

TPXIMPACT – SUPPLIER LICENCE TERMS

PLEASE READ THESE LICENCE TERMS CAREFULLY.

BY DOWNLOADING THE SOFTWARE YOU AGREE TO THESE TERMS. IF YOU DO NOT AGREE TO THESE TERMS DO NOT DOWNLOAD THE SOFTWARE. THESE SUPPLIER LICENCE TERMS ARE MADE AVAILABLE TO YOU **AS ATTACHED** TO THE ORDER FORM.

This licence agreement (“**Licence**”) is a legal agreement between you (“**Licensee**” or “**you**”) and TPXimpact Limited of 2 Whitechapel Road, Second Floor, The Hickman, London, United Kingdom, E1 1EW (“**Licensor**”, “**us**”, “**our**” or “**we**”) for:

- the Analytics Digital Assistant computer software and the associated media and any updates or supplements to it (“**Ada**” or the “**Software**”); and
- documentation in respect of the Software or other electronic documents provided by us from time to time (“**Documentation**”).

We licence the use of the Software and Documentation to you on the basis of this Licence. We do not sell the Software or Documentation to you and we remain owners of the Software and Documentation at all times.

If you have any comments or questions regarding the Software or this Licence, or wish to report any violation of this Licence, please contact us at ADA-enquiries@tpximpact.com.

1. GRANT OF LICENCE

- 1.1 Subject to your compliance with the terms of this Licence, we grant to you a non-exclusive, non-transferable, revocable licence, without the right to grant sublicences, to use the Software (in object code form) and Documentation for your internal business purposes to run the Software in accordance with the terms of this Licence.
- 1.2 Unless agreed otherwise with us in writing, you shall not:
 - 1.2.1 use the Software other than as specified in this clause 1 without our prior written consent (and you acknowledge that additional fees may be payable on any change of use approved by us);
 - 1.2.2 make backup copies of the Software other than as may be necessary for your lawful use and shall record the number and location of all copies of the Software and take steps to prevent unauthorised copying;
 - 1.2.3 except as expressly stated in this clause 1, copy, reverse engineer, decompile or disassemble, the Software in whole or in part except to the extent that any reduction of the Software to human readable form (whether by reverse engineering, decompilation or disassembly) is necessary for the purposes of integrating the operation of the Software with the operation of other software or systems used by you, unless we are prepared to carry out such action at a reasonable commercial fee or has provided the information necessary to achieve such integration within a reasonable period, and you shall request us to carry out such action or to provide such information (and shall meet our reasonable costs in providing that information) before undertaking any such reduction;
 - 1.2.4 access or use any part of the Software or Documentation in order to build a product or service which competes with the Software;
 - 1.2.5 subject to clause 15.8, license, sell, rent, lease, transfer, assign, distribute, display, disclose, or otherwise commercially exploit, or otherwise make the Software or Documentation available to any third party;
 - 1.2.6 probe, scan or test the vulnerability of the Software, including the services or any network connected to the Software, without our prior written consent;
 - 1.2.7 breach or attempt to breach the security or authentication measures on the Software, including the services or any network connected to it;
 - 1.2.8 attempt to disrupt or tamper with the Software in a manner that harms or places an undue burden on it; or
 - 1.2.9 attempt to obtain, or assist third parties in obtaining, access to the Software, other than as provided under this clause 1.
- 1.3 You shall use all reasonable endeavours to prevent any unauthorised access to, or use of, the Software and Documentation and, in the event of any such unauthorised access or use, promptly notify us. The rights provided under this clause 1 are granted to you only, and shall not be considered granted to any other person or affiliate.
- 1.4 You acknowledge and agree that you are responsible for the acts and omissions of all persons who access the Software or Documentation under or in connection with this Licence.

- 1.5 You may not use any such information provided by us or obtained by you during any such reduction permitted under clause 1.2.3 to create any software whose expression is substantially similar to that of the Software nor use such information in any manner which would be restricted by any copyright subsisting in it.
- 1.6 You shall not:
- 1.6.1 sub-license, assign or novate the benefit or burden of this licence in whole or in part;
 - 1.6.2 allow the Software to become the subject of any charge, lien or encumbrance; and
 - 1.6.3 deal in any other manner with any or all of your rights and obligations under this Licence, without our prior written consent, such consent not to be unreasonably withheld or delayed.
- 1.7 You shall:
- 1.7.1 ensure that the equipment on which the Software is operated meets the minimum requirements set out in the Documentation;
 - 1.7.2 ensure that the Software is installed and used on the agreed hosted environment only;
 - 1.7.3 ensure that access to the Software is by you only and not by other third party users;
 - 1.7.4 keep a complete, accurate and up-to-date record of your copying and disclosure of the Software and produce such record to us on request from time to time;
 - 1.7.5 notify us as soon as you become aware of any unauthorised use of the Software by any person; and
 - 1.7.6 in the event of any unauthorised use of the Software, pay an amount equal to the fees which we would have levied (in accordance with its then-current rates) had we licensed any such unauthorised use on the date when such use commenced.
- 1.8 We reserve the right, without liability or prejudice to our other rights, to disable or require the disabling of your access to the Software at any time if we reasonably suspect that you are in breach of the provisions of clause 1.

2. ACCEPTABLE USE

- 2.1 You shall not access, store, distribute or transmit any viruses, or any material during the course of your use of the Software that:
- 2.1.1 is false, unlawful, harmful, threatening, abusive, defamatory, obscene, infringing, threatening, harassing or racially or ethnically offensive;
 - 2.1.2 conceals or misrepresents their identity or steals someone else's identity;
 - 2.1.3 is spam or is otherwise excessive in nature;
 - 2.1.4 facilitates illegal activity;
 - 2.1.5 depicts or promotes sexually explicit images;
 - 2.1.6 promotes unlawful violence or activities which may endanger life or lead to physical harm including suicide threats or instigations, intentional physical trauma, the use of illegal drugs, or excessive drinking;
 - 2.1.7 is discriminatory based on race, gender, colour, religious belief, sexual orientation, disability; or
 - 2.1.8 is otherwise illegal or causes damage or injury to any person or property,
- and we reserve the right, without liability or prejudice to your other rights to you, to disable your access to the Software if we reasonably suspect that you have breached this clause 2.1 or we receive a complaint from any party in respect of your use or misuse of the Software or content you have accessed or uploaded using the Software.

3. YOUR OBLIGATIONS

- 3.1 You shall:
- 3.1.1 provide us with:
 - (a) all necessary co-operation in relation to this Licence; and
 - (b) all necessary access to such information as may be required by us;in order to provide the Software and the Services;

- 3.1.2 without affecting your other obligations under this Licence, comply with all applicable laws and regulations with respect to your activities under this Licence;
- 3.1.3 carry out all other responsibilities set out in this Licence in a timely and efficient manner;
- 3.1.4 ensure that you use the Software and the Documentation in accordance with the terms of this Licence and shall be responsible for any of your acts or omissions which breach this Licence;
- 3.1.5 obtain and shall maintain all necessary licences, consents, and permissions necessary for it to perform your obligations under this Licence;
- 3.1.6 ensure that your network and systems comply with the relevant specifications provided by us from time to time; and
- 3.1.7 be, to the extent permitted by law and except as otherwise expressly provided in this Licence, solely responsible for procuring, maintaining and securing network connections and telecommunications links from your systems, and all problems, conditions, delays, delivery failures and all other loss or damage arising from or relating to your network connections or telecommunications links or caused by the internet.
- 3.2 You shall have sole responsibility for the legality, reliability, integrity, accuracy and quality of all of your information, data and other materials provided by you or any other party on your behalf for the purpose of using the Software or Documentation ("**Licensee Content**"). You confirm to us that you have all necessary rights, licences, consents and permissions to provide the Licensee Content to us or use the Software with Licensee Content under or in connection with this Licence.
- 3.3 You acknowledge that we shall be responsible only for the provision of the Software and Documentation and shall have no responsibility for your acts or omissions when using the Software nor any third party rights or permissions that you may need. We shall have no obligation to moderate or test any Licensee Content.
- 3.4 If performance of our obligations under this Licence is prevented or delayed by any act or omission of you, your agents, subcontractors, consultants or employees, then, without prejudice to any other right or remedy we may have, we shall not be liable for such delay or non-performance and shall be allowed an extension of time to perform your obligations equal to the delay caused by you.
- 3.5 You shall indemnify and hold us harmless 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 Licensee Content.
- 4. **SERVICES AND MAINTENANCE**
- 4.1 We will from time to time provide a release of the Software that corrects faults, adds functionality or otherwise amends or upgrades the Software (a "**Maintenance Release**"). We will provide you with all Maintenance Releases generally made available to our customers and you shall install all Maintenance Releases as soon as reasonably practicable after receipt.
- 5. **FEES**
- 5.1 You commit to pay the agreed hourly consumption licence fees or any other fees ("**Fees**"). Any refunds shall be processed subject to our own policies.
- 5.2 All sums stated under this Licence are exclusive of VAT or any relevant local sales taxes, for which you shall be responsible.
- 6. **CONFIDENTIALITY AND PUBLICITY**
- 6.1 "**Confidential Information**" means all confidential information (however recorded or preserved) disclosed by a party or its representatives to the other party and that party's representatives in connection with the Licence, whether before or after the date of the Licence, including:
 - 6.1.1 the existence and terms of the Licence;
 - 6.1.2 information concerning the business, affairs, customers, clients or suppliers of the other party or of any member of the group of companies to which the other party belongs;
 - 6.1.3 any information developed by the parties in the course of carrying out this Licence and the parties agree that details of the Software, the Documentation, the Services and the results of any performance tests in relation to the Software, shall constitute our Confidential Information; and
 - 6.1.4 any other information that would reasonably be regarded as confidential by a reasonable business person.
- 6.2 The restriction in clause 6.3 shall not apply to any Confidential Information which:

- 6.2.1 is or becomes generally available to the public (other than as a result of the receiving party or its representatives breaching this clause 6);
 - 6.2.2 was available to the receiving party on a non-confidential basis before disclosure by the disclosing party;
 - 6.2.3 was, is or becomes available to the receiving party on a non-confidential basis from a person who, to the receiving party's knowledge, is not bound by obligations of confidentiality or otherwise prohibited from disclosing the information to the receiving party;
 - 6.2.4 the parties agree in writing is not confidential or may be disclosed; or
 - 6.2.5 is developed by or for the receiving party independently of the information disclosed by the disclosing party.
- 6.3 Each party shall keep the other party's Confidential Information secret and confidential and shall not: (a) use such Confidential Information except for the purpose of exercising or performing its rights and obligations under or in connection with this Licence; or (b) disclose such Confidential Information in whole or in part to any third party, except as expressly permitted by this clause 6.
- 6.4 A party may disclose the other party's Confidential Information to those of its representatives on a need to know basis, provided that: (a) it informs such representatives of the confidential nature of the Confidential Information before disclosure; and (b) it is at all times responsible for such representatives' compliance with the confidentiality obligations set out in this clause 6.
- 6.5 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.
- 6.6 On termination or expiry of this Licence, subject to clause 11, each party shall:
- 6.6.1 destroy or if requested to do so return to the other party all documents and materials (and any copies) containing, reflecting, incorporating or based on the other party's Confidential Information;
 - 6.6.2 erase all the other party's Confidential Information from computer and communications systems and devices used by it, including such systems and data storage services provided by third parties (to the extent technically and legally practicable); and
 - 6.6.3 if requested to do so, certify in writing to the other party that it has complied with the requirements of this clause, provided that a recipient party may retain documents and materials containing, reflecting, incorporating or based on the other party's Confidential Information to the extent required by law or any applicable governmental or regulatory authority.
- 6.7 You agree that we may use your name and logo and refer to your use of the Software for the purposes of marketing, promotional material and news or academic publications in respect of the Software, provided that it does not at any time reveal any of your Confidential Information without your prior written consent.

7. COMPLIANCE WITH POLICY

- 7.1 Neither party shall export, directly or indirectly, any technical data acquired from the other party under this Licence (or any products, including software, incorporating any such data) in breach of any applicable laws or regulations ("Export Control Laws"), including United States export laws and regulations, to any country for which the government or any agency thereof at the time of export requires an export licence or other governmental approval without first obtaining such licence or approval.
- 7.2 Each party undertakes:
- 7.2.1 contractually to oblige any third party to whom it discloses or transfers any such data or products to make an undertaking to it in similar terms to the one set out above; and
 - 7.2.2 if requested, to provide the other party with any reasonable assistance, at the reasonable cost of the other party, to enable it to perform any activity required by any competent government or agency in any relevant jurisdiction for the purpose of compliance with any Export Control Laws.

8. OUR OBLIGATIONS

- 8.1 We warrant that the Software will conform in all material respects to the Documentation. Such warranty shall not apply to the extent any non-conformance is caused by use of the Software contrary to our instructions or specifications, or modification or alteration of the Software by any party other than us or our duly authorised contractors or agents, or breach of the Licence by you.

- 8.2 If you notify us in writing that the Software does not conform with the warranty in clause 8.1, your sole and exclusive remedy shall be us using all reasonable commercial endeavours at your own expense to correct any such non-conformance promptly, or provide you with an alternative means of accomplishing the desired performance.
- 8.3 We do not warrant that the use of the Software will be uninterrupted or error-free. You acknowledge that the Software is provided as-is.
- 8.4 You accept full responsibility for the selection of the Software to achieve your intended results and acknowledges that the Software has not been developed to meet your individual requirements and the Supplier provides no warranties in relation to its suitability nor its output.
- 8.5 We are 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 you acknowledge that the Software may be subject to limitations, delays and other problems inherent in the use of such communications facilities.
- 8.6 All other conditions, warranties or other terms which might have effect between the parties or be implied or incorporated into this Licence or any collateral contract, whether by statute, common law or otherwise, are hereby excluded, including the implied conditions, warranties or other terms as to satisfactory quality, fitness for purpose or the use of reasonable skill and care.

9. LIMITS OF LIABILITY

- 9.1 Nothing in the Licence excludes a party's liability for:
- 9.1.1 death or personal injury caused by the negligence;
 - 9.1.2 fraud or fraudulent misrepresentation; or
 - 9.1.3 any other liability which may not be excluded by law.
- 9.2 Subject to 9.1, we shall not in any circumstances have any liability for any losses or damages which may be suffered by you (or any person claiming under or through you), whether the same are suffered directly or indirectly or are immediate or consequential, and whether the same arise in contract, tort (including negligence) or otherwise howsoever, which fall within any of the following categories:
- 9.2.1 loss of profit;
 - 9.2.2 loss of sales or business;
 - 9.2.3 loss of anticipated savings;
 - 9.2.4 loss of agreement or contracts;
 - 9.2.5 depletion of goodwill and/or similar losses;
 - 9.2.6 loss or corruption of data or information (other than personal data);
 - 9.2.7 pure economic loss;
 - 9.2.8 wasted expenditure; or
 - 9.2.9 any special, indirect or consequential loss, costs, damages, charges or expenses however arising under this Licence.
- 9.3 Subject to clause 9.1 and 9.2, our total aggregate liability in each Contract Year whether in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise, arising under or in connection with this Licence shall be limited to the greater of:
- 9.3.1 £50,000; and
 - 9.3.2 150% of the total Fees paid to us in that Contract Year.
- In this clause, Contract Year means a 12-month period beginning on the date you download the Software and on any anniversary thereafter.
- 9.4 All dates supplied by us for the delivery of the Software or the provision of Services shall be treated as approximate only. We shall not in any circumstances be liable for any loss or damage arising from any delay in delivery beyond such approximate dates.

10. INTELLECTUAL PROPERTY RIGHTS

- 10.1 In this clause the following definitions shall apply:

- 10.1.1 **"Background IPR"** means any and all Intellectual Property Rights that are owned by or licensed to a party which are or have been developed independently of the Licence, which in our case includes the Software and Documentation;
- 10.1.2 **"Foreground IPR"** means any and all Intellectual Property Rights that are developed under or arise out of or in connection with the Licence (excluding Background IPR and Licensee Output);
- 10.1.3 **"Intellectual Property Rights"** means patents, utility models, rights to inventions, copyright and neighbouring and related rights, moral rights, trade marks and service marks, business names and domain names, rights in get-up and trade dress, goodwill and the right to sue for passing off or unfair competition, rights in designs, rights in computer software, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how and trade secrets) and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world;
- 10.1.4 **"Third Party Additional Terms"** means the additional terms and conditions relating to Third Party IPR as determined by the relevant third party from time to time;
- 10.1.5 **"Third Party IPR"** means intellectual property which is owned or licensed by a third party and which is not integrated into or used for the provision of the Software.
- 10.2 Each party (or its licensors as applicable) shall own all right, title and interest (including Intellectual Property Rights) in and to its Background IPR.
- 10.3 We shall own all right, title and interest (including Intellectual Property Rights) in and to the Foreground IPR upon creation. To the extent these do not automatically vest in us, you hereby assign all such right, title and interest (including Intellectual Property Rights) in the Foreground IPR to us. We grant to you a worldwide, non-exclusive, revocable, royalty-free, licence during the term of this Licence to use the Foreground IPR in the Ada virtual machine provisioned via G-Cloud 15.
- 10.4 Subject to payment of the applicable Fees, you shall own all right, title and interest (including Intellectual Property Rights) in and to Licensee Output (excluding any of our Background IPR). To the extent these do not vest in you, we hereby assigns all such right, title and interest (including Intellectual Property Rights) in Licensee Output (excluding any of our Background IPR) to you.
- 10.5 You grant to us (or shall procure the granting to us of) a worldwide, sublicensable, fully paid up, royalty-free, non-exclusive licence to use, access, store, copy, modify, distribute, transmit and/or publish your Background IPR and Licensee Content to the extent necessary for us to provide the Software and Services and otherwise perform our obligations under the Licence.
- 10.6 You acknowledge that: (a) we may use the Software to access or use Third Party IPR over which we have no control; (b) we do not provide any Third Party IPR for you to use with the Software; and (c) our use of the Third Party IPR may be subject to Third Party Additional Terms. If you use Third Party IPR through or in connection with the Software, you do so at your own risk and we shall not be responsible for the Third Party IPR or any results or outputs obtained from your use. You shall defend, indemnify and hold us harmless 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 your use of Third Party IPR.
- 10.7 We shall defend you against any claim that your use of the Software in accordance with this Licence infringes any Intellectual Property Rights of a third party ("**IP Claim**"), and shall indemnify you for any amounts awarded against you in judgment or settlement of such IP Claim, provided that:
- 10.7.1 we are given prompt notice of the IP Claim specifying the nature of the IP Claim in reasonable detail;
- 10.7.2 you do not make any admission of liability, agreement or compromise in relation to the IP Claim without our prior written consent (such consent not to be unreasonably conditioned, withheld or delayed);
- 10.7.3 you provide reasonable co-operation to us in the defence and settlement of such IP Claim; and
- 10.7.4 we are given sole authority to defend or settle the IP Claim.
- 10.8 The indemnity in clause 10.7 shall not apply where the IP Claim in question is directly or indirectly attributable to: (a) possession or use of any Third Party IPR or through the breach of any Third Party Additional Terms by you; (b) possession or use of the Software (or any part thereof) by you other than in accordance with the terms of this Licence; (c) use of the Software in combination with any hardware or software not supplied or specified by us if the infringement would have been avoided by the use of the Software not so combined; or (d) use of a non-current release of the Software.

10.9 If any IP Claim is made, or in our reasonable opinion is likely to be made, against you, we may at our sole option and expense:

10.9.1 procure for you the right to continue to use the Software (or any part thereof) in accordance with the terms of this Licence;

10.9.2 modify the Software so that it ceases to be infringing;

10.9.3 replace the Software with non-infringing software; or

10.9.4 terminate this Licence immediately by notice in writing to you and refund any of the Fees paid by you as at the date of termination (less a reasonable sum in respect of your use of the Software to the date of termination) on return of the Software and all copies thereof,

provided that if we modify or replace the Software, the modified or replacement Software must comply with the warranties contained in clause 8.1 and you shall have the same rights in respect thereof as you would have had under those clauses had the references to the date of this Licence been references to the date on which such modification or replacement was made.

10.10 This clause 10 constitutes your sole and exclusive remedy and our only liability in respect of IP Claims.

11. DATA PROTECTION

11.1 In this clause the following definitions shall apply:

11.1.1 **“Controller”, “Processor”, “Data Subject”, “Personal Data”, “Personal Data Breach”, “processing” and “appropriate technical and organisational measures”** shall mean as defined in the Data Protection Legislation;

11.1.2 **“Data Protection Legislation”** means all applicable data protection and privacy legislation in force from time to time in the UK including the UK GDPR; the Data Protection Act 2018 (DPA 2018) (and regulations made thereunder) and the Privacy and Electronic Communications Regulations 2003 (SI 2003/2426) as amended and all other legislation and regulatory requirements in force from time to time which apply to a party relating to the use of Personal Data (including, without limitation, the privacy of electronic communications);

11.1.3 **“Domestic Law”** means the law of the United Kingdom or a part of the United Kingdom;

11.1.4 **“Shared Personal Data”** means the personal data to be shared by the parties under this Licence, which is restricted to such limited personal data as is required for the administration and fulfilment of this Licence.

11.2 Both parties will comply with all applicable requirements of the Data Protection Legislation. This clause is in addition to, and does not relieve, remove or replace, a party's obligations or rights under the Data Protection Legislation.

11.3 The parties acknowledge that for the purposes of the Data Protection Legislation, that you are the Controller and we are the Processor. The following sets out the details of the processing under this Licence:

11.3.1 Scope, nature and purpose of processing: To provide you support services under your request and authorisation

11.3.2 Duration of processing: Term of Licence

11.3.3 Types of Personal Data: Contact details such as email address and telephone number, identification data such as name and title, employment data such as job title and such other personal data as you may notify to us in writing from time to time

11.3.4 Categories of Data Subject: Your employees, representatives and staff

11.4 You shall notify us in writing in advance of using the Software to process any Personal Data other than that set out in clause 11.3 above.

11.5 Without prejudice to the generality of clause 11.2, you will ensure that you have all necessary appropriate consents and notices in place to enable lawful transfer of the Personal Data to us for the duration and purposes of this Licence,

11.6 Without prejudice to the generality of clause 11.2, we shall, in relation to any Personal Data processed in connection with the performance by us of our obligations under this Licence:

11.6.1 process that Personal Data only on your documented written instructions unless we are required by Domestic Law to otherwise process that Personal Data. Where we are relying on Domestic Law as the

basis for processing Personal Data, we shall promptly notify you of this before performing the processing required by the Domestic Law unless the Domestic Law prohibits us from so notifying you;

- 11.6.2 ensure that we have in place appropriate technical and organisational measures to protect against unauthorised or unlawful processing of Personal Data and against accidental loss or destruction of, or damage to, Personal Data, appropriate to the harm that might result from the unauthorised or unlawful processing or accidental loss, destruction or damage and the nature of the data to be protected, having regard to the state of technological development and the cost of implementing any measures (those measures may include, where appropriate, pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of its systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the technical and organisational measures adopted by it);
 - 11.6.3 ensure that all personnel who have access to and/or process Personal Data are obliged to keep the Personal Data confidential; and
 - 11.6.4 not transfer any Personal Data outside of the UK unless we have your prior written consent and the following conditions are fulfilled:
 - (a) either of us have provided appropriate safeguards in relation to the transfer;
 - (b) the Data Subject has enforceable rights and effective legal remedies;
 - (c) we comply with our obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred; and
 - (d) we comply with reasonable instructions notified to us in advance by you with respect to the processing of the Personal Data;
 - 11.6.5 assist you, at your cost, in responding to any request from a Data Subject and in ensuring compliance with your obligations under the Data Protection Legislation with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators;
 - 11.6.6 notify you without undue delay on becoming aware of a Personal Data Breach;
 - 11.6.7 at the written direction of the Customer, delete or return Personal Data and copies thereof to the Customer on termination of the Licence unless required by Domestic Law to store the Personal Data; and
 - 11.6.8 maintain complete and accurate records and information to demonstrate our compliance with this clause.
- 11.7 We may not appoint any third party processor of Personal Data under this Licence without your consent. We shall remain fully liable for all acts or omissions of any third-party processor we appoint pursuant to this clause.

12. TERM AND TERMINATION

- 12.1 The Licence shall commence on the date of your download of the Software and, shall continue until terminated in accordance with the terms and conditions of this Licence.
- 12.2 Without affecting any other right or remedy available to it, we may terminate this Licence with immediate effect by giving written notice to you if you commit a material or persistent breach of this Licence which you fail to remedy within a period of 30 days after being notified in writing to do so.
- 12.3 For the purposes of clause 12.2, a material breach includes any breach of clause 1.
- 12.4 This Licence shall automatically terminate if you stop your use of the Software and Documentation in the G-Cloud 15 hosted environment for a continuous period of at least 30 days.
- 12.5 Termination or expiry of this Licence shall not affect any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination or expiry, including the right to claim damages in respect of any breach of the Licence which existed at or before the date of termination or expiry.
- 12.6 On termination for any reason unless otherwise specified:
 - 12.6.1 all rights granted to you under this Licence shall cease;
 - 12.6.2 you shall cease all activities authorised by this Licence;
 - 12.6.3 you shall immediately pay to us any sums due to us under this Licence; and
 - 12.6.4 you shall immediately delete or return to us (at our option) all copies of the Software and Documentation (including all copies of the virtual machine and image) together with our Confidential Information,

Background IPR and any Foreground IPR then in your possession, custody or control and, in the case of deletion, on our request certify to us that you have done so.

13. COMMUNICATIONS AND NOTICES

13.1 We may update the terms of this Licence at any time on notice to you in accordance with this clause. Your continued use of the Software and Documentation following the deemed receipt and service of the notice under this clause shall constitute your acceptance to the terms of this Licence, as varied. If you do not wish to accept the terms of the Licence (as varied) you must immediately stop using and accessing the Software and Documentation on the deemed receipt and service of the notice.

13.2 If we have to contact you, we will do so by email to the email address you provided in accordance with your download of the Software.

13.3 Any notice:

13.3.1 given by us to you will be deemed received and properly served 24 hours after an email is sent; and

13.3.2 given by you to us will be deemed received and properly served 24 hours after an email is sent, or three days after the date of posting of any letter.

13.4 This clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

14. G-Cloud 15 Framework

14.1 The provisions in this clause are applicable if you have downloaded the Software through G-Cloud 15 . You acknowledge and agree that:

14.1.1 we are responsible for addressing any of your questions, complaints or claims that you have in relation to the Software and Documentation and not the Crown Commercial Service (“CCS”);

14.1.2 these terms are concluded between us, and not with the CCS, and we are solely responsible to you for the Software and Documentation, including any technical support and refund claims;

14.1.3 the CCS will not be responsible for any claim by a third party that the Software and Documentation infringe their Intellectual Property Rights;

14.1.4 you will comply with the G-Cloud 15 framework; and

14.1.5 to the extent permitted by law, the Marketplace has no other obligations to you in relation to any loss or damage you suffer as a result of a failure to meet any warranty.

15. OTHER IMPORTANT TERMS

15.1 **Survival.** Any provision of this Licence that expressly or by implication is intended to come into or continue in force on or after termination or expiry of this Licence shall remain in full force and effect, including clauses 6, 9, 11, 12.6, 13 and 14.

15.2 **Force majeure:**

15.2.1 “**Force Majeure Event**” means events outside a party’s reasonable control including: (a) acts of God, flood, drought, earthquake or other natural disaster; (b) epidemic or pandemic; (c) terrorist attack, civil war, civil commotion or riots, war, threat of or preparation for war, armed conflict, imposition of sanctions, embargo, or breaking off of diplomatic relations; (d) nuclear, chemical or biological contamination or sonic boom; (e) any law or any action taken by a government or public authority, including imposing an export or import restriction, quota or prohibition, or failing to grant a necessary licence or consent; (f) fire, explosion or accident; (g) any labour or trade dispute, strikes, industrial action or lockouts; (h) non-performance by suppliers or subcontractors; (i) interruption or failure of utility service.

15.2.2 We shall not be liable for any failure or delay in performing any of its obligations under this Licence if such delay or failure result from a Force Majeure Event, in which case the time for performance of such obligations shall be extended accordingly. If the period of delay or non-performance continues for 90 days, the we may terminate this Licence by giving written notice to you.

- 15.3 **Variation.** No variation of this Licence shall be effective unless it is in writing and signed by the parties (or their authorised representatives).
- 15.4 **Waiver.** A waiver of any right or remedy is only effective if given in writing and shall not be deemed a waiver of any subsequent right or remedy. A delay or failure to exercise, or the single or partial exercise of, any right or remedy shall not waive that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy.
- 15.5 **Rights and remedies.** Except as expressly provided in this Licence, the rights and remedies provided under this Licence are in addition to, and not exclusive of, any rights or remedies provided by law.
- 15.6 **Severance.** Each of the provisions of this Licence operates separately. If any provision or part-provision of this Licence is or becomes invalid, illegal or unenforceable, it shall be deemed deleted, but that shall not affect the validity and enforceability of the rest of this Licence.
- 15.7 **Entire agreement:**
- 15.7.1 this Licence constitutes the entire agreement between the parties and supersedes and extinguishes all previous and contemporaneous agreements, promises, assurances and understandings between them, whether written or oral, relating to its subject matter;
 - 15.7.2 each party acknowledges that in entering into this Licence it does not rely on any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in this Licence; and
 - 15.7.3 each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in this Licence.
- 15.8 **Assignment.** You shall not, without our prior written consent, assign, novate, transfer, charge, sub-contract or deal in any other manner with all or any of your rights or obligations under this Licence. We may at any time assign, transfer, charge, sub-contract or deal in any other manner with all or any of our rights or obligations under this Licence.
- 15.9 **No partnership.** Nothing in this Licence is intended to or shall operate to create a partnership between the parties, or authorise either party to act as agent for the other, and neither party shall have the authority to act in the name or on behalf of or otherwise to bind the other in any way (including, but not limited to, the making of any representation or warranty, the assumption of any obligation or liability and the exercise of any right or power).
- 15.10 **Third party rights.** This Licence does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Licence.
- 15.11 **Counterparts.** This Licence may be executed in any number of counterparts, each of which shall constitute a duplicate original, but all the counterparts shall together constitute the one Licence. No counterpart shall be effective until each party has provided to the other at least one executed counterpart.
- 15.12 **Governing law.** This Licence 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 interpreted in accordance with the law of England.
- 15.13 **Jurisdiction.** Each party irrevocably agrees that the courts of England shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this Licence or its subject matter or formation (including non-contractual disputes or claims).