this Agreement.

2.4. You will ensure that you and each Authorised User will at all times comply with:

- (a) all Data Protection Laws in connection with the processing of Protected Data, the use of the Services (and each part) and the exercise and performance of the respective rights and obligations under this Agreement, including maintaining all relevant regulatory registrations and notifications as required under Data Protection Laws; and
- (b) the terms of this Agreement.

2.5. You warrant that at all times:

- (a) the processing of all Protected Data (if processed in accordance with this Agreement) will comply in all respects with Data Protection Laws, including in terms of its collection, use and storage;
- (b) fair processing and all other appropriate notices have been provided to the Data Subjects of the Protected Data (and all necessary consents from such Data Subjects obtained and at all times maintained) to the extent required by Data Protection Laws in connection with all processing activities in respect of the Protected Data that may be undertaken by us and our Sub-Processors in accordance with this Agreement;
- (c) the Protected Data is accurate and up to date;
- (d) except to the extent resulting from Transfers to International Recipients made by us or any Sub-Processor, the Protected Data is not subject to the laws of any jurisdiction outside the United Kingdom;
- (e) you will establish and maintain adequate security measures to safeguard the Protected Data in your possession or control (including from unauthorised or unlawful destruction, corruption, processing or disclosure) and maintain complete and accurate backups of all Protected Data provided to us (or anyone acting on its behalf) so as to be able to immediately recover and reconstitute such Protected Data in the event of loss, damage or corruption of such Protected Data by us or any third party; and
- (f) all instructions given by you to us in respect of Personal Data will at all times be in accordance with Data Protection Laws.

3. Instructions and Details of Processing

3.1. Where we process Protected Data on your behalf, we:

- (a) unless required to do otherwise by applicable law, will process the Protected Data only on and in accordance with your documented instructions as set out in this Agreement (including with regard to Transfers of Protected Data to any International Recipient), as Updated from time to time (**Processing Instructions**);

- (b) if applicable law requires us to process Protected Data other than in accordance with the Processing Instructions, we will notify you of any such requirement before processing the Protected Data (unless applicable law prohibits such notification on important grounds of public interest); and
- (c) will promptly inform you if we become aware of a Processing Instruction that, in our opinion, infringes Data Protection Laws.

- 3.2. You will be responsible for ensuring all Authorised Users read and understand the Privacy Policy (as Updated from time to time).
- 3.3. You acknowledge and agree that the execution of any computer command to process (including deletion of) any Protected Data made in the use of any of the Subscribed Services by an Authorised User will be a Processing Instruction (other than to the extent such command is not fulfilled due to technical, operational or other reasons). You will ensure that Authorised Users do not execute any such command unless authorised by you (and by all other relevant Controller(s)) and you acknowledge and accept that if any Protected Data is deleted pursuant to any such command, we are under no obligation to seek to restore it.
- 3.4. Subject to any subsequent agreement between the parties in writing, processing of the Protected Data by us under this Agreement will be for the subject-matter, duration, nature and purposes and involve the types of Personal Data and categories of Data Subjects set out Part B of this Annex 1.

4. Technical and Organisational Measures

- 4.1. We will implement and maintain adequate technical and organisational measures in relation to the processing of Protected Data by us.
- 4.2. During the period in which we process any Protected Data, you will regularly undertake a documented assessment of whether the security measures implemented in accordance with paragraph 4.1 are sufficient to protect Protected Data against accidental, unauthorised or unlawful destruction, loss, alteration, disclosure or access to the extent required by Data Protection Laws in the circumstances.

5. Staff and Other Processors

- 5.1. Subject to paragraph 5.2, we will not engage (nor permit any other Sub-Processor to engage) any Sub-Processor for carrying out any processing activities in respect of the Protected Data in connection with this Agreement without your prior written authorisation. You will not unreasonably object to any new Sub-Processor (or any change to any of the Sub-Processors).
- 5.2. You authorise:
 - (a) the appointment of each of the Sub-Processors identified on the List of Sub-Processors as at the Start Date; and
 - (b) the appointment of each Sub-Processor (or any change to any of the Sub-Processors) identified on the List of Sub-Processors as Updated from time to time.
- 5.3. We will:
 - (a) prior to the relevant Sub-Processor carrying out any processing activities in respect of Protected Data, ensure each Sub-Processor is appointed under a written contract containing materially the same obligations as under paragraphs 2 to 12;
 - (b) remain fully liable for all the acts and omissions of each Sub-Processor as if they were our own.

6. Assistance

- 6.1. We will refer all Data Subject Requests we receive to you. You will pay us for all work, time, costs and expenses incurred by us or any Sub-Processor(s) in connection with such activity.
- 6.2. We will provide reasonable assistance (taking into account the nature of processing and the information available to us) to you in ensuring compliance with your obligations under Data Protection Laws with respect to:

- (a) security of processing;
- (b) data protection impact assessments (as such term is defined in Data Protection Laws);
- (c) prior consultation with a Supervisory Authority regarding high risk processing; and
- (d) notifications to the Supervisory Authority and/or communications to Data Subjects by you in response to any Personal Data Breach,

provided you will pay us for all work, time, costs and expenses incurred by us or any Sub-Processor(s) in connection with providing such assistance.

7. International Data Transfers

7.1. Subject to paragraphs 7.2 and 7.3, we will not Transfer any Protected Data:

- (a) to any country or territory outside the United Kingdom; or
- (b) to an organisation or its subordinate bodies governed by public international law, or any other body which is set up by, or on the basis of, an agreement between two or more countries,

without your prior written authorisation, except where required by applicable law (in which case the provisions of paragraph 3.1 will apply).

7.2. You authorise us (or any Sub-Processor) to Transfer any Protected Data for to any International Recipient(s), provided all Transfers of Protected Data by us (or any Sub-Processor) to an International Recipient will (to the extent required under Data Protection Laws) be effected by way of Lawful Safeguards and in accordance with Data Protection Laws and this Agreement. The provisions of this Agreement (including this Data Protection Addendum) will constitute your instructions with respect to Transfers in accordance with paragraph 3.1(a).

7.3. You acknowledge that, due to the nature of cloud services, Protected Data may be Transferred to other geographical locations in connection with use of the Services further to access or computerised instructions initiated by Authorised Users. You acknowledge that we do not control such processing and you will ensure that Authorised Users (and all others acting on your behalf) only initiate the Transfer of Protected Data to other geographical locations if Lawful Safeguards are in place and that such Transfer is in compliance with all applicable law.

8. Information and Audit

- 8.1. We will maintain, in accordance with Data Protection Law binding on us, written records of all categories of processing activities carried out on your behalf.
- 8.2. On request, we will provide you (or auditors mandated by you) with a copy of the third-party certifications and audits to the extent made generally available to its customers (as Updated from time to time). Such information will be confidential to us and will be by you with the utmost standards of confidentiality.

9. Breach Notification

9.1. In respect of any Personal Data Breach, we will:

- (a) notify you of the Personal Data Breach; and
- (b) provide you with details of the Personal Data Breach.

10. Deletion

Following the end of the provision of the Services (or any part) relating to the processing of Protected Data, we will dispose of Protected Data in accordance with our obligations under this Agreement. We will have no liability for any deletion or destruction of any Protected Data undertaken in accordance with this Agreement.

11. Compensation and Claims

11.1. We will be liable for Data Protection Losses under this Agreement:

- (a) only to the extent caused by the processing of Protected Data under this Agreement and directly resulting from our breach of this Agreement; and
- (b) in no circumstances to the extent that any Data Protection Losses (or the circumstances giving rise to them) are contributed to or caused by your breach of this Agreement.

11.2. If a party receives a compensation claim from an individual relating to processing of Protected Data in connection with this Agreement or the Services, it shall promptly provide the other party with notice and full details of such claim.

11.3. You will not be entitled to claim back from us any part of any compensation paid by you in respect of such damage to the extent that you are liable to indemnify or otherwise compensate us in accordance with this Agreement.

11.4. This paragraph 11 is intended to apply to the allocation of liability for Data Protection Losses as between the parties, including with respect to compensation to Data Subjects, notwithstanding any provisions under Data Protection Laws to the contrary, except:

- (a) to the extent not permitted by applicable law (including Data Protection Laws); and
- (b) that it does not affect the liability of either party to any Data Subject.

12. Survival

This Data Protection Addendum (as Updated from time to time) will survive termination or expiry of this Agreement for whatever reason, and it will continue until no Protected Data remains in our possession or control or that of any Sub-Processor, except that paragraphs 10 to 12 will continue indefinitely.

Part B – Data Processing Details

- **Subject-matter of processing:** The subject-matter of the processing will be limited to Personal Data required to perform this Agreement and to meet our obligations under Data Protection Laws.
- **Duration of processing:** The duration of the processing will be until termination or expiry of this Agreement, or otherwise in accordance with your instructions.
- **Nature and purpose of processing:**
 - processing in accordance with the rights and obligations of the parties under this Agreement;
 - processing as reasonably required to provide the Services; and
 - processing as initiated, requested or instructed by Authorised Users in connection with their use of the Services, or by you, in each in a manner consistent with this Agreement.
- **Types of Personal Data:** The types of Personal Data processed by us when providing the Services are such Personal Data that you or any Authorised User elect to include in Customer Data, which may include legal and other names, titles, positions, e-mail addresses, phone numbers and professional history.
- **Categories of Data Subjects:** Authorised Users, employees, contractors, representatives, customers or other Data Subjects.
- **Special categories of Personal Data:** Certain special categories of Personal Data may be processed by when providing the Services are such special category Personal Data that you or any Authorised User elect to include in Customer Data, which may include information regarding health records and information as to whether the Data Subject is a member of a trade union.