



Master Service Terms

July 2026 MST v1.1

Ciphr Limited

3rd Floor, 33 Blagrove Street, Reading, RG1 1PW | +44 (0)1628 814000 | info@ciphr.com | ciphr.com

Ciphr Limited - Registered in England No: 04616229. Registered Office: 3rd Floor, 33 Blagrove Street, Reading, RG1 1PW. VAT Registration No: 242 6611 24

Master Service Terms

As a result of you ("**Customer**") and **Ciphr Limited** a company incorporated in England and Wales (registered no. 04616229) whose registered office is at Third Floor, 33 Blagrove Street, Reading, Berkshire, United Kingdom, RG1 1PW ("**Ciphr**") signing or otherwise accepting an Order Form in connection with the Services, these Master Service Terms are the terms and conditions (referred to in and amended by the Order Form) upon which Ciphr shall supply those services to you (the Order Form and these Master Service Terms are together the "**Agreement**"). The Agreement shall apply to the exclusion of any other terms and conditions, including any such terms forming part of or purporting to apply by reason of any purchase order or process initiated or issued by you to Ciphr in connection with any of Ciphr's Services.

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1. Definitions and interpretation

1.1 In the Agreement, unless the context otherwise requires, the following words and expressions shall mean:

"Affiliate"	any entity that directly or indirectly controls, is controlled by or is under common control with, that entity within the meaning set out in section 1124 of the Corporation Tax Act 2010
"Anonymised Data"	data that does not, and from which it is impossible to, identify the Customer, its Affiliates, a Customer User or any living individual or corporate body
"API"	has the meaning given to it in clause 2.4
"Claiming Party"	has the meaning given to it in clause 9.4
"Ciphr Intellectual Property"	all Intellectual Property arising in (a) the Services, (b) any Software, (c) any Database, (d) any Derived Data Reports and (e) any Ciphr work product provided, deployed, created or specifically undertaken by Ciphr (or its Affiliates) pursuant to the Services, the Order Form or in performing its obligations under the Agreement
"Ciphr Personnel"	means an employee, worker, consultant or contractor of Ciphr (or its Affiliates) tasked with undertaking duties in connection with the Agreement
"Contract Year"	a 12-month period starting on the Effective Date and on each anniversary of the Effective Date
"Customer Content"	any material, content or works (including any elements of text, editorial, graphics, photos, images, video, audio, designs, trademarks, or other artwork) provided to Ciphr by the Customer specifically for the development of or integration into or use with or communication through any Services (but excluding the Customer Data)
"Customer Data"	any data inputted or submitted through the use of any Services by the Customer, a Customer User or Ciphr on the Customer's behalf
"Customer Personal Data"	Personal Data (as defined in clause 14) contained in any Customer Data
"Customer User"	those employees, agents and independent contractors of the Customer and, subject to clause 3.5 , its Affiliates, who are approved and appointed by

	the Customer to be a user of SaaS Services and who have an individualised login identification and password
"Database"	the framework, structure and metadata of any database used in the provision of any Services (excluding any database created solely by operation of any Third Party Software)
"Data Protection Legislation"	has the meaning given to it in clause 14.1
"Derived Data Reports"	the format, layout and underlying schemes of the data reports that are provided or made available to the Customer by Ciphr as part of or in connection with any Services (but excluding any Customer Data and Customer Content contained therein)
"Dispute Notice"	has the meaning given to it in clause 8.2
"Effective Date"	the date on which the Order Form has been signed by both parties
"Fees"	the fees payable by the Customer in respect of the relevant Services, as specified in the Order Form
"Good Industry Practice"	the exercise of that degree of professionalism, skill, diligence, prudence and foresight which would reasonably and ordinarily be expected from a leading supplier within the relevant industry or business sector
"Incident"	the inability of the Customer to use a normally available facility or function of the SaaS Services due to a fault in the SaaS Services for which Ciphr is wholly responsible under the Agreement
"Incident Priorities"	as specified in https://www.ciphr.com/hubfs/master-service-terms/20072026-mst-v1.1-saas-incident-priorities.pdf
"Intellectual Property"	any and all copyright, database rights, patents trade marks, know-how, trade secrets, domain names and all related rights, neighbouring rights including any rights relating to unauthorised extraction or reutilisation, design rights and any other intellectual property rights, and in each case: (a) whether registered or not; (b) including any applications to protect or register such rights; (c) including all renewals and extensions of such rights or

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	applications; (d) whether vested, contingent or future; and (e) wherever existing
"Master Service Terms"	the terms and conditions set out in the clauses and other provisions of this document (including any schedules, annexes, appendices or other documents referred to or linked to herein)
"Minimum Term"	the minimum term as specified in the Order Form
"Order Form"	the electronic or physical order form (including any schedules, annexes, appendices or other documents referred to or linked to therein) signed by or on behalf of Ciphr and the Customer, setting out the details of the Services to be provided by Ciphr, including any applicable Third Party Software and/or Third Party Service, and incorporating these Master Service Terms (as may be varied by agreement in writing from time to time)
"Professional Services"	any professional services agreed to be provided by Ciphr to the Customer as specified in the Order Form
"Renewal Period"	the renewal period as specified in the Order Form
"SaaS Services"	any software-as-a-service agreed to be provided by Ciphr to the Customer as specified in the Order Form, which shall include the provision for the Customer by Ciphr of the System Environment to allow the Customer over the internet to access and use the Software and, if applicable Third Party Software, subject to the SaaS Service Definition
"SaaS Service Definition"	the SaaS Services support and the service inclusions and exclusions set out in https://www.ciphr.com/hubfs/master-service-terms/20072026-mst-v1.1-saas-service-definition.pdf
"Services"	each of the services, as specified in the Order Form, to be provided by Ciphr under the Agreement (which may include SaaS Services and/or Professional Services)
"Services Commencement Date"	the services commencement date as specified in the Order Form for the relevant Services

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"Service Levels"	the service levels for the SaaS Service set out in https://www.ciphr.com/hubfs/master-service-terms/20072026-mst-v1.1-saas-service-levels.pdf
"Software"	the software applications and processes specified in the Order Form for use by the Customer as part of the SaaS Services under the Agreement (but excluding the Third Party Software)
"Supervisory Authority"	any 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 the Data Protection Legislation
"System Environment"	a system of integrated computer hardware, operating systems software, computer peripherals and facilities provided by Ciphr or its contractors to allow the Customer over the internet to access and use the Software and, if applicable Third Party Software
"System Administrator"	a Customer User who has satisfactorily completed all relevant training and is approved by Ciphr to exercise system administration rights as defined by Ciphr from time to time
"Term"	has the meaning ascribed to it at clause 12.1
"Third Party Applications"	products, services or information that interoperate via an API with the SaaS Services and are provided by third parties, but excluding any Third Party Service and any Third Party Software
"Third-Party AI Systems"	has the meaning given in Annex 1
"Third Party Licence"	the terms and conditions applying to the use of and access to any Third Party Service and/or Third Party Software by the Customer and by Customer Users, including such licensing terms as may apply to the use of any service or software that is provided by such third party to the Customer as part of the Third Party Service and/or Third Party Software
"Third Party Service"	any third party internet accessible service specified in the Order Form under 'Third Party Service' to which Ciphr provides a Third Party Licence or to which Ciphr

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	provides a link or access to, on any SaaS Services website or other communications facilities
"Third Party Service Support"	the support services to be provided by Ciphr in connection with any Third Party Service, as specified in https://www.ciphr.com/hubfs/master-service-terms/20072026-mst-v1.1-third-party-service-support.pdf as updated from time to time
"Third Party Software"	software provided or licensed by a third party to Ciphr as specified in the Order Form under 'Third Party Software' to be installed by Ciphr as part of the SaaS Services at the option or request of the Customer
"Third Party Software Support"	the support services to be provided by Ciphr in connection with any Third Party Software, as specified in https://www.ciphr.com/hubfs/master-service-terms/20072026-mst-v1.1-third-party-software-support.pdf as updated from time to time
"Working Day"	Monday to Friday excluding UK bank and public holidays
"Working Hours"	9am to 5.30pm on a Working Day

1.2 The following rules of interpretation apply to the Agreement:

1.2.1 in the event of any conflict in respect of the provisions of the Agreement and/or the documents referred to therein the following order of priority shall prevail (in descending order of priority):

1.2.1.1 any Third Party Licence;

1.2.1.2 the Order Form; and

1.2.1.3 these Master Service Terms.

1.3 Words importing the singular include the plural, words importing any gender include every gender and words importing persons include bodies corporate and unincorporate and (in each case) vice versa.

1.4 Any words that follow 'include', 'includes', 'including', 'in particular' or any similar words and expressions shall be construed as illustrative only and shall not limit the sense of any word, phrase, term, definition or description preceding those words.

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- 1.5 A reference to specific legislation is a reference to that legislation as amended, extended, re-enacted or consolidated from time to time and a reference to legislation includes all subordinate legislation made as at the date of the Agreement under that legislation,
- 1.6 A reference to 'writing' or 'written' includes any method of reproducing words in a legible and non-transitory form (including email).
- 1.7 References to clauses are to the clauses of these Master Service Terms.
- 1.8 Ciphr and the Customer are together the **Parties** and each a **Party**, and a reference to a 'Party' includes that party's successors and permitted assigns.

2. Ciphr key responsibilities

2.1 Ciphr shall:

- 2.1.1 provide all of the Services with all reasonable skill and care and in accordance with Good Industry Practice and applicable law;
- 2.1.2 use suitably skilled and trained personnel to carry out the Services; and
- 2.1.3 ensure it has and will maintain all necessary licences, consents, and permissions necessary for the performance of its obligations under the Agreement.

2.2 In respect of any SaaS Services, Ciphr shall:

- 2.2.1 from the Services Commencement Date, provide or procure the provision of the SaaS Services in accordance with and subject to the Service Levels and Incident Priorities;
- 2.2.2 where specified in the Order Form, with the full co-operation and assistance of the Customer, incorporate any Customer Data and/or Customer Content into the SaaS Services; and
- 2.2.3 with the full co-operation and assistance of the Customer install and provide access to any Third Party Software which Ciphr has agreed to host on the SaaS Services.

- 2.3 Except as expressly and specifically provided in the Agreement: (a) Ciphr does not represent, warrant or undertake that the Services will be fit for purpose or will always be available, accessible, uninterrupted,

timely, secure, accurate, complete, error-free, or will operate without packet loss; and (b) the SaaS Services are provided to the Customer on an "as is" basis. Without prejudice to Ciphr's obligations set out in the Service Levels or otherwise in the Agreement, the Customer acknowledges and agrees that the SaaS Services may be subject to delays, interruptions, errors or other problems resulting from use of the internet or public electronic communications networks used by the Parties or third parties and that such risks are inherent in cloud services and that Ciphr shall have no liability for any such delays, interruptions, errors or other problems or losses.

- 2.4 Where the Order Form specifies that an application programming interface ("API") is being provided by Ciphr under the Agreement, the Customer may elect to use such API to integrate the SaaS Services with Third Party Applications. The Customer is solely responsible for any Third Party Applications that it uses, interoperates or integrates with the SaaS Services and such use shall be solely governed by any licence, service and/or privacy terms and conditions between the Customer and the provider of the applicable Third Party Application. Ciphr assumes no liability for, and specifically disclaims any liability with respect to, any Third Party Applications whether they are recommended by Ciphr or otherwise, and including where the provider of a Third Party Application ceases to make the Third Party Application available for interoperation with the SaaS Services for any reason whatsoever.
- 2.5 Notwithstanding any other clause of the Agreement, where the Order Form specifies that a Third Party Service and/or any Third Party Software is being provided via Ciphr under the Agreement, then the Customer agrees that: (i) Ciphr shall have no liability to the Customer in respect of the Third Party Service and Third Party Software (except for the provision of any Third Party Service Support and/or Third Party Software Support); (ii) without prejudice to the generality of the foregoing, **clause 2.1** and **clause 2.2** shall not apply in respect of the Third Party Service and Third Party Software; and (iii) it shall comply with the terms of each applicable Third Party Licence, which shall govern the Customer's use of the Third Party Service and/or Third Party Software.
- 2.6 Ciphr shall use its reasonable endeavours to meet any performance dates specified in the Order Form but any such dates shall be estimates only and time for performance by Ciphr shall not be of the essence of the Agreement.

- 2.7 The Parties agree that Ciphr Personnel shall at all times remain the employees or contractors of Ciphr (or its Affiliate) and shall remain under the overall control of Ciphr (or its Affiliate). Ciphr and the Customer acknowledge and agree that Ciphr Personnel are not employees of the Customer, nor shall anything in the Agreement deem them employees of the Customer.

3. Customer key responsibilities

- 3.1 The Customer shall, subject to and in accordance with the Agreement:
- 3.1.1 obtain maintain and provide to Ciphr all necessary authorisations consents, licences and services required for Ciphr to possess, install, operate, maintain, host, use or integrate any third party system or software (not being Third Party Software or part of the System Environment) required by the Customer for use in conjunction with the Services;
 - 3.1.2 comply with all applicable laws with respect to its activities under the Agreement;
 - 3.1.3 if applicable, deliver in a timely manner any Customer Content and any required updates of Customer Content to Ciphr for inclusion in the Services;
 - 3.1.4 promptly provide Ciphr with any information and assistance which it may reasonably require from time to time to enable Ciphr to perform its obligations under the Agreement;
 - 3.1.5 procure and/or supply, and if necessary, install, support and maintain all software, licences, hardware, network infrastructure, services and environmental and operational conditions that may be required from time to time by the Customer to connect to and access the internet for the purpose of accessing the Services;
 - 3.1.6 be liable for all acts and omissions of its Affiliates and the Customer Users in respect of the Services and procure that its Affiliates and all Customer Users are aware of, and comply with, the obligations and restrictions imposed on the Customer under the Agreement;
 - 3.1.7 promptly notify Ciphr in writing of any changes the Customer requires to any System Administrators authorised by Ciphr to have access to the SaaS Services (including

when System Administrators cease to be employed or engaged by the Customer or an Affiliate (as the case may be) such that they are no longer entitled to be System Administrators);

- 3.1.8 ensure that it responsibly manages access rights (including individualised login and password information) to the SaaS Services by the Customer Users and System Administrators and promptly revoke such access rights where a Customer User or System Administrator is no longer entitled to access the SaaS Services;
- 3.1.9 ensure that the Customer Users using any SaaS Services, and any applicable Third Party Software or Third Party Service, on or in connection with the SaaS Services are trained to use them competently; and
- 3.1.10 ensure that only Customer Users operate the SaaS Services, and any applicable Third Party Software and Third Party Service and at all times in accordance with the Agreement and any Third Party Licences (as applicable) and any operating procedures, guidelines, codes of conduct and processes reasonably specified from time to time by Ciphr or, in the case of any Third Party Service or Third Party Software, as specified by the relevant third party licensor.

3.2 The Customer acknowledges and agrees that:

- 3.2.1 the Services have not been developed to meet the Customer's individual requirements and it is therefore the responsibility of the Customer to ensure that the facilities and functions as described in any documentation or pre-sales discussions meets its requirements prior to agreeing the Order Form;
- 3.2.2 without prejudice to **clause 3.2.1**, it has selected the Services as the most suitable for its needs taking into account considerations of functionality, performance and price prior to selecting the Services (and each component thereof); and
- 3.2.3 Ciphr's ability to deliver the Services depends upon the Customer's timely cooperation and prompt response to issues or requirements referred to it in connection with the Services, as well as the accuracy and completeness of any

information the Customer provides. Ciphr shall not be in breach of the Agreement to the extent that such breach is caused by a failure by the Customer to fulfil an activity set out or referred to in the Agreement to be performed by the Customer on which Ciphr's performance of its other obligations under the Agreement may depend.

- 3.3 To the extent that the Customer provides Ciphr access to Customer premises or facilities in connection with the Agreement, the Customer shall comply with its obligations under applicable health and safety regulations with respect to the provision of such access and facilities to Ciphr.
- 3.4 In relation to its use of the Services, the Customer acknowledges and agrees that it is solely responsible for paying any taxes duties and tariffs applicable in any way to its use of the Services (other than taxes on the net income of Ciphr).
- 3.5 To the extent that any Customer Users are employees, agents and/or independent contractors of an entity who is an Affiliate of the Customer, the Customer shall ensure that such Customer Users authorisation to access the Services ceases at the point at which the relevant entity is no longer an Affiliate of the Customer.

Use of Third-Party AI Systems

- 3.6 Subject to and in conformance with the rest of the Agreement, the Customer acknowledges and agrees that, to the extent it opts into the use of Third-Party AI Systems, the provisions of Annex 1 will apply. Where there is any conflict between a provision of Annex 1 and a provision contained within the main body of this Agreement, the provision in Annex 1 shall apply in respect of the Customers use of Third-Party AI Systems.

4. Fees and payment

- 4.1 The Fees shall be invoiced to and paid by the Customer in accordance with the applicable payment profile set out in the Order Form.
- 4.2 Invoices and payments shall be in Pounds Sterling (£) unless otherwise agreed. Except as set out in the Order Form, all payments shall be made by the Customer within 14 days of the date of the appropriate tax invoice issued by Ciphr. Ciphr shall be entitled to vary the Fees in accordance with the terms set out in the Order Form.

- 4.3 Unless otherwise agreed in the Order Form, the Fees for all Professional Services shall be charged on a time and materials basis. Any estimated fee shall be given by Ciphr in good faith and is based on the number of days estimated by Ciphr as being required for the provision of the relevant agreed Professional Services. Subject to **clause 4.7**, Ciphr shall be entitled to charge the Customer for any additional days required in order to complete the provision of agreed Professional Services. Ciphr shall also be entitled to charge for additional days attributable to any changes agreed by the Parties to the Professional Services to be delivered under the Agreement or any breach of the Agreement by the Customer.
- 4.4 Unless otherwise agreed in the Order Form, all Professional Services shall be delivered by Ciphr on a remote basis. If the Customer requests and Ciphr agrees to provide Professional Services on-site and/or on a face-to-face basis, the Customer shall reimburse Ciphr for any reasonable expenses necessarily incurred by Ciphr in connection with the provision of such on-site and/or face-to-face Professional Services.
- 4.5 The Fees are exclusive of Value Added Tax or other Government imposed excises or taxes (if any) which shall be paid by the Customer at the rate and in the manner for the time being prescribed by law. All sums payable to Ciphr under the Agreement shall be paid free and clear of all deductions or withholdings unless the deduction or withholding is required by law. If any deduction or withholding is required by law to be made from any such sum the Customer shall pay such additional amount as shall be required to ensure that the net amount received by Ciphr will equal the full amount which would have been received by it had no such deduction or withholding been made.
- 4.6 Except where otherwise agreed by the Parties in writing, all Professional Services shall be provided during Working Hours. Where the parties agree that Professional Services are to be provided outside Working Hours, the prices payable for such services shall be as agreed between the parties in writing.
- 4.7 As soon as practicable upon becoming aware that the number of days estimated for the provision of any agreed Professional Services will need to be exceeded to enable the relevant Professional Service to be completed or delivered Ciphr shall notify the Customer of the fact and the reasons therefor and provide to the Customer Ciphr's reasonable estimate of the additional days required to complete the provision of the relevant Professional Service. Ciphr shall not be entitled to invoice the Customer for any days in excess of those estimated with respect to

any Professional Service without the consent of the Customer provided that the Customer acknowledges and accepts that the withholding of any such consent by it may result in the relevant Professional Services not being completed or delivered.

- 4.8 Once a date for the delivery of any Professional Services has been agreed by the Customer and Ciphr then any cancellation by the Customer or Ciphr shall be in accordance with Ciphr's cancellation policy as specified <https://www.ciphr.com/hubfs/master-service-terms/20072026-mst-v1.1-cancellation-policy.pdf>. Ciphr reserves the right to cancel or postpone any Professional Services in the event of circumstances beyond its control, in which case its liability will be limited to refunding any Fees paid in respect of the delivery of those Professional Services on that date if a rescheduled date cannot be agreed.
- 4.9 The Customer acknowledges and agrees that if any invoice (not subject to a Dispute Notice) is not paid on the due payment date then Ciphr shall be entitled to notify the Customer in writing of such non-payment and in the event that the Customer fails to remedy such non-payment within 7 Working Days of the date of Ciphr's written notice, Ciphr shall be entitled to immediately suspend its provision of the Services to the Customer (without prejudice to Ciphr's rights under **clause 12.2.3**) unless and until the relevant invoice is paid by the Customer in full. The Customer shall indemnify Ciphr against all legal and other fees and expenses incurred or charged by it in relation to the collection of any overdue accounts under the Agreement or to re-activate any Service suspended under this **clause 4.9**.

5. Intellectual property and rights to use

- 5.1 Unless otherwise stated in the Order Form, the Customer acknowledges and agrees that the Ciphr Intellectual Property and all Intellectual Property in any Third Party Software and Third Party Service shall remain the exclusive property of Ciphr or the relevant third party owner (as applicable) and the Customer shall have no rights in respect thereof save as may be granted to it by Ciphr pursuant to the Agreement or in accordance with any licence or agreement which Ciphr may enter into with the Customer from time to time. To the extent that the Customer or any of its Affiliates, acquires any Intellectual Property rights in the Ciphr Intellectual Property or any Third Party Software or Third party Service, the Customer shall assign or procure the assignment of such Intellectual Property rights with full title guarantee (including by way of present assignment of future Intellectual Property rights) to Ciphr or such third party as Ciphr may elect. The Customer shall execute all

such documents and do such things as Ciphr may consider necessary to give effect to this **clause 5.1**. The Customer agrees to use the Ciphr Intellectual Property only as provided in the Agreement and to not use it to develop services, software or products for third parties or for any other purpose.

5.2 In consideration of the payment of the Fees applicable to any SaaS Services, Ciphr hereby grants to the Customer:

5.2.1 (unless otherwise agreed in writing) a non-exclusive, non-transferable, non-sublicensable, licence for the Customer Users to access the System Environment to use the Software and Third Party Software during the Term for the purposes of using the SaaS Services for the Customer's internal business purposes only; and

5.2.2 a non-exclusive, perpetual, non-transferable, non-sublicensable licence to possess and use the Derived Data Reports provided always that, subject to **clause 5.4**, the Customer:

5.2.2.1 shall comply with any conditions or restrictions (third party or otherwise) notified to the Customer that apply to the Derived Data Reports;

5.2.2.2 shall not copy or use the Derived Data Reports to create a complete or material reconstruction of any Database; and

5.2.2.3 shall not use the Derived Data Reports to provide any service competing with the Services.

5.3 The Customer grants to Ciphr a non-exclusive, royalty free, licence to use the Customer Content and Customer Data solely for the purpose of Ciphr providing the Services and otherwise exercising its rights and discharging its obligations under the Agreement.

5.4 Ciphr acknowledges and agrees that any Intellectual Property arising in the Customer Content and Customer Data belongs exclusively to the Customer (or a third party licensor) and for the avoidance of doubt Ciphr asserts no claim pursuant to the Agreement inconsistent with any such proprietary rights. No term of the Agreement purports to restrict the Customer's use of the Customer Content or Customer Data.

5.5 The Customer shall:

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- 5.5.1 not remove or interfere with any of the Ciphr Intellectual Property used within the Services (including any trade marks, copyright or any trade mark or copyright notices affixed or installed by Ciphr on any Services);
 - 5.5.2 without prejudice to the foregoing, take all such other reasonable steps to protect the Confidential Information (as defined below) and the Ciphr Intellectual Property in its possession or control from access, use or copying not authorised by the terms of the Agreement.
- 5.6 To the extent that any of the Customer's trade marks or copyright are used in relation to any Services, Ciphr shall not, without the prior written consent of the Customer, remove or interfere with any such trade marks, copyright or any trade mark or copyright notices displayed on any Services.
- 5.7 If, at any time that Ciphr is providing SaaS Services to the Customer, the Customer requests that Ciphr provide it with a copy of the Customer Data held by Ciphr on the SaaS Services, Ciphr shall provide the Customer with a copy of such Customer Data as at the date of the request (or at such other date as is agreed), provided that Ciphr shall have at least 30 days to undertake the request and the Customer shall have paid to Ciphr:
 - 5.7.1 any data transfer fee specified for such data transfer from time to time or as otherwise agreed (together with the cost of any medium upon which such data is transferred);
 - 5.7.2 all other invoices issued by Ciphr with respect to the Services provided to the Customer; and
 - 5.7.3 any fees or charges at Ciphr's then applicable rates raised by Ciphr for the provision of any assistance reasonably requested by the Customer and provided or to be provided by Ciphr in connection with the transfer of such Customer Data.
- 5.8 Ciphr is always looking at ways to improve usability of the SaaS Services and improve its customers' experiences. Subject to Ciphr's compliance with **clause 11** (Confidentiality) and **clause 14** (Data protection), Ciphr may monitor the Customer's use of the SaaS Services and may anonymise SaaS Services usage data and the Customer Data in order to compile Anonymised Data. As between Ciphr and the

Customer, all right, title, and interest in such Anonymised Data, and all Intellectual Property therein, shall belong to Ciphr.

6. Intellectual property indemnity

6.1 Subject to **clauses 6.2, 9.1.1 and 9.1.2.1**, Ciphr shall indemnify the Customer and its Affiliates against all losses, liabilities, costs (including legal costs on an indemnity basis) and reasonable expenses arising out of any claim made by a third party under English law that the use by the Customer (or its Affiliates) of any of the Services infringes, any third party Intellectual Property rights (an “**IPR Infringement Claim**”) provided that the Customer:

- 6.1.1 shall notify Ciphr in writing without undue delay and providing reasonable details of the IPR Infringement Claim, as soon as they become aware of it;
- 6.1.2 allows Ciphr to have exclusive conduct (at Ciphr’s expense) of the defence of the IPR Infringement Claim and/or negotiations for a settlement or compromise; and
- 6.1.3 does not make any admission, or otherwise attempt to compromise or settle the IPR Infringement Claim and provides Ciphr (at the reasonable expense of Ciphr) all reasonably necessary assistance as and when requested by Ciphr in the defence settlement or compromise of the IPR Infringement Claim.

6.2 Ciphr shall have no liability to defend any action or claim or indemnify the Customer or its Affiliates in connection with any IPR Infringement Claim to the extent the same arises from:

- 6.2.1 the combination, connection, operation or use of the Services with any software, hardware, services or materials not supplied or approved for such combination, connection, operation or use by Ciphr;
- 6.2.2 use of any Third Party Service, Third Party Software or Third Party Application;
- 6.2.3 a modification of the Services by anyone other than Ciphr;
- 6.2.4 the Customer’s use of the Services after notice of the alleged or actual infringement from Ciphr;

- 6.2.5 any use of the Services by an entity who was an Affiliate of the Customer, but who, at the time of receipt of the IPR Infringement Claim, is no longer an Affiliate of the Customer;
 - 6.2.6 the Customer's use of the Services in a manner contrary to the Agreement; or
 - 6.2.7 the Customer's breach of the Agreement.
- 6.3 If any IPR Infringement Claim is made, or in Ciphr's reasonable opinion it is likely that a third party may allege or claim that the use of the Services infringes its proprietary rights, Ciphr may:
- 6.3.1 procure for the Customer the right to continue using the Services; or
 - 6.3.2 replace or modify the Services so that it becomes non-infringing; or
 - 6.3.3 if the remedies at clauses 6.3.1 and 6.3.2 are not reasonably available, subject to clause 6.4, and without prejudice to its obligations at clause 6.1, terminate the Agreement on giving written notice to the Customer without any additional liability or obligation to pay liquidated damages or other damages or costs to the Customer.
- 6.4 In the event that Ciphr exercises its right to terminate the Agreement pursuant to **clause 6.3.3**, Ciphr shall refund any pre-paid Fees on a pro-rata basis, within 30 days of the effective date of termination.

7. Services use

- 7.1 The Customer represents, warrants and undertakes that all Customer Content:
- 7.1.1 is owned by the Customer or that the Customer has permission from the rightful owner to use such Customer Content in the Services in the manner and for the purposes required or approved by the Customer from time to time; and
 - 7.1.2 is in no way whatsoever a violation or infringement of any third party Intellectual Property right, right of privacy or publicity or any other rights of any person and that it is not offensive, abusive, defamatory, obscene, menacing or in

any other way unlawful and will not in any way inhibit restrict or impair the free and/or unrestricted performance by Ciphr of any rights or obligations it has under the Agreement.

7.2 The Customer represents, warrants and undertakes that:

- 7.2.1 it possesses the legal right and ability to enter into and comply with the Agreement and any licence conditions attaching from time to time to any Third Party Licence;
- 7.2.2 it will use the Services and, if applicable, any Third Party Software or Third Party Service for lawful purposes only and in accordance with all applicable laws and regulations;
- 7.2.3 except as may be permitted by law, it will not attempt to decompile, reverse engineer or hack any website or computer network Ciphr uses in connection with the Services, Third Party Software or any Third Party Service or to defeat or overcome any encryption and/or other technical protection methods implemented by Ciphr with respect to any such website or network and/or data transmitted, processed or stored by Ciphr or other users of such website or network;
- 7.2.4 it will not use any automatic or manual device or process nor take any steps (including penetration testing, without the prior written authority of Ciphr) to interfere with or in any manner compromise any security measures or the proper working of any website or computer network Ciphr uses in connection with the Services or any Third Party Service;
- 7.2.5 it will ensure that Customer Users do not use any other individual's or entity's login or identity or any unauthorised or inadequately licensed computer, device or facility to access or use the Services or any website or computer network Ciphr uses in connection with the Services or any Third Party Service and that only System Administrators login and exercise System Administrator rights and privileges on any such website or network;
- 7.2.6 it will not collect any information or communication about Ciphr or other users of Services or any Third Party Service

- by monitoring or intercepting any process of the Services or any applicable Third Party Software or Third Party Service;
- 7.2.7 it will not use any facility, device, software code or software instruction that is designed or intended to be used to provide a means of surreptitious or unauthorised access or that is designed or intended to distort, delete, damage or disassemble the Services, any applicable Third Party Software or Third Party Service or any website or computer network Ciphr uses in connection with the same;
- 7.2.8 it will not use the Services, any applicable Third Party Software or Third Party Service to develop, generate, transmit or store information that infringes any third party's Intellectual Property rights or other proprietary right or is defamatory, harmful, abusive, obscene or hateful or transmits any unsolicited commercial communication not permitted by applicable law or constitutes harassment or a violation of privacy or threatens others or impersonates any other person or steals or assumes any person's identity (whether a real identity or online nickname or alias); and
- 7.2.9 if requested by Ciphr on reasonable grounds it will provide, based on its knowledge, information and belief having made all reasonable enquiries, true, accurate, current and complete information on its use of any website or computer network Ciphr uses in connection with the SaaS Services.
- 7.3 Without prejudice to any other rights and remedies of Ciphr, if Ciphr has reasonable grounds to suspect that the Customer's representations, warranties or undertakings are materially inaccurate or untrue (a "**Suspension Event**"), Ciphr may immediately suspend the customer's access to and/or Ciphr's performance of the Services and Ciphr shall inform the Customer of any such action taken, together with the reason. Upon any suspension of the Services pursuant to this **clause 7.3**, Ciphr shall promptly investigate the Suspension Event and where (acting reasonably and in good faith) Ciphr finds that the applicable representations, warranties and/or undertakings are:
- 7.3.1 not materially inaccurate or untrue, Ciphr shall promptly reinstate the Customer's access to and/or Ciphr's performance of the Services; or

- 7.3.2 materially inaccurate or untrue, Ciphr may, on written notice to the Customer and with immediate effect, terminate the Agreement.
- 7.4 The Customer hereby agrees to hold harmless, indemnify and defend Ciphr, its Affiliates and its subcontractors against any claims, actions, proceedings, losses, damages, expenses and costs (including court costs and legal fees on a full indemnity basis) arising out of or in connection with any breach by the Customer of its obligations under this **clause 7** or from any use by Ciphr of the Customer Content as authorised by the Customer.
- 7.5 This clause 7 shall survive any termination of the Agreement.

8. Dispute resolution

- 8.1 Any dispute arising between the Parties out of or in connection with the Agreement shall be dealt with in accordance with the provisions of this **clause 8**.
- 8.2 The dispute resolution process may be initiated at any time by either Party serving a notice in writing on the other Party that a dispute has arisen (a "**Dispute Notice**"). The Dispute Notice must include reasonable information as to the nature of the dispute.
- 8.3 The Parties shall use reasonable endeavours to reach a negotiated resolution through the following procedures:
 - 8.3.1 within 7 days of service of the Dispute Notice, the contract managers (or persons of equivalent seniority) of the Parties shall meet to discuss the dispute and attempt to resolve it; and
 - 8.3.2 if the dispute has not been resolved within 7 days of the first meeting of the contract managers, then the matter shall be referred to a director (or person of equivalent seniority) of each of the Parties. The directors (or equivalent) shall meet within 7 days to discuss the dispute and attempt to resolve it.
- 8.4 If the dispute has not been resolved within 14 days of the first meeting of the directors (or equivalent) under **clause 8.3.2**, then the Parties may agree to refer the matter to the Centre for Effective Dispute Resolution (CEDR) for mediation in accordance with its then current procedures.

8.5 Until the Parties have completed the steps referred to in **clauses 8.3 and 8.4**, and have failed to resolve the dispute, neither Party shall commence formal legal proceedings except that either Party may at any time seek urgent interim relief from the courts.

9. Liability and limitations

CUSTOMER'S ATTENTION IS EXPRESSLY DRAWN TO THE PROVISIONS OF THIS CLAUSE.

The Customer and Ciphr have entered into the Order Form after due consideration and in the knowledge that the liability of Ciphr is to be limited in accordance with the terms of this **clause 9** and that the Fees have been set accordingly. The Customer acknowledges that a higher price would have been payable by the Customer but for such limitations of liability.

9.1 Limitation of liability.

9.1.1 Subject to **clause 9.5**, Ciphr shall not in any circumstances be liable whether in contract, tort (including for negligence and breach of statutory duty howsoever arising), misrepresentation (whether innocent or negligent), restitution or otherwise, for:

- a) any indirect, consequential or special losses;
- b) any loss (whether indirect or direct) of profits, business opportunities, revenue, turnover, reputation or goodwill;
- c) any loss (whether indirect or direct) of anticipated savings or wasted expenditure (including management time); or
- d) any loss or liability (whether indirect or direct) under or in relation to any other contract.

9.1.2 Subject to **clauses 9.5 and 9.6**, Ciphr's total aggregate liability to the Customer, its Affiliates and the Customer Users, in contract, tort, (including for negligence and breach of statutory duty howsoever arising), misrepresentation (whether innocent or negligent), restitution or otherwise, in respect of:

9.1.2.1 all breaches by Ciphr of confidentiality (including **clause 11** (Confidentiality)) and/or any claims arising under the indemnity at **clause 6** (intellectual

property indemnity), shall not exceed, in aggregate, one million pounds (£1,000,000); and

9.1.2.2 all breaches of duty occurring within any Contract Year that do not fall within **sub-clause 9.1.2.1** shall not exceed in aggregate a sum equal to the greater of five thousand pounds (£5,000) and one hundred per cent (100%) of the total Fees paid in the Contract Year in which the breaches of duty arose.

- 9.2 The Customer acknowledges and agrees that Ciphr has no control over the content of any Customer Data or Customer Content (including any such Customer Data or Customer Content in the Derived Data Reports) hosted or provided as part of the Services and, if applicable, any Third Party Service. The Customer shall ensure (and is exclusively responsible for) the accuracy, quality, integrity, reliability, fitness for purpose and any other use it makes of the Customer Data, Customer Content and Derived Data Reports under the Agreement.
- 9.3 Ciphr does not give any opinions or advice concerning the use or non-use of any data, reports or information provided or available to the Customer through its use of the Services, or any applicable Third Party Service, including whether such data, reports or information meet the Customer's individual needs, whether or not such needs have been communicated to Ciphr. Such data, reports or information may need further expert or specialist advice or interpretation to be obtained by the Customer before they can be fully or partly understood or assessed or use made of or reliance placed on them.
- 9.4 Unless a Party (the "**Claiming Party**") notifies the other Party that it intends to make a claim in respect of an event within 6 months of the day on which the Claiming Party became, or ought reasonably to have become, aware of the event having occurred, the other Party shall have no liability for that event. The notice must be in writing and must identify the event and the grounds for the claim in reasonable detail. The Parties acknowledge and agree that notice of a claim under this clause shall entitle but not oblige a Party to bring a claim and once notified nothing in this clause shall compromise or affect either Party's limitation rights provided under applicable law.
- 9.5 Nothing in the Agreement shall exclude or limit the liability of either Party, for fraudulent misrepresentation, fraud or death or personal injury caused by its negligence or the negligence of their employees or

any liability for any implied terms which cannot be excluded or limited by law or any liability which cannot be excluded or limited by law.

- 9.6 Without prejudice to Ciphr's obligations pursuant to **clauses 11 (Confidentiality)** and **13 (Data Protection)**, in the event of any loss or corruption to Customer Data, Ciphr agrees to restore the lost or corrupt Customer Data from the latest back-up available of such Customer Data that is maintained by Ciphr in accordance with the SaaS Service Definition. The foregoing obligation shall not apply to the extent that any such loss or corruption of Customer Data (or the circumstances giving rise to it) are contributed to or caused by any breach of the Agreement by the Customer, unless the Customer agrees in writing to pay Ciphr's reasonable fees in respect of the restoration works. Subject to clauses 9.5, and without Prejudice to Ciphr's obligations pursuant to **clauses 11 (Confidentiality)** and **13 (Data Protection)**, this **clause 9.6** shall be the Customer's sole and exclusive remedy for any loss or corruption to any Customer Data under the Agreement provided that Ciphr has complied with its back-up obligations described within the SaaS Service Definition.
- 9.7 Other than as expressly set out in the Agreement, and subject to **clause 9.5**, all warranties, representations, conditions, terms, undertakings or obligations implied by statute or common law are (to the fullest extent permitted by applicable law) excluded from the Agreement.
- 9.8 The Customer and Ciphr agree that the provisions of this **clause 9** are fair and reasonable in light of the amounts to be paid by the Customer, the nature of the Services or, if applicable, any Third Party Service, the strength of the bargaining position of each Party, the alternative ways the Customer's needs could have been met and the potential benefits and risks for both Parties in entering into the Agreement.

10. Force majeure

- 10.1 Notwithstanding any other terms of the Agreement and to the maximum extent permitted by law, subject to **clause 10.2**:
- 10.1.1 neither Party shall be in breach of the Agreement nor liable for any delay in performing its obligations under the Agreement or the Order Form except in respect of payment if such delay is caused by circumstances beyond its reasonable control; and

- 10.1.2 the performance of the affected Party's obligations shall be suspended during the period that the relevant circumstances persist and, if applicable to any obligation under the Agreement, the affected Party shall be granted an extension of time for performance equal to the period of the delay.

10.2 The affected Party shall:

- 10.2.1 as soon as reasonably practicable after the start of the relevant circumstances but no later than 3 days from its start, notify the other Party in writing of such circumstances, the date on which such circumstances started, and the likely or potential duration and effect of the circumstances on its ability to perform any of its obligations under the Agreement; and
- 10.2.2 use all reasonable endeavours to mitigate the impact of such circumstances on the performance of its obligations and to recommence performance of its obligations under the Agreement as soon as reasonably possible.

- 10.3 Where the circumstances beyond the reasonable control of a Party as detailed in **clause 10.1** continue for a continuous period of 45 days, either Party shall have the right to terminate the Agreement on 14 days' prior written notice to the other Party.

11. Confidentiality

11.1 For the purposes of this clause 11:

- 11.1.1 "**Disclosing Party**" means a Party (or its Affiliates) which discloses or makes available directly or indirectly its Confidential Information; and the term "**Receiving Party**" means a Party (or its Affiliates) which receives or obtains directly or indirectly Confidential Information;
- 11.1.2 "**Confidential Information**" means:
 - a) all information in tangible or intangible form which (however it is conveyed) is provided by the Disclosing Party under or in connection with the Agreement and relates to the operations, business, affairs, developments, intellectual property rights, trade secrets, know-how and/or personnel of the Disclosing Party Group and includes the Disclosing Party Group's software or hardware products and the marketing or promotion thereof, the Disclosing

Party Group's business policies, plans or practices, its personnel, customers or suppliers and information received from others that the Disclosing Party is obligated to treat as confidential;

- b) all other information in tangible or intangible form disclosed by the Disclosing Party pursuant to the Agreement that is clearly designated as being confidential or that ought reasonably to be considered to be confidential (whether or not it is so marked) which comes (or has come) to the Receiving Party's attention or into the Receiving Party's possession in connection with the Agreement.
- c) discussions, negotiations, and correspondence between the Disclosing Party and any of its directors, officers, employees, consultants or professional advisers and the Receiving Party or any of its directors, officers, employees, consultants and professional advisers in connection with the Agreement and all matters arising therefrom;
- d) information derived from any of clauses 11.1.2 (a), (b) and (c) ;
and
- e) Customer Data.

11.1.3 **"Disclosing Party Group"** means (a) where the Disclosing Party is Ciphr, Ciphr and any Affiliates of Ciphr; and (b) where the Disclosing Party is the Customer, the Customer and any Affiliates of the Customer.

11.1.4 Confidential Information shall not include any information, however designated, that:

- 11.1.4.1 is or subsequently becomes publicly available without the Receiving Party's breach of any obligation owed to the Disclosing Party.
- 11.1.4.2 became known to the Receiving Party prior to the Disclosing Party's disclosure of such information to the Receiving Party pursuant to or prior to or in contemplation of the Agreement;
- 11.1.4.3 became known to the Receiving Party from a source other than the Disclosing Party other than by the breach of an obligation of confidentiality owed to the Disclosing Party;

11.1.4.4 is independently developed by the Receiving Party without use of the Disclosing Party's Confidential Information; or

11.1.4.5 constitutes Suggestions (as defined in **clause 11.11**).

11.2 If any Party has any doubts about what constitutes Confidential Information then such Party agrees to consult with the other Party before acting in any manner that may breach its obligations under the Agreement.

11.3 The Receiving Party shall:

- 11.3.1 not use the Disclosing Party's Confidential Information for any purpose other than to exercise its rights and/or perform its obligations under or in connection with the Agreement;
- 11.3.2 take reasonable security precautions, at least as great as the precautions it takes to protect its own confidential information, but no less than reasonable care, to keep confidential the Confidential Information of the Disclosing Party;
- 11.3.3 disclose the Confidential Information of the Disclosing Party only to those of its, and its Affiliates', directors, employees, contractors and professional advisers ("**Permitted Recipients**") who reasonably require access to it for the purposes contemplated by the Agreement or as otherwise reasonably necessary for the provision or receipt of the Services, or any Third Party Service where applicable; and
- 11.3.4 ensure that any Permitted Recipient to whom it discloses Confidential Information as permitted by the Agreement is made aware of the obligations of confidence set out in this **clause 11** and the Receiving Party shall, at all times, it is responsible for such Permitted Recipient's compliance with the confidentiality obligations set out in this **clause 11**.

11.4 The Receiving Party may disclose Confidential Information of the Disclosing Party in accordance with a judicial or other governmental order, provided that the Receiving Party where permitted by applicable law, gives the Disclosing Party reasonable notice prior to such disclosure to allow the Disclosing Party a reasonable opportunity to seek a protective order or equivalent.

- 11.5 The Receiving Party shall notify the Disclosing Party as soon as reasonably possible and without undue delay upon discovery of any unauthorised use or disclosure of Confidential Information or any other breach of this **clause 11** by the Receiving Party or its Permitted Recipients, and will cooperate with the Disclosing Party in every reasonable way to help the Disclosing Party regain possession of the Confidential Information and prevent its further unauthorised use or disclosure.
- 11.6 Upon termination of the Agreement for any reason, the Receiving Party shall, at the Disclosing Party's request, return all originals, copies, reproductions and summaries of all Confidential Information (save in respect of Customer Data which shall be dealt with in accordance with **clause 14.3.4**) and all other tangible materials and devices provided to the Receiving Party as Confidential Information, or at the Disclosing Party's option, destroy and then (if so requested) certify destruction of the same.
- 11.7 The Customer is responsible for maintaining the confidentiality of any passwords which are required to access the Services and any Third Party Service as applicable, and is solely responsible for any damage caused by any unauthorised access from failure to comply with this obligation.
- 11.8 The Parties acknowledge that monetary damages may not be a sufficient remedy for unauthorised disclosure of Confidential Information and that the Disclosing Party shall be entitled, without waiving any other rights or remedies, to such injunctive or equitable relief as may be deemed proper by a court of competent jurisdiction.
- 11.9 All Confidential Information is and shall remain the property of the Disclosing Party. By disclosing Confidential Information to the Receiving Party, the Disclosing Party does not grant any express or implied right to the Receiving Party to or under any patents, copyrights, trademarks, or trade secret information except as otherwise provided herein. The Disclosing Party reserves without prejudice the ability to protect its rights under any such patents, copyrights, trademarks, or trade secrets except as otherwise provided herein.
- 11.10 This **clause 11** shall survive for a period of 10 years after termination of the Agreement.
- 11.11 The Customer, its Affiliates and/or the Customer Users may from time to time provide suggestions, comments or other feedback ("**Suggestions**") to Ciphr concerning the Services. Both Parties agree

that all Suggestions are and shall be given entirely voluntarily. Suggestions, even if designated as confidential by the Customer, shall not, absent a separate written agreement, create any confidentiality obligation owing from Ciphr. Furthermore, except as otherwise provided herein or in a separate subsequent written agreement between the Parties, Ciphr shall be free to use, disclose, reproduce, license or otherwise distribute, and exploit the Suggestions provided to it as it sees fit, entirely without obligation or restriction of any kind on account of Intellectual Property or otherwise.

12. Term and termination

12.1 Unless otherwise stated in the Order Form, the Agreement shall commence on the Effective Date and shall, unless terminated earlier in accordance with its terms, continue for the Minimum Term, and thereafter, the Agreement shall be automatically renewed for the Renewal Period at the end of the Minimum Term and at the end of each Renewal Period, unless either Party gives the other not less than 6 calendar months' written notice of termination to take effect at the expiry of the Minimum Term or the then current Renewal Period, as applicable (and the Minimum Term together with any subsequent Renewal Periods shall constitute the "**Term**").

12.2 Without affecting any other right or remedy available to it, either Party may terminate the Agreement with immediate effect by giving written notice to the other if:

- 12.2.1 the other Party commits a material breach of the Agreement (other than non-payment) which is capable of remedy and that other Party fails to remedy the breach within 30 days after receipt of a written notice giving full particulars of the breach and requiring it to be remedied;
- 12.2.2 the other Party commits a material breach of the Agreement (other than non-payment) which is incapable of remedy;
- 12.2.3 the other Party has failed to pay any amount due under the Agreement (which is not subject to a Dispute Notice) on the due date and remains in default not less than 30 days after being notified in writing to make such payment;
- 12.2.4 the other Party shall have a receiver or administrative receiver appointed or shall pass a resolution for winding-up (otherwise than for the purpose of a bona fide scheme of solvent amalgamation or reconstruction) or a court of

competent jurisdiction shall make an order to that effect or if the other Party shall become subject to an administration order (or have an administrator appointed) or shall enter into any voluntary arrangement with its creditors or shall cease or threaten to cease to carry on business.

12.3 Upon termination of the Agreement:

- 12.3.1 all licences granted under the Agreement shall immediately terminate and the Customer shall immediately cease all use of the Services and any Third Party Service as applicable;
- 12.3.2 the Customer shall immediately pay to Ciphr all of Ciphr's outstanding unpaid invoices and interest and, in respect of the Services supplied but for which no invoice has been submitted, Ciphr may submit an invoice, which shall be payable immediately on receipt;
- 12.3.3 the following provisions **clauses 1, 2.5, 4, 5.1, 5.2.2, 5.3 to 5.5, 6 to 9, 11, 12.3, 13 to 15 and 17**, and any provisions specified as surviving in the Order Form will remain in effect;
- 12.3.4 subject as otherwise provided in these terms and to any rights or obligations which have accrued prior to termination, neither Party shall have any further obligation to the other under these terms; and
- 12.3.5 any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination, including the right to claim damages in respect of any breach of the Agreement which existed at or before the date of termination shall not be affected or prejudiced.

13. Employees

13.1 In this **clause 13** and for the purposes of the Agreement:

- 13.1.1 **Incoming Supplier** means the supplier who provides Successor Services.
- 13.1.2 **Losses** means all liabilities, damages, losses, fines, expenses and costs (including all interest, penalties, legal

costs (calculated on a full indemnity basis) and professional costs and expenses).

- 13.1.3 **Successor Services** means services similar to all of the Services, which are to be provided by an Incoming Supplier after the Termination Date.
- 13.1.4 **Termination Date** means the date on which Ciphr ceases to provide the Services (or any part), including on termination or expiry of this Agreement.
- 13.1.5 **Transferring Ciphr Personnel** means those Ciphr Personnel who are assigned to the Services for the purposes of TUPE.
- 13.1.6 **TUPE** means the Transfer of Undertakings (Protection of Employment) Regulations 2006 (as amended).
- 13.2 The parties agree and acknowledge that TUPE does not apply on the commencement of this Agreement and there is no relevant transfer of any employees of the Customer or its Affiliates (or of any sub-contractor of the Customer or its Affiliates) for the purposes of TUPE.
- 13.3 Where any person employed or engaged by the Customer or its Affiliates (or any sub-contractor of the Customer or its Affiliates) claims, or threatens to claim, that their contract of employment or engagement has transferred (whether in whole or in part) to Ciphr or have rights against Ciphr by virtue of TUPE, the Customer shall indemnify Ciphr against all Losses incurred as a result, including (but not limited to) all Losses arising out of:
 - 13.3.1 any failure by the parties to comply with their obligations under TUPE;
 - 13.3.2 any claim arising out of any act or omission of the Customer or its Affiliates (or of any sub-contractor of the Customer or its Affiliates) prior to the alleged transfer;
 - 13.3.3 the employment or engagement of any such person by Ciphr until that relationship is terminated; and
 - 13.3.4 the termination itself.
- 13.4 Where on the Termination Date the Services transfer to the Customer and/or any Incoming Supplier in circumstances where TUPE applies, Ciphr shall co-operate in the transfer of any Ciphr Personnel to the

Customer and/or any Incoming Supplier and **clauses 13.5** and **13.6** shall apply.

13.5 Ciphr shall indemnify the Customer and/or any Incoming Supplier against any Losses arising from any claims brought against the Customer and/or any Incoming Supplier in connection with:

- 13.5.1 any act or omission which occurred or is alleged to have occurred prior to the Termination Date in relation to any Transferring Ciphr Personnel; and
- 13.5.2 any claim that, in relation to any Transferring Ciphr Personnel, there has been a failure to comply with obligations under TUPE save where the failure is due to any failure by the Customer or the Incoming Supplier to comply with its obligations under Regulation 13(4) of TUPE.

13.6 The Customer shall indemnify Ciphr against all Losses arising from the Customer's or the Incoming Supplier's failure to perform and discharge any obligation and against any claims in respect of any Transferring Ciphr Personnel arising from or as a result of:

- 13.6.1 any act or omission by the Customer or the Incoming Supplier relating to any Transferring Ciphr Personnel occurring on or after the Termination Date; and
- 13.6.2 all and any claims in respect of all emoluments and outgoings in relation to the Transferring Ciphr Personnel (including without limitation all wages, bonuses, PAYE, National Insurance contributions, pension contribution and otherwise) accrued and payable after the Termination Date.

14. Data protection

14.1 In this **clause 14** and for the purposes of the Agreement:

- 14.1.1 the Data Protection Legislation ("**DPL**") means:
 - a) the UK Data Protection Act 2018;
 - b) the UK GDPR;
 - c) the EU GDPR; and
 - d) any laws which implement, supplement, replace, extend, re-enact, consolidate or amend any of the foregoing;

- 14.1.2 **"Process/ing", "Personal Data", "Personal Data Breach", "Controller", "Processor", "Supervisory Authority" and "Data Subject"** bear the meanings set out in the DPL;
- 14.1.3 **"EU GDPR"** means the General Data Protection Regulation, Regulation (EU) 2016/679;
- 14.1.4 **"UK GDPR"** has the meaning given to that term in the UK Data Protection Act 2018;
- 14.1.5 for the purposes of the DPL, the:
- a) Duration of Processing shall be for the duration of the Agreement;
 - b) Subject Matter, Nature and Purpose of Processing shall be as defined in **clause 14.3**; and
 - c) Types of Personal Data and categories of Data Subjects shall be determined by the Customer through their use of the Services and may include all types of Personal Data including special categories of Personal Data as determined by the Customer through their use of the Services, examples of which are set out in an appendix to the Order Form ("**Processing Appendix**").
- 14.2 Subject to **clause 14.9**, the Customer hereby provides Ciphr with a general authorisation to allow Ciphr to appoint any third party sub-processor (including, without limitation, any outsource hosting entity that Ciphr may use in connection with the SaaS Services as set out in <https://trust.ciphr.com/> or in any Third Party Licence) ("**Sub-Processors**"). Ciphr shall inform the Customer of any intended changes concerning the addition or replacement of Sub-Processors or the Processing being undertaken, thereby giving the Customer the opportunity to object to such changes. The Customer shall not unreasonably object to the appointment of any Sub-Processor or to any change to the Processing undertaken by any Sub-Processor notified under this clause. In the event the Customer objects to any notified appointment, the Customer shall include the reasons for such objection and the Parties shall, acting promptly and reasonably, discuss the situation. If the Customer has not withdrawn an objection within 28 days of the date of issue, then Ciphr may terminate the Agreement on written notice and with immediate effect.

14.3 The Customer hereby instructs Ciphr and any Sub-Processors to carry out such Processing of Customer Personal Data as is set out in the Agreement (including the Processing Appendix) and reasonably required by Ciphr to perform its rights and/or obligations under the Agreement and Ciphr agrees to Processing Customer Personal Data solely in accordance with such instruction (the "**Permitted Purpose**"), unless applicable law requires Ciphr to Process Customer Personal Data other than in accordance with such instructions, in which case, Ciphr shall (to the extent permitted by law) inform the Customer of any such requirement before carrying out the Processing. The Customer may vary the instruction given by this **clause 14.3** with respect to the Processing of Customer Personal Data at any time by written notice to Ciphr provided that Ciphr shall have no liability of any kind to the Customer for any loss or damage suffered by or claim made by any person against the Customer arising directly or indirectly from Ciphr complying with such notice. Ciphr will inform the Customer if, in its opinion, an instruction infringes the DPL (and may refuse to Process under the purported infringing instruction until the matter is resolved between the Parties). Ciphr shall carry out such operations in compliance with the DPL and shall, without prejudice to the foregoing:

- 14.3.1 taking into account the state of technological development at any time and the cost of implementing any measures take at all relevant times appropriate technical and organisational measures against unauthorized or unlawful processing of Customer Personal Data and against accidental loss or destruction of, or damage to, Customer Personal Data, such measures to ensure a level of security appropriate to the risks represented by the Processing, the harm that may result from a breach of security and the nature of the data to be protected;
- 14.3.2 ensure that any person that it authorises to process the Customer Personal Data (including its staff, agents and subcontractors) shall be subject to a strict duty of confidentiality (whether a contractual duty or a statutory duty);
- 14.3.3 not transfer the Customer Personal Data (nor permit the Customer Personal Data to be transferred) outside of the United Kingdom and the European Economic Area ("**EEA**") unless it takes such measures as are necessary to ensure the transfer is in compliance with applicable DPL, for

example putting in place an appropriate safeguard for such transfer in accordance with Article 46 of the UK GDPR; and

14.3.4 on termination of the Agreement and save to the extent as required otherwise by applicable law or as set out in an Order Form:

- (i) if requested by the Customer in writing on or before termination of the Agreement, ensure the return in a standard back-up CSV file format of the Customer Data in its power, possession or control to the Customer (in respect of which, at least 30 days is required by Ciphr to undertake the request); or
- (ii) in the absence of any such written request, ensure the prompt, secure destruction of the Customer Data in its power, possession or control and shall, if requested by the Customer, certify the same.

If the Customer requires the return of its Customer Data in a specific format other than as specified above, then the requirements of **clause 5.7** shall apply.

14.4 In the event that Ciphr receives a request from a Data Subject and/or any communication from a Supervisory Authority in relation to Customer Personal Data processed by Ciphr pursuant to the Agreement (a “**Request**”), then, Ciphr shall promptly notify such employee of the Customer as is nominated for this purpose of such Request and provide a copy of the Request to the Customer. Ciphr shall provide any reasonable assistance to the Customer (at the Customer’s expense) which is requested by the Customer in writing to enable it to respond to such Requests (and any Requests received directly by the Customer) in accordance with the DPL. The Customer shall deal with all such Requests in accordance with the DPL.

14.5 The Customer acknowledges that it is solely responsible for the creation of all Customer Personal Data upon which Ciphr and any Sub-Processors carries out Processing under the Agreement.

14.6 Ciphr acknowledges that Customer Personal Data in the possession of Ciphr and any Sub-Processors shall at all times remain the property of the Customer. Except as expressly stated herein, the Agreement does not grant Ciphr any rights to, or in, any Intellectual Property Rights or any other rights or licences in respect of the Customer Personal Data.

14.7 Ciphr shall notify the Customer without undue delay if it becomes aware of any unauthorised or unlawful processing, loss of, damage to or destruction of Customer Personal Data and the Customer shall comply with all data breach reporting obligations relating to any such Personal Data Breach in accordance with the DPL. Ciphr shall, in accordance with Article 28 of the UK GDPR, provide reasonable assistance at the Customer's cost (except in relation to a breach by Ciphr) in ensuring compliance with their obligations (pursuant to Articles 32 to 36 of the UK GDPR) taking into account the nature of processing and the information available to Ciphr.

14.8 In acting as the Controller, the Customer:

- 14.8.1 shall ensure it is not subject to any prohibition or restriction which would:
 - 14.8.1.1 prevent or restrict it from disclosing or transferring the Personal Data to Ciphr, as required under the Agreement;
 - 14.8.1.2 prevent or restrict it from granting Ciphr access to the Personal Data, as required under the Agreement; or
 - 14.8.1.3 prevent or restrict Ciphr from Processing the Customer Data as envisaged under the Agreement;
- 14.8.2 warrants that its collection and provision of Customer Personal Data to Ciphr through its use of the Service shall comply with the DPL, including but not limited to, ensuring that it has provided, obtained and maintains all privacy notices (and/or consents or authorisations as applicable) as are required for the Processing of Customer Personal Data by both parties in accordance with the DPL and that Ciphr's processing of Customer Personal Data in accordance with the Agreement shall not put it in breach of any DPL.

14.9 Ciphr shall:

- 14.9.1 ensure that its Sub-Processors provide sufficient guarantees to implement appropriate technical and organisational measures in such a manner that the processing will meet the requirements of Data Protection Laws;

- 14.9.2 ensure that its Sub-Processors are obliged to comply with the conditions referred to in this **clause 14** for engaging another Data Processor; and
 - 14.9.3 remain fully liable for all the acts and omissions of each Sub-Processor as if they were its own.
- 14.10 Ciphr will (at the Customer's reasonable expense) make available to the Customer all information necessary and will allow for and contribute to audits, including inspections, conducted by the Customer (and/ or its duly appointed representatives as agreed by Ciphr, including its appointed auditors), no more than once in any 12 month period (other than where any such audit reveals a material non-compliance with this **clause 14**, in which case additional audits maybe undertaken until Ciphr has no material non-compliance with this **clause 14**), within 20 Working Days of such a request from the Customer, and shall provide reasonable information, assistance and co-operation to the Customer, including access to relevant Ciphr personnel and/or, on the request of the Customer, provide the Customer with such evidence as may be reasonably requested in order to ascertain compliance with the terms of this **clause 14**.
- 14.11 Nothing in the Agreement shall relieve Ciphr of its own direct responsibilities and liabilities under the DPL.
- 14.12 This **clause 14** shall survive until such time as the Customer Data is deleted or returned in accordance with this **clause 14.3.4** notwithstanding any prior termination or expiry of the Agreement.

15. Notices

- 15.1 Any notice given by a Party under the Agreement shall be:
- 15.1.1 in writing and in English;
 - 15.1.2 expressed as a notice (including reference to any specific provisions as applicable) under the Agreement; and
 - 15.1.3 sent to the relevant Party at the address set out on page 1 of an Order Form (or such other address as may be notified to the other Party in writing) and marked for the attention of the Chief Executive Officer; or by email to notices@ciphr.com, in the case of Ciphr, and such email address as is commonly used for correspondence for the purposes of the Agreement, in the case of the Customer.

15.2 Notices may be given, and are deemed received:

- 15.2.1 by hand: on delivery;
- 15.2.2 by first-class Royal Mail Signed For post or a similar signed-for courier service: on the second Working Day after posting;
- 15.2.3 when sent internationally by: Royal Mail International Tracked & Signed post or a similar international tracked and signed-for courier service: on the fourth Working Day after posting;
- 15.2.4 by email: 1 hour from delivery where no notice of delivery failure is received.

15.3 All references to time are to the local time at the place of deemed receipt.

15.4 This **clause 15** does not apply to the service of any proceedings or other documents in any legal action.

16. Compliance

16.1 Ciphr and the Customer each warrants, represents and undertakes to the other that:

- 16.1.1 neither it nor any of its Affiliates nor any Connected Person is, at the time of entering into the Agreement or shall become at any time during the Term, subject to any sanctions, embargoes or similar restrictive measures of any kind whatsoever applicable under the laws of the United Kingdom;
- 16.1.2 in the negotiation of the Agreement it has complied, and in the performance of the Agreement it will comply, with all applicable laws and regulations relating to anti-bribery, anti-tax evasion facilitation and anticorruption including, but not limited to, the Bribery Act 2010, the Modern Slavery Act 2015 and the Criminal Finances Act 2017 (the "**Relevant Requirements**");
- 16.1.3 it has, and will maintain in place throughout the Term, policies and adequate procedures under the Bribery Act 2010, the Modern Slavery Act 2015 and the Criminal Finances Act 2017, to ensure compliance with the Relevant

Requirements and will enforce those policies and procedures where appropriate; and

- 16.1.4 it will promptly report to the other any request or demand for, or offer of, any undue financial or other advantage of any kind received by it in connection with the performance of the Agreement.

16.2 Breach of this clause 16 shall be deemed a material breach of the Agreement for the purposes of clause 12.2.2 above.

16.3 For the purpose of this clause 16, the meaning of:

- 16.3.1 **'adequate procedures'** in respect of the Bribery Act 2010 shall be determined in accordance with section 7(2) of the Bribery Act 2010 (and any guidance issued under section 9 of that Act); and
- 16.3.2 **"Connected Person"** means a person who is an officer, an employee, an agent, a shareholder, a partner or someone otherwise able to exercise an amount of control or influence over a Party or any of its Affiliates.

17. General

17.1 Neither Party has been induced to enter into the Agreement by a statement or promise which it does not contain. The Agreement constitutes the entire agreement between Ciphr and the Customer with respect to the supply of Services and supersedes all previous communications, representations and agreements either written or oral (save for fraudulent misrepresentation) with respect thereto and the Customer agrees that, in entering into the Agreement, either it did not rely on any representations (whether written or oral) of any kind or by any person other than those expressly set out in the Agreement or (if it did rely on any representations, whether written or oral, not expressly set out in the Agreement) that it shall have no remedy in respect of such representations and (in either case) Ciphr shall have no liability otherwise than pursuant to the express terms of the Agreement.

17.2 The Customer may not assign any of its rights or obligations hereunder, whether by operation of law or otherwise, without Ciphr's prior written consent (not to be unreasonably withheld or delayed).

17.3 If the Customer is acquired by, sells substantially all of its assets to, or undergoes a change of control (a **"Change of Control Event"**), then the Customer shall immediately notify Ciphr in writing of the Change of

Control Event. Ciphr may terminate the Agreement upon providing 14 days' written notice where the Change of Control Event is in favour of a direct competitor of Ciphr or any of its Affiliates. In the event of such a termination by Ciphr, Ciphr will refund to the Customer any prepaid Fees after the effective date of such termination. Subject to the foregoing, the Agreement will bind and inure to the benefit of the Parties, their respective successors and permitted assigns.

- 17.4 The Agreement and any dispute or claim arising out of, or in connection with, it, its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with English law and the Parties submit to the exclusive jurisdiction of the English courts.
- 17.5 Each provision of the Agreement shall be construed separately and notwithstanding that the whole or any part of any such provision may be held by any body of competent jurisdiction to be illegal invalid or unenforceable the other provisions of the Agreement and the remainder of the provision in question shall continue in full force and effect. The Parties hereby agree to attempt to substitute for any invalid or unenforceable provision a valid or enforceable provision which achieves to the greatest extent possible the economic legal and commercial objectives of the invalid or unenforceable provision.
- 17.6 During the Term and for a period of 9 months thereafter the Customer shall not (whether personally or by its agent and whether for itself or on behalf of any other person, firm or company) recruit, solicit, induce or seek to induce from the employment of, or engagement by, Ciphr any employee or contractor of Ciphr involved in the performance of the Services or obligations under the Agreement, provided however, that the Customer shall not be precluded from engaging in general recruiting techniques that do not target the employees or contractors of Ciphr and from employing any person responding to such general solicitation.
- 17.7 The relationship of Ciphr to the Customer is solely that of independent contractor, and nothing contained herein is intended or will be construed as establishing an employment, joint venture, partnership, commission agent or other business relationship between the Parties.
- 17.8 Any variation of the Agreement must be in writing, expressly state that it forms part of the contractual arrangements between the Parties and be signed by an authorised representative of each of the Parties. No term or provision hereof will be deemed waived and no breach excused

unless such waiver or consent is in writing and signed by the Party claimed to have waived or consented.

- 17.9 The Customer agrees that Ciphr may refer to the Customer as a customer of Ciphr and as a user of its Services in Ciphr marketing and public relations material. For the avoidance of doubt, this **clause 17.9** does not give either Party the right to disclose Confidential Information.
- 17.10 Save for **clause 6.1** and **clause 7.4** which may be directly enforced by a relevant Affiliate of a Party, the Parties confirm their intent not to confer any rights on any third parties by virtue of the Agreement and accordingly the Contracts (Rights of Third Parties) Act 1999 shall not apply to the Agreement. The rights of the Parties to rescind or vary the Agreement are not subject to the consent of any other person.
- 17.11 Except as expressly provided in the Agreement, the rights and remedies provided under the Agreement are in addition to, and not exclusive of, any rights or remedies provided by law.

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Annex 1 – Use of Generative AI

1. Definitions

- a. In the Annex, unless the context otherwise requires, the following words and expressions shall mean:

"AI-Generated Output" means any content, text, data, code, recommendation, analysis, summary, or other output that is produced in whole or in material part by a Third-Party AI System in the course of Ciphr delivering the Services.

"Applicable AI Legislation" means any law, regulation, regulatory guidance, or binding code of practice governing the development, deployment, or use of artificial intelligence or machine learning system that applies to the provision of the Services from time to time, including (where applicable) the EU AI Act, and any guidance issued by the Information Commissioner's Office or any other relevant competent authority.

"EU AI Act" means Regulation (EU) 2024/1689 of the European Parliament and of the Council of 13 June 2024 as amended or supplemented from time to time.

"High-Risk AI System" has the meaning given to it in the EU AI Act.

"Permitted AI Uses" such uses of any Approved AI System as detailed in the Trust Centre.

"Third-Party AI Provider" means any third-party developer, licensor, or operator of a Third-Party AI System used by Ciphr in the provision of the Services.

"Third-Party AI System" means any artificial intelligence or machine learning system, platform, tool, or model developed, operated, or maintained by a Third-Party AI Provider, including any large language model, generative AI system, or automated reasoning tool, that is used by Ciphr in the provision of the Services as set out at in the Trust Centre (each to be an **"Approved AI System"**).

"Trust Centre" means Ciphr's online portal through which it details the specifics of each Approved AI System which can be found at <https://trust.ciphr.com/>, as updated or amended from time to time.

2. Ciphr Use of Generative AI

- a. The Customer acknowledges and agrees that where the Customer consents to such use, Ciphr may use the Approved AI Systems, in the provision of the Services in accordance with the provisions of this Annex 1.
- b. The Parties acknowledge and agree that:
 - i. the nature of the Services and their integration with the Approved AI Systems means that any Approved AI System used pursuant to this Annex, will be a High-Risk AI System; and
 - ii. for the purposes of the EU AI Act (where applicable), Ciphr shall be a “provider” and the Customer shall be a “deployer” (where these terms have the meanings given in the EU AI Act).
- c. Ciphr shall maintain an up-to-date register of the Approved AI Systems to be used in connection with the Services within its Trust Centre. That register shall provide full transparency to the Customer including:
 - i. the identity and contact details of any Third-Party AI Provider whose system is being deployed by Ciphr;
 - ii. any system requirements the Customer must maintain in order to properly use the Approved AI Systems;
 - iii. instructions for use for each Approved AI System (including the terms of use provided by the Third-Party AI Provider); and
 - iv. details of any known inaccuracies, errors or unreliability (or the potential for these) of the Approved AI Systems.
- d. Ciphr shall notify the Customer in writing where it wishes to introduce any new Third-Party AI Systems, or materially change the way existing Approved AI Systems are used, in the provision of the Services. The Customer shall have the right to object to any such new or changed use within 28 days of receipt of such notice on the grounds that the proposed change would cause the Customer to be in breach of applicable law, and the Parties shall engage in good faith to resolve any such objection. Where no objection is received within that 28 day period, the new or revised Third-Party AI System shall become an Approved AI System.

3. Restrictions on use of Generative AI

- a. Ciphr shall use Third-Party AI Systems in the provision of the Services in compliance with the applicable terms and conditions of the relevant Third-Party AI Provider, all Applicable AI Legislation and only in accordance with the Permitted AI Uses.
- b. Ciphr shall:
 - i. not utilise any Third-Party AI Systems unless the relevant Third-Party AI Provider is engaged on compliant sub-processing terms; and
 - ii. cooperate with competent authorities and provide such information and access as may be required in connection with any investigation or market surveillance activity.
- c. The Customer shall not provide instructions to Ciphr that would require Ciphr to use a Third-Party AI System in a manner that:
 - i. breaches the terms and conditions of the relevant Third-Party AI Provider; or
 - ii. breaches any applicable legislation or Applicable AI Legislation; and

where the Customer provides any such instruction, Ciphr shall be entitled to refuse to carry it out without liability, and any costs, losses, or liabilities arising from the Customer's instruction shall be borne solely by the Customer.

- d. The Parties acknowledge and accept that Ciphr may use Customer Data and/or Customer Personal Data to improve its general use (and monitor the accuracy) of any Third-Party AI Systems; it being noted that Ciphr will never input Customer Personal Data into any Third-Party AI Systems for these purposes.

4. Ownership of AI-Generated Outputs

- a. Subject to Clause 4(b) and 4(c) of this Annex 1, all Intellectual Property in any AI-Generated Outputs produced by Ciphr in the course of delivering the Services specifically for the Customer shall,

upon full payment of all applicable fees, be the property of the Customer ("**Customer-Owned Outputs**").

- b. To the extent that any AI-Generated Output incorporates, is derived from, or is generated using:
 - i. Ciphr's own proprietary methodologies, know-how, templates, or pre-existing Intellectual Property;
 - ii. models, outputs, or materials owned or licensed by a Third-Party AI Provider; or
 - iii. outputs that are identical or substantially similar to outputs generated for other customers of Ciphr or the Third-Party AI Provider by reason of the nature of the underlying AI system,

such elements shall remain the property of Ciphr or the relevant Third-Party AI Provider (as applicable), and Ciphr grants the Customer a non-exclusive, royalty-free, perpetual licence to use such elements solely to the extent necessary to use the Customer-Owned Outputs for the Customer's internal business purposes.

- c. The Customer acknowledges that:
 - i. Third-Party AI Systems may produce outputs that are similar or identical to outputs generated for other users of the same system, and Ciphr makes no representation that AI-Generated Outputs are unique to the Customer or that the Customer's use of such outputs will be free from claims by third parties;
 - ii. the ownership of Intellectual Property in AI-Generated Outputs may be subject to the terms and conditions of the relevant Third-Party AI Provider, and Ciphr's ability to grant ownership or rights in such outputs is subject to and limited by those terms (such terms will be available at all times for review within the Trust Centre);
 - iii. to the extent that any Third-Party AI Provider's terms limit or qualify the intellectual property rights that can be granted in AI-

Generated Outputs, such limitations shall prevail and Ciphr shall have no liability to the Customer in respect thereof; and

- iv. it shall be solely responsible for assessing the suitability of any AI-Generated Output for its intended purpose and for obtaining any third-party consents, licences, or clearances that may be required in connection with the Customer's use of AI-Generated Outputs

5. No Warranty as to Accuracy or Fitness for Purpose of AI-Generated Outputs

- a. The Customer acknowledges and agrees that:
 - i. Third-Party AI Systems are developed, operated, and controlled by Third-Party AI Providers, and Ciphr has no control over the underlying models, training data, algorithms, or operational parameters of such systems;
 - ii. AI-Generated Outputs are produced by automated systems and may be inaccurate, incomplete, out of date, misleading, biased, or otherwise unsuitable for any particular purpose, including as a result of a phenomenon commonly referred to as "hallucination";
 - iii. it must ensure it implements meaningful human oversight into the use of any AI-Generated Outputs and that it is solely responsible for reviewing, verifying, and validating all AI-Generated Outputs before acting upon or relying on them, including before submitting them to any third party, regulatory body, or court. Ciphr shall have no liability for any loss or damage arising from the Customer's failure to carry out such review, verification, or validation;
 - iv. where Ciphr has informed the Customer in writing that a particular deliverable or output has been generated in whole or in material part by a Third-Party AI System, the Customer shall be deemed to have assumed the risk of relying on such output subject to the disclaimers in this Annex;
 - v. AI-Generated Outputs should not be relied upon as such without independent verification by a suitably qualified professional; and

- vi. the performance, availability, and functionality of Third-Party AI Systems may change over time, including as a result of updates, modifications, or discontinuation by the Third-Party AI Provider, which are outside Ciphr's control.
- b. Ciphr gives no warranty, representation, or guarantee, whether express or implied, as to:
 - i. the accuracy, completeness, reliability, or fitness for any particular purpose of any AI-Generated Output;
 - ii. the originality of AI-Generated Outputs or the absence of third-party intellectual property rights therein;
 - iii. the continuous or uninterrupted availability of any Third-Party AI System; or
 - iv. the compliance of any Third-Party AI System with any particular regulatory standard, certification, or requirement; and
 - v. and all implied warranties and conditions in respect of the foregoing are hereby excluded to the fullest extent permitted by applicable law.

6. Customer Obligations

- a. Where the Customer benefits from the use of an Approved AI System it must:
 - i. not use the Approved AI System in any manner that breaches Article 5 of the EU AI Act and only use the Approved AI System in accordance with the use restrictions as set out in the Trust Centre and/or the terms and conditions of the Third-Party Provider;
 - ii. conduct a Fundamental Rights Impact Assessment (as required by the EU AI Act) prior to deploying an Approved AI System;
 - iii. not attempt to decompile, reverse engineer or hack any Approved AI System;

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- iv. ensure that any personal data inputted into, or processed via, an Approved AI System is done so in accordance with Clause 14 of the Agreement;
- v. retain any logs generated by an Approved AI System to the extent possible and retain these for at least 6 months as per the requirements of the EU AI Act;
- vi. immediately notify Ciphr where there is a malfunction in an Approved AI System or where a “serious incident” as defined in the EU AI Act occurs or may occur. Such notification must include all information reasonably requested by Ciphr to enable it to meet its own reporting obligations. The Customer shall not make any public disclosure about any malfunction or serious incident without the prior written consent of Ciphr;
- vii. fully cooperate with Ciphr and any approved authority regarding any requests made in relation to an Approved AI System (including but not limited to providing access to logs, records, and any other documentation, together with allowing the audit of the Customer’s deployment of an Approved AI System to verify compliance with this Annex 1);
- viii. immediately notify Ciphr if it receives any enquiry, investigation, or request from a competent authority or other third party relating to the Approved AI System; and
- ix. fully inform all individuals whose data will be inputted into an Approved AI System (or where an Approved AI System will be used to make decisions about that individual).

7. Suspension or Withdrawal of Third-Party AI Systems

- a. Ciphr may suspend or discontinue the use of any Third-Party AI System in the provision of the Services at any time without liability to the Customer where:
 - i. the Customer breaches any provisions of this Annex 1;
 - ii. the Third-Party AI Provider suspends, modifies, or discontinues the relevant system;

- iii. continued use of the system would, in Ciphr's reasonable opinion, breach Applicable AI Legislation, the Third-Party AI Provider's terms, or any applicable regulatory guidance; or
 - iv. Ciphr determines, in its reasonable discretion, that continued use of the system presents an unacceptable risk to the Customer's Data or to the integrity of the Services.
- b. Where Ciphr suspends or discontinues the use of a Third-Party AI System pursuant to Clause 7(a) of this Annex 1, Ciphr shall use reasonable endeavours to provide the Services by alternative means but shall have no liability to the Customer if it is unable to do so.

8. Limitation of Ciphr Liability

- a. Subject to Clause 8(b) of this Annex 1, Ciphr shall not in any circumstances be liable whether in contract, tort (including for negligence and breach of statutory duty howsoever arising), misrepresentation (whether innocent or negligent), restitution or otherwise, for:
- i. loss (whether indirect or direct) of profits, business, revenue, turnover, goodwill, reputation, opportunities, contracts, savings, wasted expenditure;
 - ii. loss, corruption, or degradation of data;
 - iii. liability of the Customer to any third party arising from or in connection with an AI-Generated Output; or
 - iv. any indirect, special, or consequential loss of any kind whatsoever,

in each case howsoever caused and whether or not Ciphr was advised of the possibility of such loss. The exclusions in Clause 8(a) shall apply irrespective of whether such losses arise from the inaccuracy, incompleteness, or unavailability of any AI-Generated Output, any malfunction or modification of a Third-Party AI System, any change in the terms of a Third-Party AI Provider, or any other cause connected with the use of Third-Party AI Systems.

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- b. Nothing in the Agreement shall exclude or limit the liability of either Party, for fraudulent misrepresentation, fraud or death or personal injury caused by its negligence or the negligence of their employees or any liability for any implied terms which cannot be excluded or limited by law or any liability which cannot be excluded or limited by law.

Appendices

Cancellation Policy

Once a date for the delivery of Professional Services has been agreed by the Customer and Ciphr then both parties will take all reasonable steps to prevent that date being cancelled or postponed. Unless otherwise defined, capitalised terms shall have the meaning given to them in the Master Service Terms.

1. Professional Services

In the event that a date for delivery of a Professional Service (other than training) is cancelled or postponed by the Customer for any reason and, having made all reasonable endeavours to do so, Ciphr is unable to redeploy to alternative paid services resources it had allocated to the delivery of such Professional Services on such date, the following charges shall apply

- 1.1. if cancelled or postponed within 4 Working Days of the agreed date there will be payable by the Customer a charge calculated at 100% of the Fees for Professional Services that Ciphr would otherwise have been entitled to charge the Customer for the delivery of the Professional Services on that date
- 1.2. if cancelled or postponed between 4 and 8 Working Days of the agreed date there will be payable by the Customer a charge calculated at 50% of the Fees for Professional Services that Ciphr would otherwise have been entitled to charge the Customer for the delivery of the Professional Services on that date

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Incident Priorities

The following terms have the following meanings and, unless otherwise defined, capitalised terms shall have the meaning given to them in the Master Service Terms:

- “Incident” shall have the meaning given to it in the Master Service Terms which, for ease of reference, is: The inability of the Customer to use a normally available facility or function of the SaaS Services due to a fault in the SaaS Services for which Ciphr is wholly responsible under the Agreement.
- “Support Tickets”: Configuration or ‘how-to’ queries, and standard service requests. Excludes project work, change requests, new feature development, and matters outside the scope set out in “Professional - “SaaS Service Support” section of the SaaS Service Definition.
- “Product Fixes”: A corrective technical update or modification to the SaaS Services that resolves a fault, error, or defect for which Ciphr is wholly responsible under the Agreement and is not considered an Incident.”

Ciphr will establish the category of ticket (Incident, Support Ticket or Product Fix).

Priorities shall be assessed for all Incidents and Support Tickets logged with Ciphr and a priority will be allocated by Ciphr using its reasonable discretion based on the available information in accordance with the Incident Priorities table below. This applies to issues on the production operation of the SaaS Services only. Specified response and resolution times are during Working Hours and are targets only. All times are measured from when the ticket is created in the customer care portal. While we aim to address all issues in a timely manner, Incidents or Support Tickets that are deemed to have a higher business impact or that affect a larger group of customers may be prioritised over others.

Product Fixes may be delivered as part of an Update or as patches, and do not include enhancements, or new feature development as set out in the “Service Exclusions” section of the SaaS Service Definition. If a ticket is allocated as a Product Fix, Ciphr will add the fix to its development queue for potential future scheduled releases or patching.

Incident Priorities

Priority level	Description	Target response and resolution times
P1. Critical	System Environment outage or total loss of SaaS Service, for which Ciphr is wholly responsible. No workaround available.	Response – 30 minutes Resolution – 4 hours
P2. High	Significant disruption to the SaaS Service affecting multiple users or a key business function. Performance may be degraded or access limited. Workaround may exist but is inefficient.	Response – 2 hours Resolution – 2 Working Day

P3. Medium	Moderate disruption where the SaaS Service is operational, but user experience is degraded, or non-essential functionality is impacted. A workaround may be available.	Response – 1 Working Day Resolution – 5 Working Days
P4. Low	Non-urgent matters such as cosmetic faults or general support queries. Includes all Support Tickets.	Response – 2 Working Days Resolution – 10 Working Days

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SaaS Service Definition

Unless otherwise defined, capitalised terms shall have the meaning given to them in the Master Service Terms.

A list of sub-processors is published in Ciphr trust centre at <https://trust.ciphr.com/>. The appointment of sub-processors is undertaken pursuant to **clause 14.2** of the Master Service Terms.

Professional Service – SaaS Service Support

Ciphr shall provide the following support service in respect of the SaaS Service:

1. during Working Hours, an advisory and explanatory service with respect to the Software and the SaaS Service including the provision of a telephone, online chat and email consultation service with respect to requests logged by System Administrators via an online support portal or via the telephone
2. the provision of an online support portal and telephone service (during Working Hours), to allow System Administrators to log Incidents, Incident priority allocation and follow up actions to achieve resolution of the Incident in accordance with the Incident Priorities
3. communication from Ciphr providing information on matters of general interest with respect to the Software and SaaS Service
4. if Ciphr makes an Update generally available to its customers of SaaS Services, it will supply the Customer with that Update without additional charge

SaaS Service Inclusions and Exclusions

1. Service Inclusions

The SaaS Service shall include the following facilities and services;

- 1.1. standard operational activities involving the maintenance, security and availability of the System Environment including;
 - 1.1.1. Provision of the SaaS Service and all the data processing necessary to ensure its security, resilience, performance and efficiency
 - 1.1.2. Monitoring and tracking of users' activities and system resources to ensure the platform is providing an optimised user experience, to identify faults or other issues and improve efficiency
 - 1.1.3. The development and deployment of any enhancements or updates to the platform as defined in the service agreement
 - 1.1.4. The provision of reports and reporting platforms including personal data and aggregated anonymous data as required to deliver the SaaS Service

- 1.2. The use of cookies and similar technologies to deliver and monitor the operation and efficiency of the Services. Where required and allowed under the Privacy and Electronic Communications (EC Directive) Regulations 2003, SI 2003/2426 (or any law that replaces, extends, consolidates or amends such law), this Agreement provides the necessary subscriber consent to use these technologies for functional, performance and statistical purposes.
- 1.3. daily backup of Customer Data stored by the operation of the Software or the SaaS Service ("**Daily Backup**") and retention of each Daily Backup for a period of 30 consecutive days commencing on the date of creation of the relevant Daily Backup ("**Retention Period**"). For the avoidance of doubt, Ciphre shall be under no obligation to retain or provide to the Customer a Daily Backup once that Daily Backup's Retention Period has expired
- 1.4. operation of the SaaS Service in accordance with the provisions of ISO27001:2013, as defined in Ciphre's statement of applicability, including;
 - 1.4.1. administration of System Environment security, administration of operating system level user accounts and passwords, administration of System Environment security infrastructure and processes
 - 1.4.2. monitoring of the System Environment to provide appropriate levels of confidentiality, integrity and availability to the customer
- 1.5. storage space for customer related files and documentation of up to 10GB or within limits as specified in any Order Form

2. Service Exclusions

Unless specified in any Order Form or otherwise agreed in writing, the following items are not part of the SaaS Service or Professional Services provided under the Agreement and shall remain the sole responsibility of the Customer:

- 2.1. maintenance, support or management of any Customer software or Customer database
- 2.2. development work, installation or upgrades of the Software, any applicable Third Party Software or Customer software, other than new developments or releases of the Software or Third Party Software that Ciphre, in its absolute sole discretion, agrees to install and support under the Agreement for access and use by the Customer during any Subscription Period
- 2.3. maintenance, support, upgrading, installation, licensing or management or other services for any Customer software, hardware, desktop equipment, infrastructure or peripherals or the Customer's premises or computer systems or its environment or telecommunications network
- 2.4. Customer or Customer User training
- 2.5. Customer data conversion and migration

- 2.6. procurement, provision, maintenance and support of or any advice in connection with the Customer's computer systems or its environment or the Customer's telecommunications network
 - 2.7. the design in respect of the System Environment interface with the Customer computer systems or its environment or the Customer's telecommunications network or Customer premises
 - 2.8. the procurement, adequacy, maintenance or support of, or any advice in connection with, the software and/or licensing requirements for any systems, software, computer, device or facility used by the Customer or any Customer User to access or use the SaaS Service or any website or computer network Ciphre uses in connection with the SaaS Service
 - 2.9. the provision of any other services, third party services, software or advice in relation to the use of any services or software, that is not specifically referred to in any Order Form or the Agreement
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SaaS Service Levels

Unless otherwise defined, capitalised terms shall have the meaning given to them in the Master Service Terms.

1. These Service Levels are to be provided during the System Environment Operational Hours as defined below and are at all times subject to the System Environment Maintenance Hours and the System Environment Downtime requirements as defined below, to Incident Priorities and to the Customer meeting its responsibilities set out in the Agreement
2. Ciphr offers no guarantees or Service Level commitments with respect to performance or end-to-end bandwidth across public networks such as the Internet

Service Level Description

System Environment Maintenance Hours

System Environment Maintenance Hours are the three (3) hours from 21.00 to 24.00 (UK time) each day during which the System Environment may be interrupted to the Customer for carrying out Planned Works, defined as routine maintenance activities required by professional computing practice, including;

Offline backup

Software maintenance work, including testing new versions

Testing restart and recovery

Implementation of release upgrades and service packs for System Environment components.

All Planned Works will be notified to the Customer in accordance with the Maintenance Notification Service Level table below. If the System Environment Maintenance Hours in any day do not provide sufficient time to carry out the Planned Works an extension will be agreed. Reboots of the System Environment may be required during Planned Works and Customer Users are advised not to use the platform during these periods.

For the avoidance of doubt, downtime due to Planned Works, Unplanned or Urgent Works (as referred to below) carried out during System Environment Operational Hours will form part of the System Environment Downtime calculation.

System Environment Operational Hours

The System Environment Operational Hours are periods of time during which the System Environment will be made available subject to the Service Levels for routine Customer processing requirements. For the avoidance of doubt, the System Environment will be generally available for routine processing requirements at all times outside the System Environment Operational Hours (excluding Systems Environment Maintenance Hours) but during such periods operations will not be subject to Service Levels.

System Environment Operational Hours will be between 0600hrs and 2100hrs UK time each day.

Scheduled maintenance work that impacts operational availability will not be performed during System Environment Operational Hours unless essentially required and notified to the Customer in accordance with the Scheduled Maintenance Notification Service Level table below.

System Environment Downtime

System Environment Downtime is the total number of hours in a calendar month that the System Environment is unavailable for the Customer's use during System Environment Operational Hours and is expressed as a percentage of Systems Environment Operational Hours.

System Environment Downtime shall only include those hours of unavailability where the cause of any failure is primarily the responsibility of Ciphre or its contractors.

System Environment Downtime is calculated as the total hours of downtime in a calendar month that have accumulated as a result of Incidents during System Environment Operational Hours, (where those Incidents have had downtime in excess of 5 minutes) plus (+) Unplanned or Urgent Works carried out during System Environment Operational Hours in the same period divided by (/) System Environment Operational Hours in the same period times (x) 100%. System Environment Downtime so calculated shall not exceed 3% in any calendar month.

Expressly excluded from any System Environment Downtime calculations is downtime due to force majeure, faults in Third Party Software or any upgrade thereto, failure by the Customer to fulfil Customer obligations or other reasons not within the responsibility of Ciphre and its contractors, including without limitation the Customer or Customer User's inability to access the System Environment due to a public communications facility or network including the Internet.

Maintenance Notification Service Level

Type of maintenance	Anticipated downtime	Advance notice to be given
Planned Works	As estimated	Seventy-two (72) hours 3 Working Days
Planned Works	None	None
Unplanned Works	Up to two (2) hours	Not < four (4) hours
Unplanned Works	None	None
Urgent Works	As estimated	As much as reasonably practicable
Urgent Works	None	None

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Third Party Service Support

Unless otherwise defined, capitalised terms shall have the meaning given to them in the Master Service Terms.

Ciphr shall provide the following support services for Third Party Services selected and paid for by the Customer.

1. an advisory and explanatory service within the scope of Ciphr's expertise with respect to the applicable Third Party Service. Telephone calls and emails may be logged during Working Hours
2. regular communication from Ciphr providing information on matters of general interest with respect to any applicable Third Party Service.
3. liaison with applicable Third Party Service providers and providing standard available work arounds and fixes for any failure logged by the Customer with Ciphr for applicable Third Party Services to provide Third Party Service functionality
4. at Ciphr's sole and absolute discretion, providing access to and use of standard updates and new releases within a version of applicable Third Party Service as such updates and releases are made available by the relevant Third Party Service provider

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